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H.R. 6197..... Pub. L. 95–51
To amend the Disaster Relief Act of 1974 to provide for authorization of appropriations thereunder through fiscal year 1978. (June 20, 1977; 91 Stat. 233). Price: $.35

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

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

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

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

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

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

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rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

Title 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 73—SCABIES IN CATTLE

Area Quarantined

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this amendment is to quarantine a portion of Sarpy County in Nebraska because of the existence of cattle scabies. Psoroptic cattle scabies was confirmed in Sarpy County, Nebraska, June 10, 1977. Therefore, in order to prevent the dissemination of cattle scabies it is necessary to quarantine the infested area.

EFFECTIVE DATE: June 16, 1977.

FOR FURTHER INFORMATION CONTACT:

Dr. Glen O. Schubert, Chief Staff Veterinarian, Sheep, Goats, Equine, and Ectoparasites Staff, United States Department of Agriculture, APHIS, VS, Room 737, 6505 Belcrest Road, Federal Building, Hyattsville, Md. 20782, 301–436–8322.

SUPPLEMENTARY INFORMATION: This amendment quarantines a portion of Sarpy County in Nebraska because of the existence of cattle scabies. The restrictions pertaining to the interstate movement of cattle from quarantined areas as contained in 9 CFR Part 73, as amended, will apply to the area quarantined.

Accordingly, Part 73, Title 9, Code of Federal Regulations, as amended, restricting the interstate movement of cattle because of scabies, is hereby amended as follows:

In § 73.1a, a new paragraph (b) is added to read:

§ 73.1a Notice of quarantine.

* * * * *

(b) Notice is hereby given that cattle in a certain portion of the State of Nebraska are affected with scabies, a contagious, infectious, and communicable disease; and, therefore, the following area in such State is hereby quarantined because of said disease:

That portion of Sarpy County comprised of sec. 1, T.14N., R. 10E., Forest City township.

* * * * *

(Secs. 4–7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791–792, as amended; secs. 1–4, 33 Stat. 1264, 1265, as amended; secs. 3 and 11, 76 Stat. 130, 132; 21 U.S.C. 111–113, 115, 117, 120, 121, 123–126, 134b, 134f; 37 FR 28464, 28477; 38 FR 19141.)

The amendment imposes certain further restrictions necessary to prevent the interstate spread of cattle scabies and must be made effective immediately to accomplish its purpose in the public interest. 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 contrary to the public interest, 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 16th day of June 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.

E. A. SCHILF,
Acting Deputy Administrator, Veterinary Services.

[FR Doc.77-17749 Filed 6-23-77;8:45 am]

PART 78—BRUCELLOSIS

Subpart D—Designation of Brucellosis Areas, Specifically Approved Stockyards, and Slaughtering Establishments

Brucellosis Areas

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The Animal and Plant Health Inspection Service is amending its Brucellosis Regulations. These amendments update the Brucellosis regulations by providing the current status of various counties and States which have been designated Certified Brucellosis-Free Areas, Modified Certified Brucellosis Areas, or Noncertified Areas for purposes of interstate movement of cattle and bison from such areas. This action is required because of the change in the Brucellosis status of the areas affected.

EFFECTIVE DATE: June 24, 1977.

FOR FURTHER INFORMATION CONTACT:

Dr. A. D. Robb, U.S. Department of Agriculture, Animal and Plant Health Inspection Service, Veterinary Services, Hyattsville, Maryland, Room 805, 301–436–8713.

SUPPLEMENTARY INFORMATION: The amendments delete the following areas from the list of Noncertified Areas in § 78.22 and add such areas to the list designated as Certified Brucellosis-Free Areas in § 78.20 because it has been determined that they again come within the definition of a Certified Brucellosis-Free Area in § 78.1(l): Vieques Municipality in Puerto Rico.

The amendments delete the following areas from the list of Certified Brucellosis-Free Areas in § 78.20 and add such areas to the list designated as Modified Certified Brucellosis Areas in § 78.21 because it has been determined that they now come within the definition of a Modified Certified Brucellosis Area in § 78.1(m): Jackson, Lafayette, Perry, Polk, and Prairie Counties in Arkansas; Dade, Pasco, and Sumter Counties in Florida; Caribou and Oneida Counties in Idaho; Jackson County in Kentucky; Franklin and Miller Counties in Missouri; Rutherford County in Tennessee; and Camuy Municipality in Puerto Rico.

The amendments delete the following areas from the list of Modified Certified Brucellosis Areas in § 78.21 and add such areas to the list designated as Certified Brucellosis-Free Areas in § 78.20 because it has been determined that they now come within the definition of a Certified Brucellosis-Free Area in § 78.1(l): Citrus County in Florida; Jasper County in Iowa, and Cheyenne, Grant, and Norton Counties in Kansas.

Accordingly, §§ 78.20, 78.21, and 78.22 of Part 78, Title 9, Code of Federal Regulations, designating Certified Brucellosis-Free Areas, Modified Certified Brucellosis Areas, and Noncertified Areas, respectively, are amended to read as follows:

§ 78.20 Certified Brucellosis-Free Areas.

The following States, or specified portions thereof, are hereby designated as Certified Brucellosis-Free Areas:

(a) *Entire States.* Arizona, California, Connecticut, Delaware, Hawaii, Indiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Montana, Nevada, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oregon, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, Washington, West Virginia, Wisconsin, Virgin Islands.

(b) *Specific Counties Within States.*—*Alabama.* Dale, Geneva.

Arkansas. Baxter, Benton, Boone, Bradley, Calhoun, Carroll, Clay, Cleveland, Columbia, Dallas, Drew, Fulton, Garland, Grant, Greene, Johnson, Madison, Marion, Monroe, Montgomery, New-

ton, Ouachita, Pike, Searcy, Sharp, Stone, Union, Woodruff.

Colorado. Adams, Alamosa, Arapahoe, Archuleta, Baca, Bent, Boulder, Chaffee, Cheyenne, Clear Creek, Conejos, Costilla, Crowley, Custer, Delta, Denver, Dolores, Douglas, Eagle, Elbert, El Paso, Fremont, Garfield, Gilpin, Grand, Gunnison, Hinsdale, Huerfano, Jackson, Jefferson, Kiowa, Kit Carson, Lake, La Plata, Larimer, Las Animas, Lincoln, Logan, Mineral, Moffat, Montezuma, Montrose, Morgan, Otero, Ouray, Park, Phillips, Pitkin, Prowers, Pueblo, Rio Blanco, Rio Grande, Routt, Saguache, San Juan, San Miguel, Sedgwick, Summit, Teller, Washington, Weld.

Florida. Baker, Bay, Brevard, Calhoun, Citrus, Dixie, Escambia, Franklin, Gadsden, Gulf, Hamilton, Holmes, Jackson, Leon, Liberty, Monroe, Okaloosa, Orange, Santa Rosa, Seminole, Taylor, Wakulla, Walton, Washington.

Georgia. Appling, Atkinson, Bacon, Banks, Brantley, Bryan, Bulloch, Burke, Butts, Camden, Candler, Charlton, Chatham, Chattahoochee, Clarke, Clayton, Cook, Crawford, De Kalb, Echols, Effingham, Evans, Fannin, Franklin, Glascock, Glynn, Greene, Habersham, Jeff Davis, Johnson, Jones, Lanier, Laurens, Liberty, Long, McIntosh, Monroe, Peach, Rabun, Richmond, Schley, Screven, Stephens, Taylor, Telfair, Toombs, Treutlen, Twiggs, Upson, Ware, Washington, Wayne, Wheeler, White, Wilkinson.

Idaho. Ada, Adams, Bear Lake, Benewah, Blaine, Boise, Bonner, Boundary, Camas, Canyon, Clearwater, Custer, Idaho, Kootenai, Latah, Lemhi, Lewis, Nez Perce, Owyhee, Payette, Power, Shoshone, Valley, Washington, Yellowstone National Park.

Illinois. Adams, Alexander, Bond, Boone, Brown, Bureau, Calhoun, Carroll, Cass, Champaign, Christian, Clark, Clay, Clinton, Coles, Cook, Crawford, Cumberland, De Kalb, De Witt, Douglas, Du Page, Edgar, Edwards, Effingham, Fayette, Ford, Franklin, Fulton, Gallatin, Greene, Grundy, Hamilton, Hancock, Hardin, Henderson, Henry, Iroquois, Jackson, Jasper, Jefferson, Jersey, Jo Daviess, Johnson, Kane, Kankakee, Kendall, Knox, Lake, La Salle, Lawrence, Lee, Livingston, Logan, Macon, Macoupin, Madison, Marion, Marshall, Mason, McDonough, McHenry, McLean, Menard, Mercer, Monroe, Montgomery, Morgan, Moultrie, Ogle, Peoria, Perry, Piatt, Pike, Pope, Pulaski, Putnam, Randolph, Richland, Rock Island, St. Clair, Saline, Sangamon, Schuyler, Scott, Shelby, Stark, Stephenson, Tazewell, Union, Vermilion, Wabash, Warren, Washington, Wayne, White, Whiteside, Will, Williamson, Winnebago, Woodford.

Iowa. Adair, Adams, Audubon, Benton, Black Hawk, Boone, Bremer, Buchanan, Buena Vista, Butler, Calhoun, Carroll, Cass, Cedar, Cherokee, Chickasaw, Clarke, Clay, Clinton, Dallas, Davis, Des Moines, Dickinson, Dubuque, Emmet, Fayette, Floyd, Franklin, Fremont, Greene, Grundy, Hamilton, Hancock, Hardin, Henry, Howard, Humboldt, Ida, Iowa, Jackson, Jasper, Johnson, Keokuk, Kossuth, Lee, Linn, Louisa, Lucas, Lyon, Madison, Mahaska, Marion, Marshall, Mills, Mitchell, Monona, Montgomery, Muscatine, O'Brien, Osceola, Page, Palo Alto, Pocahontas, Polk, Pottawattamie, Poweshiek, Plymouth, Scott, Shelby, Tama, Taylor, Van Buren, Wapello, Warren, Washington, Webster, Winnebago, Winneshiek, Woodbury, Worth, Wright.

Kansas. Cheyenne, Comanche, Donihan, Ford, Gove, Graham, Grant, Greeley, Haskell, Hodgeman, Johnson, Lane, Logan, Marshall, Norton, Pawnee, Phillips, Riley, Scott, Sheridan, Thomas, Trego, Wallace, Washington.

Kentucky. Bell, Breathitt, Campbell, Clay, Edmonson, Floyd, Harlan, Johnson, Kenton, Knott, Knox, Lawrence, Lee, Leslie, Letcher, Lewis, Magoffin, Martin, McCreary, Menifee, Morgan, Owsley, Pendleton, Perry, Pike, Robertson, Trimble, Whitley, Wolfe.

Mississippi. Alcorn, Hancock, Harrison, Jackson, Stone, Tishomingo.

Missouri. Audrain, Dunklin, Gasconade, Hickory, Jackson, Laclede, Lewis, Moniteau, Montgomery, Perry, Platte, Pulaski, St. Louis, Schuyler, Shelby.

New Mexico. Bernalillo, Catron, Colfax, Dona Ana, Grant, Harding, Hidalgo, Lincoln, Los Alamos, Luna, McKinley, Otero, Rio Arriba, Sandoval, San Juan, Santa Fe, Sierra, Socorro, Taos, Torrance.

South Dakota. Aurora, Beadle, Bennett, Bon Homme, Brookings, Brown, Brule, Buffalo, Butte, Campbell, Charles Mix, Clark, Clay, Codington, Corson, Custer, Davison, Day, Deuel, Dewey, Douglas, Edmunds, Fall River, Faulk, Grant, Gregory, Haakon, Hamlin, Hand, Hanson, Harding, Hughes, Hutchinson, Hyde, Jackson, Jerauld, Kingsbury, Lake, Lawrence, Lincoln, Lyman, Marshall, McCook, McPherson, Meade, Mellette, Miner, Minnehaha, Moody, Pennington, Perkins, Potter, Roberts, Sanborn, Shannon, Spink, Sully, Todd, Tripp, Turner, Union, Walworth, Washabaugh, Yankton, Ziebach.

Tennessee. Anderson, Blount, Campbell, Carter, Claiborne, Davidson, Fentress, Grainger, Greene, Grundy, Hamblen, Hancock, Jefferson, Johnson, Knox, Lake, Lewis, Meigs, Morgan, Perry, Polk, Roane, Robertson, Scott, Sequatchie, Sevier, Sullivan, Unicoi, Union, Van Buren, Warren, White.

Texas. Brewster, Childress, Comal, Crane, Ector, Gray, Hansford, Hartley, Hemphill, Irion, Jeff Davis, Kerr, Kimble, Lipscomb, Llano, Loving, Mason, Newton, Pecos, Reagan, Roberts, Sterling, Terrell, Val Verde, Ward, Winkler.

Utah. Beaver, Carbon, Daggett, Davis, Duchesne, Emery, Garfield, Grand, Iron, Juab, Kane, Millard, Morgan, Piute, Rich, Salt Lake, San Juan, Sanpete, Sevier, Summit, Tooele, Uintah, Utah, Wasatch, Washington, Wayne, Weber.

Wyoming. Albany, Big Horn, Campbell, Carbon, Converse, Crook, Fremont, Goshen, Hot Springs, Johnson, Laramie, Natrona, Niobrara, Park, Platte, Sheridan, Sublette, Sweetwater, Teton, Uinta, Washakie, Weston.

Puerto Rico. Adjuntas, Aguada, Aguadilla, Aguas Buenas, Aibonito, Anasco, Arroyo, Barceloneta, Barranquitas, Bayamon, Cabo Rojo, Caguas, Canovanas (Loiza), Catano, Cayey, Ceiba, Ciales, Cidra, Coamo, Comerio, Corozal, Culebra, Dorado, Fajardo, Guanica, Guayama, Guaynabo, Guayanilla, Gurabo, Hormigueros, Humacao, Isabela, Jayuya, Juana Diaz, Juncos, Lajas, Lares, Las Marias, Luquillo, Manati, Maricao, Maunabo, Mayaguez, Moca, Morovis, Naranjito, Orocovis, Patillas, Penuelas, Ponce, Quebradillas, Rincon, Rio Grande, Rio Piedras, Sabana Grande, Salinas, San German, San Juan, San Lorenzo, San Sebastian, Santa Isabel, Toa Alta, Toa Baja, Trujillo Alto, Utuado, Vega Alta, Vega Baja, Vieques, Villalba, Yabucoa, Yauco.

§ 78.21 Modified Certified Brucellosis Areas.

The following States, or specified portions thereof, are hereby designated as Modified Certified Brucellosis Areas:

(a) *Entire States.* Alaska, Louisiana, Nebraska, Oklahoma.

(b) *Specific Counties Within States.*—*Alabama.* Autauga, Baldwin, Barbour, Bibb, Blount, Bullock, Butler, Calhoun, Chambers, Cherokee, Chilton, Choctaw, Clarke, Clay, Cleburne, Coffee, Colbert, Conecuh, Coosa, Covington, Crenshaw, Cullman, Dallas, De Kalb, Elmore, Etowah, Escambia, Fayette, Franklin, Greene, Hale, Henry, Houston, Jackson, Jefferson, Lamar, Lauderdale, Lawrence, Lee, Limestone, Lowndes, Macon, Madison, Marengo, Marion, Marshall, Mobile, Monroe, Montgomery, Morgan, Perry, Pickens, Pike, Randolph, Russell, St. Clair, Shelby, Sumter, Talladega, Tallapoosa, Tuscaloosa, Walker, Washington, Wilcox, Winston.

Arkansas. Arkansas, Ashley, Chicot, Clark, Cleburne, Conway, Craighead, Crawford, Crittenden, Cross, Desha, Faulkner, Franklin, Hempstead, Hot Spring, Howard, Independence, Izard, Jackson, Jefferson, Lafayette, Lawrence, Lee, Lincoln, Little River, Logan, Lonoke, Miller, Mississippi, Nevada, Perry, Phillips, Poinsett, Polk, Pope, Prairie, Pulaski, Randolph, Saline, Scott, St. Francis, Sebastian, Sevier, Van Buren, Washington, White, Yell.

Colorado. Mesa, Yuma.

Florida. Alachua, Bradford, Broward, Charlotte, Clay, Collier, Columbia, Dade, De Soto, Duval, Flagler, Gilchrist, Glades, Hardee, Hendry, Hernando, Highlands, Hillsborough, Indian River, Jefferson, Lafayette, Lake, Lee, Levy, Madison, Manatee, Marion, Martin, Nassau, Okeechobee, Osceola, Palm Beach, Pasco, Pinellas, Polk, Putnam, St. Johns, St. Lucie, Sarasota, Sumter, Suwanee, Union, Volusia.

Georgia. Baker, Baldwin, Barrow, Bartow, Ben Hill, Berrien, Bibb, Bleckley, Brooks, Calhoun, Carroll, Catoosa, Chattooga, Cherokee, Clay, Clinch, Cobb, Coffee, Colquitt, Columbia, Coweta, Crisp, Dade, Dawson, Decatur, Dodge, Dooly, Dougherty, Douglas, Early, Elbert, Emanuel, Fayette, Floyd, Forsyth, Fulton, Gilmer, Gordon, Grady, Gwinnett, Hall, Hancock, Haralson, Harris, Hart, Heard, Henry, Houston, Irwin, Jackson, Jasper,

Jefferson, Jenkins, Lamar, Lee, Lincoln, Lowndes, Lumpkin, Macon, Madison, Marion, McDuffie, Meriwether, Miller, Mitchell, Montgomery, Morgan, Murray, Muscogee, Newton, Oconee, Oglethorpe, Paulding, Pickens, Pierce, Pike, Polk, Pulaski, Putnam, Quitman, Randolph, Rockdale, Seminole, Spalding, Stewart, Sumter, Talbot, Taliaferro, Tattnall, Terrell, Thomas, Tift, Towns, Troup, Turner, Union, Walker, Walton, Warren, Webster, Whitfield, Wilcox, Wilkes, Worth.

Idaho. Bannock, Bingham, Bonneville, Butte, Caribou, Cassia, Clark, Elmore, Franklin, Fremont, Gem, Gooding, Jefferson, Jerome, Lincoln, Madison, Minidoka, Oneida, Teton, Twin Falls.

Illinois. Massac.

Iowa. Allamakee, Appanoose, Cerro Gordo, Clayton, Crawford, Decatur, Delaware, Guthrie, Harrison, Jefferson, Jones, Monroe, Ringgold, Sac, Sioux, Story, Union, Wayne.

Kansas. Allen, Anderson, Atchison, Barber, Barton, Bourbon, Brown, Butler, Chase, Chautauqua, Cherokee, Clark, Clay, Cloud, Coffey, Cowley, Crawford, Decatur, Dickinson, Douglas, Edwards, Elk, Ellis, Ellsworth, Finney, Franklin, Geary, Gray, Greenwood, Hamilton, Harper, Harvey, Jackson, Jefferson, Jewell, Kearny, Kingman, Kiowa, Labette, Leavenworth, Lincoln, Linn, Lyon, Marion, McPherson, Meade, Miami, Mitchell, Montgomery, Morris, Morton, Nemaha, Neosho, Ness, Osage, Osborne, Ottawa, Pottawatomie, Pratt, Rawlins, Reno, Republic, Rice, Rooks, Rush, Russell, Saline, Sedgwick, Seward, Shawnee, Sherman, Smith, Stafford, Stanton, Stevens, Sumner, Wabaunsee, Wichita, Wilson, Woodson, Wyandotte.

Kentucky. Adair, Allen, Anderson, Ballard, Barren, Bath, Boone, Bourbon, Boyd, Boyle, Bracken, Breckenridge, Bullitt, Butler, Caldwell, Calloway, Carlisle, Carroll, Carter, Casey, Christian, Clark, Clinton, Crittenden, Cumberland, Daviess, Elliott, Estill, Fayette, Fleming, Franklin, Fulton, Gallatin, Garrard, Grant, Graves, Grayson, Green, Greenup, Hancock, Hardin, Harrison, Hart, Henderson, Henry, Hickman, Hopkins, Jackson, Jefferson, Jessamine, Larue, Laurel, Lincoln, Livingston, Logan, Lyon, Madison, Marion, Marshall, Mason, McCracken, McLean, Meade, Mercer, Metcalfe, Monroe, Montgomery, Muhlenberg, Nelson, Nicholas, Ohio, Oldham, Owen, Powell, Pulaski, Rockcastle, Rowan, Russell, Scott, Shelby, Simpson, Spencer, Taylor, Todd, Trigg, Union, Warren, Washington, Wayne, Webster, Woodford.

Mississippi. Adams, Amite, Attala, Benton, Bolivar, Calhoun, Carroll, Chickasaw, Choctaw, Claiborne, Clarke, Clay, Coahoma, Copiah, Covington, De Soto, Forrest, Franklin, George, Greene, Grenada, Hinds, Holmes, Humphreys, Issaquena, Itawamba, Jasper, Jefferson, Jefferson Davis, Jones, Kemper, Lafayette, Lamar, Lauderdale, Lawrence, Leake, Lee, LeFlore, Lincoln, Lowndes, Madison, Marion, Marshall, Monroe, Montgomery, Neshoba, Newton, Noxubee, Oktibbeha, Panola, Pearl River, Perry, Pike, Pontotoc, Prentiss, Quitman, Rankin, Scott, Sharkey, Simpson, Smith, Sunflower, Tallahatchie, Tate, Tippah, Tunica, Union, Walthall, Warren, Washington, Wayne, Webster, Wilkinson, Winston, Yalobusha, Yazoo.

Missouri. Adair, Andrew, Atchison, Barry, Barton, Bates, Benton, Bollinger, Boone, Buchanan, Butler, Caldwell, Callaway, Camden, Cape Girardeau, Carroll, Carter, Cass, Cedar, Chariton, Christian, Clark, Clay, Clinton, Cole, Cooper, Crawford, Dade, Dallas, Daviess, DeKalb, Dent, Douglas, Franklin, Gentry, Greene, Grundy, Harrison, Henry, Holt, Howard, Howell, Iron, Jasper, Jefferson, Johnson, Knox, Lafayette, Lawrence, Lincoln, Linn, Livingston, Macon, Madison, Maries, Marion, McDonald, Mercer, Miller, Mississippi, Monroe, New Madrid, Newton, Nodaway, Oregon, Osage, Ozark, Pemiscot, Pettis, Phelps, Pike, Polk, Putnam, Ralls, Randolph, Ray, Reynolds, Ripley, St. Charles, St. Clair, St. Francois, St. Genevieve, Saline, Scotland, Scott, Shannon, Stoddard, Stone, Sullivan, Taney, Texas, Vernon, Warren, Washington, Wayne, Webster, Worth, Wright.

New Mexico. Chaves, Curry, De Baca, Eddy, Guadalupe, Lea, Mora, Quay, Roosevelt, San Miguel, Union, Valencia.

South Dakota. Jones, Stanley.

Tennessee. Bedford, Benton, Bledsoe, Bradley, Cannon, Carroll, Cheatham, Chester, Clay, Cocke, Coffee, Crockett, Cumberland, Decatur, DeKalb, Dickson, Dyer, Fayette, Franklin, Gibson, Giles, Hamilton, Hardeman, Hardin, Hawkins, Haywood, Henderson, Henry, Hickman, Houston, Humphreys, Jackson, Lauderdale, Lawrence, Lincoln, Loudon, Macon, Madison, Marion, Marshall, Maury, McMinn, McNairy, Monroe, Montgomery, Moore, Obion, Overton, Pickett, Putnam, Rhea, Rutherford, Shelby, Smith, Stewart, Sumner, Tipton, Trousdale, Washington, Wayne, Weakley, Williamson, Wilson.

Texas. Anderson, Andrews, Angelina, Aransas, Archer, Armstrong, Atascosa, Austin, Bailey, Bandera, Bastrop, Baylor, Bee, Bell, Bexar, Blanco, Borden, Bosque, Bowie, Brazoria, Brazos, Briscoe, Brooks, Brown, Burleson, Burnet, Caldwell, Calhoun, Callahan, Cameron, Camp, Carson, Cass, Castro, Chambers, Cherokee, Clay, Cochran, Coke, Coleman, Collin, Collingsworth, Colorado, Comanche, Concho, Cooke, Coryell, Cottle, Crockett, Crosby, Culberson, Dallam, Dallas, Dawson, Deaf Smith, Delta, Denton, De Witt, Dickens, Dimmitt, Donley, Duval, Eastland, Edwards, Ellis, El Paso, Erath, Falls, Fannin, Fayette, Fisher, Floyd, Foard, Fort Bend, Franklin, Freestone, Frio, Gaines, Galveston, Garza, Gillespie, Glasscock, Goliad, Gonzales, Grayson, Gregg, Grimes, Guadalupe, Hale, Hall, Hamilton, Hardeman, Hardin, Harris, Harrison, Haskell, Hays, Henderson, Hidalgo, Hill, Hockley, Hood, Hopkins, Houston, Howard, Hudspeth, Hunt, Hutchinson, Jack, Jackson, Jasper, Jefferson, Jim Hogg, Jim Wells, Johnson, Jones, Karnes, Kaufman, Kendall, Kenedy, Kent, King, Kinney, Kleberg, Knox, Lamar, Lamb, Lampasas, La Salle, Lavaca, Lee, Leon, Liberty, Limestone, Live Oak, Lubbock, Lynn, McCulloch, McLennan, McMullen, Madison, Marion, Martin, Matagorda, Maverick, Medina, Menard, Midland, Milam, Mills, Mitchell, Montague, Montgomery, Moore, Morris, Motley, Nacogdoches, Navarro, Nolan, Nueces, Ochiltree, Oldham, Orange, Palo Pinto, Panola, Parker, Parmer, Polk, Potter, Presidio, Rains, Randall, Real, Red River, Reeves, Refugio, Robertson, Rockwall, Runnels, Rusk, Sabine, San Augustine, San Jacinto, San Patricio, San Saba, Schleicher, Scurry, Shackelford, Shelby, Sherman, Smith, Somervell, Starr, Stephens, Stonewall, Sutton, Swisher, Tarrant, Taylor, Terry, Throckmorton, Titus, Tom Green, Travis, Trinity, Tyler, Upshur, Upton, Uvalde, Van Zandt, Victoria, Walker, Waller, Washington, Webb, Wharton, Wheeler, Wichita, Wilbarger, Willacy, Williamson, Wilson, Wise, Wood, Yoakum, Young, Zapata, Zavala.

Utah. Box Elder, Cache.

Wyoming. Lincoln.

Puerto Rico. Arecibo, Camuy, Carolina, Hatillo, Las Piedras, Naguabo.

§ 78.22 Noncertified areas.

The following States, or specified portions thereof, are hereby designated as Noncertified Brucellosis Areas:

(a) *Entire States.*

(b) *Specific Counties Within States.*

Missouri. Morgan.

(Secs. 4–7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791–792, as amended; sec. 3, 33 Stat. 1265, as amended; sec. 2, 65 Stat. 693; and secs. 3 and 11, 76 Stat. 130, 132, 21 U.S.C. 111–113, 114a–1, 115, 117, 120, 121, 125, 134b, 134f; 37 FR 28464, 28477; 38 FR 19141, 9 CFR 78.25.)

The amendments impose certain restrictions necessary to prevent the spread of brucellosis in cattle and relieve certain restrictions presently imposed. They should be made effective promptly in order to accomplish their purpose in the public interest and to be of maximum benefit to persons subject to the restrictions which are relieved. 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 of 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to the amendments are impracticable, unnecessary, and contrary to the public interest, and good cause is found for making them effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 16th day of June 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.

E. A. SCHILF,
Acting Deputy Administrator, Veterinary Services.

[FR Doc.77–17748 Filed 6–23–77;8:45 am]

Title 12—Banks and Banking

CHAPTER VI—FARM CREDIT ADMINISTRATION

MISCELLANEOUS CHANGES TO CHAPTER

AGENCY: Farm Credit Administration.

ACTION: Final rule.

SUMMARY: The Farm Credit Administration, by its Federal Farm Credit Board, took final action to amend 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 the Farm Credit Administration, 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 Farm Credit Administration 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.

EFFECTIVE DATE: June 6, 1977.

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, took final action on amendments to its regulations which (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.

By notice published in the FEDERAL REGISTER on April 15, 1977, interested persons were afforded the opportunity to file written comments or suggestions on these proposed regulations. Of the thirty-seven responses received, thirty-two were either in agreement with or had no objection to the proposed regulations. Five responses suggested changes in the proposals. As a result of one comment, a change was made in § 615.5103 to clarify that the debt maturity programs of each bank shall assure that funding programs are fiscally sound in the view of the capital markets. The other suggestions received had been presented previously to the Federal Farm Credit Board and were reconsidered in arriving at the final regulations. As changed the proposed regulations were adopted by the Federal Farm Credit Board.

Chapter VI of Title 12 of the Code of Federal Regulations is 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 continuing 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; new §§ 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 fiscally 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 commercial 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 paragraph (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.

(Secs. 5.9, 5.12, 5.18, 85 Stat. 619, 620, 621.)

DONALD E. WILKINSON,
Governor, Farm Credit Administration.

[FR Doc.77-17875 Filed 6-23-77;8:45 am]

Title 14—Aeronautics and Space

CHAPTER II—CIVIL AERONAUTICS BOARD

SUBCHAPTER A—ECONOMIC REGULATIONS

[Regulation ER-1002, Amdt. 38; Docket 30385]

PART 221—CONSTRUCTION, PUBLICATION, FILING AND POSTING OF TARIFFS OF AIR CARRIERS AND FOREIGN AIR CARRIERS

Amendment Concerning Filing of Tariff Justifications

JUNE 21, 1977.

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: This amendment exempts air freight forwarders and international air freight forwarders from the requirement that they file certain kinds of detailed economic data along with proposed changes in their tariff rates. This action was requested by the Air Freight Forwarders of America.

DATES: Effective July 25, 1977, adopted June 21, 1977.

FOR FURTHER INFORMATION CONTACT:

Lawrence Myers, Rates and Agreements Division, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428 (202-673-5791).

SUPPLEMENTARY INFORMATION: By notice of proposed rulemaking EDR-322, dated April 7, 1977 (42 FR 19355), the Board gave notice that it had under consideration a proposal to amend Part 221 of its Economic Regulations (14 CFR Part 221) so as to eliminate the requirement that air freight forwarders and international air freight forwarders with annual revenues from forwarding operations of $5,000,000 or more must file certain kinds of detailed economic data along with proposed tariff rate changes, including estimates of the cost of service, estimates of the aggregate effect of the proposed rate changes on traffic, schedules, and revenues, and a comparison table of existing and proposed rates.

Comments in support of the proposed rule have been received from the Air Freight Forwarders Association of America and three individual air freight forwarders.[1] These comments urge adoption of the proposal for the reasons set forth in EDR-322. A comment opposing the proposal in part has been filed by a direct air carrier, The Flying Tiger Line Inc., (FTL). Upon consideration of all the comments we have determined to make the proposed rule final.

Flying Tiger opposes the finalization of EDR-322 "to the extent these amendments would eliminate the requirement that air freight forwarders engaged in significant chartering activities file detailed justifications for proposed tariff rate changes." In support of its position, FTL contends that in primary markets the overnight service provided by such charters is directly competitive with scheduled freighter service, and thus a reduction in tariff justification requirements for chartering forwarders would place direct carriers at a discriminatory competitive disadvantage. In secondary markets, FTL adds, chartering gives certain forwarders a service advantage over other forwarders, thus lessening price competition and undercutting the Board's rationale for reducing the justification requirements for forwarders.

FTL's position essentially misconstrues the effect of the proposed amendment. The exemption of large forwarders from furnishing the data required by paragraphs (b) and (c) with each tariff filing merely means that a forwarder tariff proposal cannot be rejected on the basis of inadequate justification; it does not mean that the Board cannot suspend and investigate any such proposal which raises a question of lawfulness, i.e. reasonableness, unjust discrimination, or undue preference or prejudice, under the Act.[2] All tariff proposals continue to be subject to the same substantive standards of review, and when any carrier files rates without an adequate accompanying justification, it does so at its own peril. In close cases a full justification might indicate that the proposed rates are warranted, while a lack of adequate data might lead to a Board suspension. FTL has not shown that the proposed difference in treatment of forwarder justification requirements results in any significant competitive disadvantage to the direct carriers subject to the provisions of § 221.165.

FTL's second contention, that forwarder charters in secondary markets reduce competition among forwarders and create the need for a full regulatory scrutiny of their rates, touches upon questions of fact which are at issue in the Air Freight Forwarders' Charters Investigation, Docket 23287, now pending final decision by the Board. In this proceeding however, FTL is long on allegations and sort on facts. It has produced no evidence that forwarder rates in secondary markets are out of line with those in other markets, or that charter-based rates vary from other forwarder rates within the same markets. Indeed, the absence of complaints against charter-based forwarder rates in recent years strongly suggests that FTL's argument is contrary to fact. It is sufficient to note here, however, that its position is unsupported.

Accordingly, the Civil Aeronautics Board hereby amends Part 221 of its Economic Regulations (14 CFR Part 221) as set forth below:

Section 221.165 is amended to read as follows:

§ 221.165 Explanation and data supporting tariff changes and new matter in tariff publications.

When a tariff publication is filed with the Board which contains new or changed local or joint rates, fares, or charges for air transportation, or new or changed classifications, rules, regulations, or practices affecting such rates, fares, or charges, or the value of the service thereunder, the issuing air carrier, foreign air carrier, or agent shall submit with the filing of such publication, in or attached to the transmittal letter:

* * * * *

(d) Exceptions:

(1) The requirement for data and/or information in paragraphs (b) and (c) of this section will not apply to tariff

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[1] Airborne Freight Corporation, Shulman Air Freight, Inc., and WTTS Air Freight, Inc.

[2] Thus, the Board has consistently suspended, even in the absence of complaints, proposals by smaller forwarders (presently exempt from furnishing economic justification) which would raise excess valuation charges in excess of industry levels, in part for failure to demonstrate prima facie their reasonableness.

publications containing new or changed matter which are filed:

* * * * * *

(iii) By air freight forwarders or international air freight forwarders, as defined in Part 296 of this subchapter, or

* * * * * *

(Sections 204 and 403 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 758; 49 U.S.C. 1324, 1373.)

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-18130 Filed 6-23-77;8:45 am]

SUBCHAPTER E—ORGANIZATION REGULATIONS

[Regulation OR-118, Amdt. 8]

PART 384—STATEMENT OF ORGANIZATION, DELEGATION OF AUTHORITY, AND AVAILABILITY OF RECORDS AND INFORMATION

Organizational Changes

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: The rule sets forth the present location, as well as the business hours, of all Board field offices. It updates this information for the benefit of the general public.

DATES: Effective June 20, 1977. Adopted June 20, 1977.

FOR FURTHER INFORMATION CONTACT:

Simon J. Eilenberg, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428 (202-673-5442).

SUPPLEMENTARY INFORMATION: This amendment corrects and updates the description in § 384.4 of the location of all the Board's field offices. Also, since some field offices have business hours different than those of the central office, the rule now states those hours for each office.

Since this amendment is concerned with internal management and practices, and imposes no significant burden on any member of the public, the Board finds that notice and public procedure are unnecessary and that the rule may be effective immediately.

Accordingly, 14 CFR Part 384 is amended as follows:

Amend § 384.4 to read as follows:

§ 384.4 Offices.

The central offices of the Civil Aeronoutics Board are located in the Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., and in the Universal Building North, 1875 Connecticut Avenue NW., Washington, D.C. Its mailing address is Civil Aeronautics Board, Washington, D.C. 20428. The hours of business for the central offices are 8:30 a.m. to 5 p.m. The Board maintains field offices in Anchorage, Alaska (8 a.m. to 4:30 p.m.); Des Plaines, Illinois (7:30 a.m. to 4 p.m.); Fort Worth, Texas (8:30 a.m. to 5 p.m.); Los Angeles, California (7:30 a.m. to 4 p.m.); Miami, Florida (8:30 a.m. to 5 p.m.); New York City, New York (8:30 a.m. to 5 p.m.); San Mateo, California (8 a.m. to 4:30 p.m.); and Seattle, Washington (8 a.m. to 4:30 p.m.). All hours of business are local time, Monday through Friday, excluding legal holidays, unless otherwise provided by statute or Executive Order.

(Section 204(a) of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 49 U.S.C. 1324.)

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-18137 Filed 6-23-77;8:45 am]

Title 21—Food and Drugs

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

SUBCHAPTER A—GENERAL

[Docket No. 77C-0198]

PART 73—LISTING OF COLOR ADDITIVES EXEMPT FROM CERTIFICATION

PART 81—GENERAL SPECIFICATIONS AND GENERAL RESTRICTIONS FOR PROVISIONAL COLOR ADDITIVES FOR USE IN FOODS, DRUGS, AND COSMETICS

Carmine

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration is "permanently" listing carmine for use in cosmetics generally, including those intended for use in the area of the eye. H. Kohnstamm & Co., Inc., filed a petition for such use. The color additive regulations are amended to reflect the listing.

DATES: Effective July 26, 1977; objections by July 25, 1977.

ADDRESS: Written objections to the Hearing Clerk (HFC-20), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

Gerad L. McCowin, Bureau of Foods (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, 202-472-5740.

SUPPLEMENTARY INFORMATION: A notice published in the FEDERAL REGISTER of August 17, 1965 (30 FR 10211) stated that a petition (CAP 20) for the "permanent" listing of carmine as a color additive for use in foods, drugs, and cosmetics had been filed by H. Kohnstamm & Co., Inc., New York, NY 10013. The petition was filed pursuant to section 706 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 376).

Carmine has been provisionally listed for use in cosmetics under § 81.1(g) (21 CFR 81.1(g), formerly 21 CFR 8.501(g) prior to recodification published in the FEDERAL REGISTER of March 22, 1977 (42 FR 15553)). With permanent listing of carmine under § 73.2087, the listing under § 81.1(g) becomes obsolete.

The Commissioner, having evaluated the data in the petition and other relevant material concludes that carmine is safe under the conditions set forth below for use in coloring cosmetics generally, including those for use in the area of the eye, and that certification is not necessary for the protection of the public health.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 706 (b), (c), and (d), 74 Stat. 399-403 (21 U.S.C. 376 (b), (c), (d))) and the transitional provisions of the Color Additive Amendments of 1960 (Title II, Pub. L. 86-618, 74 Stat. 404-407 (21 U.S.C. 376 note)) and under authority delegated to the Commissioner (21 CFR 5.1), Parts 73 and 81 are amended as follows:

1. In Part 73, by adding new § 73.2087 to Subpart C, to read as follows:

§ 73.2087 Carmine.

(a) *Identity and specifications.* The color additive carmine shall conform in identity and specifications to the requirements of § 73.100 (a)(2) and (b)(2).

(b) *Use and restrictions.* Carmine may be safely used in cosmetics generally, including cosmetics intended for use in the area of the eye, in amounts consistent with good manufacturing practices.

(c) *Labeling.* The color additive and any mixture prepared therefrom intended solely or in part for coloring purposes shall bear, in addition to any information required by law, labeling in accordance with the provisions of § 70.25 of this chapter.

(d) *Exemption from certification.* Certification of this color additive is not necessary for the protection of the public health, and therefore batches thereof are exempt from certification pursuant to section 706(c) of the act.

§ 81.1 [Amended]

2. In Part 81, by amending § 81.1 *Provisional lists of color additives,* by deleting the entry for "Carmine" in paragraph (g).

Any person who will be adversely affected by the foregoing regulation may at any time on or before July 25, 1977 file with the Hearing Clerk (HFC-20), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written objections thereto. Objections shall show wherein the person filing will be adversely affected by the order, specify with particularity the provisions of the regulation deemed objectionable, and state the grounds for the objections. Objections shall be filed in accordance with the requirements of § 71.30 (21 CFR 71.30). If a hearing is requested, the objections shall state the issues for the hearing, shall be supported by grounds factually and legally sufficient to justify the relief sought, and shall include a detailed description and analysis of the

factual information intended to be presented in support of the objections in the event that a hearing is held. Five copies of all documents shall be filed and should be identified with the Hearing Clerk docket number found in the brackets in the heading of this regulation. Received objections may be seen in the Hearing Clerk's office between 9 a.m. and 4 p.m., Monday through Friday.

Effective date: This regulation shall become effective July 26, 1977 except as to any provisions that may be stayed by the filing of proper objections. Notice of the filing of objections or lack thereof will be announced by publication in the FEDERAL REGISTER.

(Sec. 706 (b), (c), and (d), 74 Stat. 399-403 (21 U.S.C. 376 (b), (c), and (d)).)

Dated: July 16, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.77-17958 Filed 6-23-77;8:45 am]

SUBCHAPTER B—FOODS FOR HUMAN CONSUMPTION

[Docket No. 76F-0463]

PART 173—SECONDARY DIRECT FOOD ADDITIVES PERMITTED IN FOOD FOR HUMAN CONSUMPTION

Specific Usage Additives; Chemicals Used in Washing Or to Assist in the Lye Peeling of Fruits and Vegetables

Correction

In FR Doc. 77-16228 appearing at page 29856 in the issue for Friday, June 10, 1977, the table in § 173.315(a)(3) should have read as set forth below:

Substances	*Limitations*
Alpha-alkyl (C_{10}-C_{16})-omega- hydroxypoly (oxyethylene); average number of moles of ethylene oxide is 9.	Not to exceed 3 ppm
Linear undecylbenzenesulfonic acid.	Do.
Dialkanolamide produced by condensing 1 mole of methyl laurate with 1.05 moles of diethanolamine.	Not to exceed 2 ppm
Triethanolamine	Do.
Ethylene glycol monobutyl ether.	Not to exceed 1 ppm
Oleic acid conforming with § 172.860 of this chapter.	Do.
Tetrapotassium pyrophosphate.	Not to exceed 0.3 ppm
Monoethanolamine	Do.
Ethylene dichloride	Not to exceed 0.2 ppm
Tetrasodium ethylenediaminetetraacetate.	Not to exceed 0.1 ppm

* * * * *

SUBCHAPTER E—ANIMAL DRUGS, FEEDS, AND RELATED PRODUCTS

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

Oxytetracycline Hydrochloride Injection

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The animal drug regulations are amended to reflect approval of a new animal drug application submitted by Philips Roxane, Inc., for use of an injectable drug in cattle and swine for the treatment of certain diseases due to oxytetracycline-susceptible organisms.

EFFECTIVE DATE: June 24, 1977.

FOR FURTHER INFORMATION CONTACT:

Myron C. Rosenberg, Bureau of Veterinary Medicine (HFV-125), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1788.

SUPPLEMENTARY INFORMATION: The Commissioner of Food and Drugs is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (47-278V) filed by Philips Roxane, Inc., 2621 North Belt Highway, P.O. Box 999, St. Joseph, MO 64502, proposing certain additional limitations of use and a change in excipients for oxytetracycline hydrochloride injection used in the treatment of certain diseases due to oxytetracycline-susceptible organisms in beef cattle, nonlactating dairy cattle, and swine.

In accordance with § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)) of the animal drug regulations, a summary of the safety and effectiveness data and information submitted to support the approval of this application is released publicly. The summary is available for public examination at the office of the Hearing Clerk, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, between the working hours of 9 a.m. and 4 p.m., Monday through Friday.

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), Part 522 is amended in § 522.1662a by adding new paragraph (b)(3)(ii)(c) to read as follows:

§ 522.1662a Oxytetracycline hydrochloride injection.

* * * * *

(b) * * *
(3) * * *
(ii) * * *

* * * * *

(c) Discontinue use 26 days prior to slaughter.

* * * * *

Effective date: This amendment becomes effective June 24, 1977.

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

Dated: June 14, 1977.

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

[FR Doc.77-17848 Filed 6-23-77;8:45 am]

SUBCHAPTER G—COSMETICS

[Docket No. 75N-0005]

PART 701—COSMETIC LABELING

Hypoallergenic Cosmetic Products; Judicial Stay of Effective Date

Correction

In FR Doc. 77-16957 appearing at page 30361 in the issue for Tuesday, June 14, 1977, in the middle column, the 5th line of the third full paragraph, the date now reading "June 5, 1976" should have read "June 6, 1975".

Title 25—Indians

CHAPTER I—BUREAU OF INDIAN AFFAIRS, DEPARTMENT OF THE INTERIOR

SUBCHAPTER J—FISCAL AND FINANCIAL AFFAIRS

PART 114—PROCEDURES FOR DEPOSITING FUNDS TO THE CREDIT OF 14X6140-DEPOSITS OF PROCEEDS OF LANDS WITHDRAWN FOR NATIVE SELECTION, BIA

Establishment of a New Part

AGENCY: Bureau of Indian Affairs, Department of the Interior.

ACTION: Final rulemaking.

SUMMARY: This document establishes policy for the deposit, investment, and payment of monies in the authorized escrow account and delegates to the Commissioner of Indian Affairs the responsibility of setting up the account, preparing guidelines for administering the account, and making investments and disbursements of the monies in the account.

EFFECTIVE DATE: June 24, 1977.

ADDRESSES: None.

FOR FURTHER INFORMATION CONTACT:

Mr. A. W. Bartlett, P.O. Box 127, Bureau of Indian Affairs, Albuquerque, New Mexico, 87103; telephone 505-474-3496.

SUPPLEMENTARY INFORMATION: The Secretary of the Interior, by issuance of Order No. 2997, served notice that there has been established an escrow account entitled "Deposits of Proceeds of Lands Withdrawn for Native Selection, Bureau of Indian Affairs" in the Treasury of the United States for the deposit of proceeds derived from contracts, leases, permits, rights-of-way, or easements pertaining to affected lands, or resources in affected lands withdrawn for Native selection pursuant to the Alaska Native Claims Settlement Act. All Departments or Agencies of the Federal Government and State of Alaska receiving such proceeds are required to deposit proceeds to the account and advise the Commissioner of the deposit in accordance with this rule.

Notice of proposal and the comment period is found to be unnecessary due to the limited applicability of this regulation and its categorization as interpretation of Section 2 of the Act of January 2, 1976 (89 Stat. 1145).

The new Part 114 shall become effective on June 24, 1977 and shall remain in effect until it is amended, revoked, or superseded. However, in the absence of the foregoing, the provisions of this order shall terminate January 3, 1979.

The authority for the Commissioner to issue these regulations is contained in Section 2 of the Act of January 2, 1976 (89 Stat. 1145), Escrow Account, and (5 U.S.C. 301), and Sections 463 and 465 of the Revised Statutes (25 U.S.C. 2 and 9), and 230 DM 1 and 2.

Subchapter J, of Chapter I of Title 25 of the Code of Federal Regulations is amended by adding a new Part 114, to read as follows:

Sec.
114.1 Purpose
114.2 Proceeds Received by Federal Agencies
114.3 Proceeds Received by the State of Alaska

AUTHORITY: 89 Stat. 1145.

§ 114.1 Purpose.

The purpose of the regulations in this part is to describe the procedures to be used by all Departments and Agencies of the Federal Government and the State of Alaska for the deposit of proceeds derived from contracts, leases, permits, and rights-of-way or easements pertaining to affected lands or resources in affected lands withdrawn for Native selection pursuant to the Alaska Native Claims Settlement Act.

§ 114.2 Proceeds received by Federal agencies.

(a) Direct Deposits.

(1) Agency will prepare Deposit Ticket (SF 215), using Agency Accounting Station Code 14-20-0650.

(2) In Block (6) Fund Symbol 14X6140 will be inserted as well as the following:

Credit to Bureau of Indian Affairs, Branch of Finance and Accounting, P.O. Box 127, Albuquerque, New Mexico 87103.

(3) Memorandum copy and confirmed copy of Deposit Ticket will be mailed to above address, immediately upon completion and confirmation.

(4) Agency will provide information (lease, contract or other identification) which will permit depositing agency to identify deposit with particular plot of land at time distribution of the funds is to be made. This information can be shown in Block (6) if space permits, or on an attached listing.

(b) Periodic Deposits.

(1) In some circumstances, collection from Withdrawn Lands will be in such small amounts and such frequency as to be administratively burdensome to make individual deposits to the fund, or collections may be mixed with collections to be credited to other funds. In such instances depositing agencies may initially deposit the collections to their own suspense accounts. Such deposits will then be transferred to Fund 14X6140 no less frequently than monthly. The "Pay to" side of the SF 1081 will be completed as follows:

Department, Interior.
Bureau, Indian Affairs.
Agency Station Symbol, 14-20-0650.
Address, Albuquerque, NM 87103.
Appropriation or Fund Symbol, 14X6140.

and will be supported by sufficient detail to permit future identification by depositing agency. An advance copy of the SF 1081, with supporting documentation will be forwarded to the BIA at Albuquerque immediately.

(2) Agencies not using the SF 1081 procedures will issue a check made payable to the Treasurer of the United States, and forward it to:

Juneau Area Office, Bureau of Indian Affairs, P.O. Box 8000—B, Juneau, Alaska 99802.

accompanied by a listing in sufficient detail to permit the collecting agency to identify the collections with each parcel of land at the time distribution of the funds is to be made.

§ 114.3 Proceeds received by the State of Alaska.

The State agency responsible for making collections will deposit the proceeds to the credit of the State of Alaska. A check will then be issued, payable to the Treasurer of the United States, and will be forwarded to the Juneau Area Office, Bureau of Indian Affairs, accompanied by a detailed listing providing information which will permit identification of the funds with each particular parcel of land at the time distribution of the funds is to be made. The Juneau Area Office will deposit all such receipts to the credit of Fund Symbol 14X6140, forwarding the memorandum copy to the Branch of Finance and Accounting immediately, together with a copy of the detail provided by the State of Alaska.

RAYMOND V. BUTLER,
Acting Deputy Commissioner of Indian Affairs.

[FR Doc.77-18021 Filed 6-23-77;8:45 am]

Title 36—Parks, Forest, and Public Property

CHAPTER II—FOREST SERVICE, DEPARTMENT OF AGRICULTURE

PART 200—ORGANIZATION, FUNCTIONS, AND PROCEDURES

Subpart A—Organization

ORGANIZATIONAL CHANGES AND CORRECTIONS

AGENCY: Forest Service, USDA.

ACTION: Final rule (Organization Statement).

SUMMARY: The organizational listing of the Forest Service is updated to reflect a current listing of land management units and new addresses. This is required to be published in the FEDERAL REGISTER by The Administrative Procedures Act.

DATES: The effective date for the new address for both the Northeastern Station and Northeastern Area in § 200.2 is October 1, 1977. The listing is otherwise effective on June 24, 1977.

FOR FURTHER INFORMATION CONTACT:

Thomas R. Jones, Administrative Management Staff, Forest Service, USDA, P.O. Box 2417, Washington, D.C. 20013, 202-447-4077.

Part 200 of Title 36 of the Code of Federal Regulations is amended as follows:

1. The National Forest System listing in § 200.1, paragraph (c)(2), is updated as follows:

§ 200.1 Central organization.

* * * * *

(c) *Deputy Chiefs.* * * *

(2) *National Forest System.* * * *

154 Proclaimed or designated National Forests
19 National Grasslands
29 Purchase Units
17 Land Utilization Projects
25 Research and Experimental Areas
41 Other areas

* * * * *

2. The addresses for two Forest and Range Experiment Stations and one State and Private Forestry Area in § 200.2, paragraph (d), are changed as follows:

§ 200.2 Field organization.

* * * * *

(d) *Field Addresses.* * * *

* * * * *

North Central—Folwell Avenue, St. Paul, MN 55108.

Northeastern—370 Reed Road, Broomall, PA 19008.

* * * * *

Director, Northeastern Area, 370 Reed Road, Broomall, PA 19008.

(81 Stat. 54 (5 U.S.C. 552).)

JOHN R. MCGUIRE,
Chief, Forest Service.

JUNE 20, 1977.

[FR Doc.77-18036 Filed 6-23-77;8:45 am]

Title 41—Public Contracts and Property Management

CHAPTER 4—DEPARTMENT OF AGRICULTURE

PART 4-2—PROCUREMENT BY FORMAL ADVERTISING

Miscellaneous Amendments

AGENCY: Department of Agriculture.

ACTION: Final rule.

SUMMARY: This rule amends the Agriculture Procurement Regulations by updating the procedures for evaluating bids containing minor informalities, deleting section which had instructed Departmental agencies to submit questions involving award of contracts directly to GAO rather than through the Office of Operations (PGAMS), revising section on erroneous awards, based on findings of the Comptroller General, and making various editorial revisions and organizational name changes.

EFFECTIVE DATE: June 24, 1977.

FOR FURTHER INFORMATION CONTACT:

Douglas I. Metzger, Procurement, Grants and Agreements Management Staff, Office of Operations, United States Department of Agriculture,

Washington, D.C. 20250, 202-447-7527.

SUPPLEMENTARY INFORMATION: This amendment involves matters relating to agency management and contracting and, while not subject by law to the notice and public procedure requirements for rule making under 5 U.S.C. 553, is subject to the Secretary's Statement of Policy (36 FR 13804). The amendment corrects or clarifies existing policy. No useful purpose would be served by public participation, and it is found upon good cause, in accordance with the Secretary's Policy Statement, that notice and other public procedures with respect to the amendment are impracticable and unnecessary.

1. The Table of Contents of Part 4-2 is amended by deleting § 4-2.450, Informalities of substance.

2. Section 4-2.404-2, paragraphs (a) and (b), are revised to read as follows:

§ 4-2.404-2 Rejection of individual bids.

(a) *Multiple bids.* Multiple bids are two or more bids submitted by one individual on behalf of two or more companies or submitted by two or more affiliated companies. Multiple bids may be accepted, provided, acceptance would not give one bidder an unfair advantage or would otherwise prejudice the interests of the Government. If acceptance of multiple bids would be prejudicial to the Government or to other bidders they must be rejected. Multiple bids are most likely to occur where different divisions of the same company or a parent company and its subsidiary submit bids under the same invitation, each responding to separate copies of the invitation sent to them, and each unaware that their affiliated company or division is also submitting a bid. An individual may also have legitimate reasons for submitting bids on behalf of two or more companies which that individual owns or controls. This could be a situation where partial awards are permitted under the invitation and it is hoped that an award will be made to each of the companies for such amount of work that each company could capably perform.

(b) *Alternate bids.* An alternate bid is one that contains an offer to perform work or furnish supplies not meeting the minimum requirements of the advertised specifications and must be rejected. A bid is not necessarily an alternate bid merely because a bidder designates it as such. Many times, bidders will submit more than one bid price based on differing qualities of materials, all or some of which may meet the advertised specifications. A low bid meeting the advertised specifications, whether or not it is designated by the bidder as an "alternate" bid, may be accepted.

3. Section 4-2.405 is revised to read as follows:

§ 4-2.405 Minor informalities or irregularities in bids.

(a) *Bids not on Government forms.* Bids not on Government forms may be accepted provided (1) the language of the bid clearly indicates that it is in response to the advertised invitation for bids, (2) that which is offered is in accordance with the advertised specifications, and (3) no right is reserved by the bidder which would limit his liability to a greater extent than was provided in the invitation for bids. When such a bid is accepted the complete invitation for bids, in blank, shall be attached to the accepted bid and made a part of the contract.

(b) *Failure to acknowledge receipt of amendment.* The general rule as to the effect of a bidder's failure to acknowledge an amendment to an invitation for bids is that when the amendment affects, in other than a trivial or negligible manner, the price, quantity, or quality of the procurement, the bidder's failure to acknowledge the amendment in compliance with the terms of the invitation or amendment cannot be waived. The basis for this rule is the principle that the acceptance of a bid which disregards a material provision of an invitation would be prejudicial to other bidders. As clarification of a bid after opening is not permitted, a bidder's working papers cannot be used to show that an amendment to an invitation was received and considered and thereby act as a retroactive acknowledgment of the amendment.

(1) Failure to acknowledge receipt of an amendment to an invitation for bids may be waived in circumstances where the effect of the amendment is trivial or negligible in terms of price in relation to the overall scope of the contract and the difference between the two low bid prices. In determining whether the effect of an amendment is trivial or negligible to permit a waiver, the contracting officer shall use the Government's price estimate of the amendment and not a cost value cited by the bidder seeking the waiver. To do so would give the bidder the option to either become eligible for award or avoid award by citing smaller or larger cost values.

(2) *Wage determinations.* Failure to acknowledge an amendment to an invitation for bids incorporating a wage determination may not be waived as a minor informality since the amendment affects the price of the bid, even though the bidder's wages in the region may be greater than those contained in the wage determination.

(c) Questionable cases as to whether acceptance of a bid as submitted will result in a contract binding on the bidder should be referred to the Office of General Counsel for determination.

§ 4-2.407-1 [Amended]

4. Section 4-2.407-1, paragraph (a), is deleted and reserved.

5. Section 4-2.407-8 is revised to read as follows:

§ 4-2.407-8 Protests against award.

(a) *General.* (1) The written final decision to the protestor required by § 1-2.407-8(a)(1) of this title shall include a paragraph substantially as follows:

This decision shall be final and conclusive unless a further written notice of protest addressed to the Comptroller General of the United States is mailed or otherwise furnished to the Contracting Officer or the Comptroller General. The protest, which may be in letter form, should refer to this decision and should include a statement of the reasons why the decision is considered to be erroneous.

(2) Where protests addressed to the Comptroller General are received, the contracting officer shall immediately forward the protest and documents required by § 1-2.407-8(a)(2) of this title to the Office of Operations through agency channels. The Office of Operations will transmit the protest to the General Accounting Office.

(b) *Protests after award.* Protests received after award will be handled in accordance with § 1-2.407-8 and § 4-2.407-8 of this title insofar as applicable. If the award was erroneously made, the instructions in § 4-2.407-53 shall be followed. Protests addressed to the Secretary or to the Department will be handled by the Office of Operations except as otherwise instructed in individual cases. If the contracting agency is in doubt as to proper resolution of a protest addressed to it, the advice of the Office of Operations or the Office of the General Counsel should be sought.

6. Section 4-2.407-53 is revised to read as follows:

§ 4-2.407-53 Erroneous award.

(a) If, through error, award is made to other than the low responsive and responsible offeror the resulting contract is illegal, and therefore, invalid.

(b) If the contractor did not contribute to the error and was not on direct notice before award that the procedures being followed were wrong, the contract cannot be cancelled but may be terminated for convenience.

(c) If the award was made contrary to statutory or regulatory requirements because of some action or statement by the contractor, or if the contractor was on direct notice that the procedures being followed violated such requirements, the award is illegal and can be cancelled. When the award is cancelled payment must be made on the "quantum meruit" basis, i.e., the contractor can only recover the costs he has already incurred (after award and before cancellation) to the extent that they confer a tangible benefit on the Government in the form of goods which the Government has received and retained. Pre-production costs (drafting, design, tooling and production planning, and tooling material) are generally not recoverable unless they meet the above criteria.

(d) The Office of Operations and Office of the General Counsel will render assistance to agencies when exceptional cases are involved.

(e) A report on the circumstances which led to making an erroneous award and a description of measures taken to prevent their recurrence shall be submitted to the Office of Operations through agency channels.

7. Sections 4-2.202-3(b), 4-2.406-1(a), 4-2.407-6, 4-2.407-50(d) and 4-2.407-51 are revised to read as follows:

§ 4–2.202–3 Place and method of delivery of supplies.

* * * * *

(b) *F.O.B. shipping point and F.O.B. destination.* In some instances it may be to the advantage of the Government to solicit prices on the basis of both F.O.B. shipping point and destination. Illustrations of cases when it would be in the best interest of the Government to solicit prices both ways are:

(1) When it is the custom of the industry to bid a shipping-point price only;

(2) When it is to the advantage of the Government to encourage competition by including bidders who will bid a shipping-point price only;

(3) When the cost of the transportation of the commodity is substantial in relation to the cost of the commodity, to bring into the competition the contractor who cannot or is unwilling to meet the large transportation cost.

(4) When the ultimate destination is known and when the quantity to be purchased is estimated to weigh 20,000 lbs. or more, except for those items that are of a fragile nature or are otherwise exceptionally susceptible to damage in transit, and

(5) When the ultimate destination is known and when the quantity to be purchased is estimated to weigh 100,000 lbs, or more, and is of a fragile nature or otherwise exceptionally susceptible to damage in transit.

* * * * *

§ 4–2.406–1 General.

(a) *General.* As a general rule a bidder cannot withdraw or change his bid after opening. Such rule does not apply where the bidder establishes, prior to award, that he made an honest mistake, since acceptance of a bid with the knowledge thereof does not constitute a valid binding contract. If the contracting officer has actual or constructive notice of an error in a bid after opening he shall request from the bidder a vertification of the bid, calling attention to the suspected mistake and stating why he suspects a mistake has been made. If the bidder alleges a mistake, the matter shall be processed in accordance with this section. Such actions shall be taken prior to award. A representative of the bidder has authority to verify the bid if it appears that he is an employee of the bidder and is present at the bid opening in such capacity.

* * * * *

§ 4–2.407–6 Equal low bids.

Where the application of § 1–2.407–6 results in two or more bidders being equally eligible for award, the award shall be made by a drawing by lot limited to such bidders. In each such case, except as otherwise authorized by the Director, Office of Operations, the bidders involved shall be given an opportunity to be present at the drawing.

§ 4–2.407–50 Effect of acceptance period.

* * * * *

(d) *Awards where the acceptance period of the low bidder has expired.* Ordinarily, where a low bidder's acceptance period expires before acceptance and contract award, and regardless of the reason therefor, any award shall be to the next low bidder whose acceptance period is effective at the time. Such award is preferable, from the standpoint of preserving the integrity of the competitive bid system, to allowing the low bidder to renew his acceptance period after it has expired. It will be necessary to explain in the file in such instances the circumstances surrounding the failure to secure award prior to the expiration date, with a showing that award to the next low bidder was in the best interest of the Government, and that no appreciable savings could have been obtained by readvertising. Nonetheless, if award cannot otherwise be made without readvertising, when all bids have been improperly rejected or the acceptance period of all bids has expired, the low bidder may renew his acceptance period and thereby receive award. This procedure is preferred since readvertising generally should be avoided except for the most compelling reasons. (See § 1–2.404–1 of this title).

§ 4–2.407–51 Availability of funds.

Prior to award of the contract or any subsequent change therein, the contracting officer should have written assurance that sufficient funds are available within the current allotment and are reserved for the proposed action. However, where required by unusual circumstances, a contract may be executed with a condition therein that the liability of the Government for payment of all or a portion of the contract amount is subject to the availability of funds therefor. A contract provision somewhat as follows is suggested.

> Funds are available in current appropriations and reserved for this contract in the amount of $_____. Completion of the contract is contingent upon appropriation of funds therefor. No legal liability on the part of the Government for the payment of more than $_____ shall arise unless and until such appropriation shall have been provided.

See 16 U.S.C. 557a regarding statutory authority and requirements for such conditional contracts in connection with the administration of the National Forests.

§ 4–2.450 [Deleted]

8. Section 4–2.450 is deleted.

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

Done at Washington, D.C., this 20th day of June, 1977.

E. ALVAREZ,
Director, Office of Operations.

[FR Doc.77–17994 Filed 6–23–77;8:45 am]

CHAPTER 9—ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

[ERDA–PR TEMPORARY REGULATION NO. 35]

PART 9–1—GENERAL

PART 9–7—CONTRACT CLAUSES

AGENCY: Energy Research and Development Administration.

ACTION: Temporary regulation.

SUMMARY: ERDA Temporary Regulation No. 29, published in the FEDERAL REGISTER on April 29, 1977, made a number of changes in ERDA conflict of interest regulations on technical and management support services contracting. Because of the subsequent enactment of Public Law 95–39 signed by the President on June 10, 1977, Temporary Regulation No. 29, including its deadline of June 25, 1977, for comments, is canceled and is replaced by this temporary regulation. This regulation is more responsive to Public Law 95–39 which contains requirements relating to Organizational Conflicts of Interest in ERDA procurements.

EFFECTIVE DATE: June 24, 1977.

ADDRESS: Harry M. Tayloe, Division of Procurement, Rm. C–167, USERDA, Washington, D.C. 20545.

FOR FURTHER INFORMATION CONTACT:

Harry M. Tayloe (302–353–5526).

SUPPLEMENTARY INFORMATION: Expiration date.—This regulation will remain in effect until canceled or until its provisions are incorporated into a permanent ERDA Procurement Regulation.

This temporary regulation, which modifies ERDA–PR Subparts 9–1.54 and 9–7.50, replaces Temporary Regulation No. 29, dated April 29, 1977, to reflect more accurately the intent of Public Law 95–39. The principal changes are (1) definitions of "evaluation services," "technical consulting and management support services," "research and development" and "architect-engineer services" and (2) the exclusion of procurements of research and development and architect-engineer services from applicability of Subpart 9–1.54.

In addition, this regulation modifies the Organizational Conflicts of Interest Clause included in Temporary Regulation No. 29, to conform its provisions to the changes contained herein.

A comprehensive revision of Subpart 9–1.54 will be completed by December 10, 1977. Therefore comments received within 60 days of this notice on any aspect of the subpart, including this temporary regulation, will be considered for inclusion in the revision.

1. Subpart 9–1.54 is amended by adding paragraph (c) to § 9–1.5402; revising § 9–1.5404; changing § 9–1.5405 by identifying the present provision as paragraph (a) and adding paragraphs (b), (c), (d), and (e); and adding paragraphs (d), (e), and (f) to § 9–1.5406.

Subpart 9–1.54 General Policy for the Avoidance of Organizational Conflicts of Interest

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§ 9–1.5402 Scope and applicability.

* * * * *

(c) The disclosure provision set forth in § 9–1.5406(d) and the contract clause set forth in § 9–7.5006–40 need not apply to contracts and arrangements for (i)

research and development or (ii) architect and engineering services. (See § 9–1.5405 (d) and (e).)

* * * * *

§ 9–1.5404 Qualification and evaluation criteria, waiver.

(a) Failure on the part of an offeror to submit information pursuant to the disclosure provision set forth in § 9–1.5406(d) or to accept the Organizational Conflicts of Interest Clause set forth in § 9–7.5006–40 shall disqualify the offeror from further consideration for contract award. However, nothing contained herein shall preclude the offeror, because of a potential conflict, from proposing to exclude specific kinds of effort from the statement of work as contained in the solicitation unless the solicitation specifically prohibits such exclusion. Any such exclusion contained in the offeror's proposal shall be considered by the Government as an evaluation factor, and if the Government considers such proposed exclusion to be an essential or integral part of the required work, the offeror's proposal may be considered nonresponsive.

(b) A manager of a field office or the Director of Procurement, or their designees, may authorize the contracting officer to grant the waiver provided for in (e) of the Organizational Conflicts of Interest Clause set forth in § 9–7.5006–40.

§ 9–1.5405 Definitions.

(a) The term "organizational conflict of interest" means a situation where a contractor, normally a corporation, has interests, either due to its other activities or its relationships with other organizations, which place it in a position that may be unsatisfactory or unfavorable (1) from the Government's standpoint in being able to secure impartial, technically sound, objective assistance and advice from the contractor, or in securing the advantages of adequate competition in its procurement; or (2) from industry's standpoint in that unfair competitive advantage may accrue to the contractor in question.

(b) The term "evaluation services" means any work or effort involving the independent study of a particular technology, process, or product which entails the assessment, appraisal, or survey of such technology, process, or product.

(c) The term "technical consulting and management support services" means any work or effort to provide internal assistance to any ERDA program division or other organizational component in the formulation or administration of its programs or projects, which normally necessitates that the contractor be given access to internal ERDA information. Such services typically include assistance in the preparation of program plans; evaluation, monitoring or review of contractors' activities or proposals submitted by prospective contractors; preparation of preliminary designs, specifications, or statements of work; the making of recommendations, or the rendering of an opinion or advice regarding any technical problem, issue, or question.

(d) The term "research and development" means any work or effort involving (1) theoretical analysis, exploration, or experimentation; or (2) the extension of investigative findings and theories of a scientific or technical nature into practical application for experimental and demonstration purposes, including the experimental production and testing of models, devices, equipment, materials, and processes.

(e) The term "architect-engineer services" means work or effort of a professional nature associated with research, development, design and construction, alteration or repair of real property including utilities and appurtenances thereto. Such services embrace conceptual design and Title I, Title II and Title III work, as defined in ERDA-PR 9–18.306–50(b).

§ 9–1.5406 General policy.

* * * * *

(d) The following disclosure provision shall be included in all solicitations for evaluation and technical consulting and management support services as defined in § 9–1.5405. Where a formal solicitation is not used, the provision shall be furnished to the offeror in whatever manner is practical in order that ERDA may receive and evaluate the required information as a condition precedent to award.

DISCLOSURE STATEMENT REGARDING ORGANIZATIONAL CONFLICTS OF INTEREST

Pursuant to ERDA–PR Subpart 9–1.54, it is ERDA policy to avoid situations which place an offeror in a position where its judgment may be biased because of any present or planned interest, financial or otherwise, the offeror may have which relates to the work to be performed pursuant to this solicitation, or where the offeror's performance of such work may provide it with an unfair competitive advantage. (As used herein, "offeror" means the proposer or any of its affiliate organizations or proposed subcontractors.) Therefore:

(1) The offeror shall provide a statement which describes in a concise manner all relevant facts concerning any present or planned interest (financial, contractual, organizational, or otherwise) relating to the work to be performed hereunder and bearing on whether the offeror has a possible conflict of interest with respect to (a) being able to render impartial, technically sound, and objective assistance or advice, or (b) being given an unfair competitive advantage.

(2) In the absence of any interest referred to above, the offeror shall submit a statement certifying that to its best knowledge and belief no such interest exists.

(3) ERDA will review the statement submitted and may require that additional relevant information be provided by the offeror. The statement and any additional information required of the offeror or otherwise known to ERDA will be used to determine whether an award to the offeror may create a conflict of interest relating to bias or prior contractual restrictions. If such conflict is found to exist, ERDA may (i) disqualify the offeror, (ii) impose appropriate conditions which satisfactorily mitigate or avoid such conflict, or (iii) determine that it is otherwse in the best interests of the Government not to disqualify the offeror.

(4) Failure to provide the statement and any additional information required, or the nondisclosure or misrepresentation of any relevant interest shall result in disqualification under this solicitation or, if discovered after award, may result in termination at no cost to the Government, disqualification under subsequent related contractual efforts, and such other remedial action as may be permitted or provided by law or the resulting contract. The attention of the offeror in complying with this provision is directed to 18 U.S.C. § 1001.

(e) Notwithstanding any other provision contained in this subpart, the contract clause set forth in § 9–7.5006–40 shall be included in all contracts or arrangements for technical consulting and management support services and may be used, after any appropriate modification, in any contract or arrangement for evaluation services.

(f) The disclosure provision set forth in § 9–1.5406(d) and the contract clause set forth in § 9–7.5006–40 need not apply to contracts or arrangements for (1) research and development and (2) architect-engineer services, both as defined in § 9–1.5405.

2. Subpart 9–7.50 is amended by adding § 9–7.5006–40 as follows:

Subpart 9–7.50 Use of Standard Clauses

* * * * *

§ 9–7.5006–40 Organizational conflicts of interest.

The following contract clause shall be included in all contracts or arrangements for technical consulting and management support services as defined in § 9–1.5405(c) and may be included, after any appropriate modification, in any contract or arrangement for evaluation services as defined in § 9–1.5405(b).

Article—Organizational Conflicts of Interest.—(a) *Purpose.* The primary purpose of this clause is to aid in ensuring that the contractor (1) does not obtain any unfair competitive advantage over other parties by virtue of its performance of this contract, and (2) is not biased because of its current or planned interest (financial, contractual, organizational, or otherwise) which relate to the work under this contract.

(b) *Scope.* The restrictions described herein shall apply to performance or participation by the Contractor and any of its affiliate organizations or their successors in interest (hereinafter collectively referred to as the "Contractor") in the activities covered by this clause as a prime contractor, subcontractor, co-sponsor, joint venturer, consultant, or in any similar capacity.

(1) *Technical Consulting and Management Support Services:* (i) If the Contractor performs technical consulting or management support services, as defined in paragraph (f) below, or similar work, under this contract, it shall be ineligible thereafter to participate in any capacity in Government contractual efforts (solicited or unsolicited) which stem directly from such work, and the Contractor agrees not to perform similar work for prospective offerors with respect to any such contractual efforts. Furthermore, unless so directed in writing by the Contracting Officer, the Contractor shall not perform any such work under this contract on any of its products or services, or the products or services of another firm for which the Contractor performs similar work. Nothing in this subparagraph shall preclude the contractor from competing for follow-on contracts for tech-

nical consulting and management support services.

(ii) If the Contractor under this contract assists substantially in the preparation of a statement of work or specifications, the Contractor shall be ineligible to perform or participate in any capacity in any contractual effort which is based on such statement of work or specifications. The Contractor shall not incorporate its products or services in such statement of work or specifications unless so directed in writing by the Contracting Officer, in which case the restriction in this subparagraph shall not apply.

(iii) Nothing in this paragraph shall preclude the Contractor from offering or selling its standard commercial items to the Government.

(2) *Access to and use of information:* (i) If the Contractor, in the performance of this contract, obtains access to information, such as ERDA's plans, policies, reports, studies, financial plans, or data, which has not been released to the public, the Contractor agrees not to (a) use such information for any private purpose unless the information has been released to the public, (b) compete for work for ERDA based on such information for a period of six (6) months after the completion of this contract, or the release of such information to the public, whichever is first, (c) submit an unsolicited proposal to the Government which is based on such information until one (1) year after the release of such information to the public, and (d) release such information without prior written approval by the Contracting Officer.

(ii) In addition, the Contractor agrees that to the extent it receives or is given access to proprietary data or other confidential technical, business, or financial information under this contract, it shall treat such information in accordance with any restrictions imposed on such information.

(iii) The Contractor shall have, subject to patent and security provisions of this contract, the right to use technical data it first produces under this contract for its private purposes provided that, as of the date of such use, all data requirements of this contract have been met.

(c) *Subcontracts.* The Contractor shall include this clause, including this paragraph, in subcontracts of any tier which involve performance of work of the type specified in (b)(1) above or access to information covered in (b)(2) above. The use of this clause in such subcontracts shall be read by substituting the word "subcontractor" for the word "Contractor" wherever the latter appears.

(d) *Remedies.* For breach of the above restrictions or for nondisclosure or misrepresentation of any relevant interest required to be disclosed concerning this contract, the Government may, at no cost, terminate the contract, disqualify the Contractor for subsequent related contractual efforts, and pursue other remedies as may be permitted by law or this contract.

(e) *Waiver.* Any request for waiver under this clause shall be directed in writing to the Contracting Officer and shall include a full description of the requested waiver and the reasons in support thereof. If it is determined to be in the best interest of the Government, the Contracting Officer shall grant such waiver in writing.

(f) *Definition.* The term "technical consulting and management support service" means any work or effort to provide internal assistance to any ERDA program division or other organizational component in the formulation or administration of its programs or projects which normally necessitates that the contractor be given access to internal ERDA information. Such services typically include assistance in the preparation of program plans, evaluation, monitoring or review of contractors' activities or proposals submitted by prospective contractors; preparation of preliminary designs, specifications, or statements of work; the making of recommendations, or the rendering of an opinion or advice regarding any technical problem, issue, or question.

* * * * *

(Section 105 of the Energy Reorganization Act of 1974 P.L. 93-438.)

Dated: June 14, 1977.

WILLIAM A. PARKER,
Acting Director of Procurement.

[FR Doc.77-18142 Filed 6-23-77;8:45 am]

Title 42—Public Health

CHAPTER I—PUBLIC HEALTH SERVICE, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER J—HEALTH CARE DELIVERY SYSTEMS

PART 110—HEALTH MAINTENANCE ORGANIZATIONS

Interim Regulations

Correction

In FR Doc. 77-16002 appearing at page 29399 in the issue for Wednesday, June 8, 1977 the term now reading "Traditionally qualified health maintenance organization" on page 29414, middle column, in paragraph (b) of § 110.602 should have read "Transitionally qualified health maintenance organization".

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS: GENERAL RULES AND REGULATIONS

Editorial Amendments

Correction

In FR Doc. 77-14890 appearing at page 27200 in the issue for Friday, May 27, 1977, in the table under § 2.603 (a) make the following correction on page 27203: For the 13th entry, "1975____TOAS 8301" in the 5th line of the "Subject" description, the reference to "TIAS 8112" should have been "TIAS 8112".

[Docket No. 19528; FCC 77-396]

PART 68—CONNECTION OF TERMINAL EQUIPMENT TO THE TELEPHONE NETWORK

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

AGENCY: Federal Communications Commission.

ACTION: Memorandum opinion and order.

SUMMARY: This document revises the technical (and certain administrative) requirements of the FCC's telephone equipment registration program, in response to petitions for reconsideration.

EFFECTIVE DATE: July 20, 1977.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Michael S. Slomin, Policy and Rules Division, Common Carrier Bureau, 202-632-9342.

SUPPLEMENTARY INFORMATION:

Adopted: June 8, 1977.

Released: June 20, 1977.

Memorandum opinion and order. In the matter of proposals for new or revised classes of Interstate and Foreign Message Toll Telephone Service (MTS) and Wide Area Telephone Service (WATS), Docket No. 19528.

1. Over the course of the past year and a half, the Commission has adopted a telephone equipment registration program for all classes of telephone terminal equipment except coin telephones and equipment used in conjunction with party-line telephone service. This program is designed to allow users of the nationwide telephone network to connect terminal equipment without the need for carrier-supplied connecting arrangements and network control signaling units, provided that such equipment complies with the standards of the registration program as contained in Part 68 of the FCC's rules and regulations.[1] Judicial review was sought of our decisions in Docket No. 19528, and the United

[1] The registration program was established in our First Report and Order in Docket No. 19528, 56 F.C.C.2d 593 (1975) and initially applied to all equipment other than key telephone and Private Branch Exchange (PBX) systems, main telephones, coin telephones, and equipment used with party-line service. In a February, 1976 order, we generally affirmed the First Report, 57 F.C.C.2d 1216 (1976), and established "grandfathering" and short-form application procedures to phase in registration of equipment. In March, 1976, we revised the program's technical standards and requirements, 58 F.C.C.2d 716 (1976) and 41 FR 12673-79, March 26, 1976 in partial reconsideration of the First Report.

The program was then extended in a Second Report and Order, 58 F.C.C.2d 736 (1976) to encompass key telephone and PBX systems, and main telephones. In partial reconsideration thereof, the Second Report was generally affirmed in an October, 1976 order, 61 F.C.C.2d 396 (1976), although certain technical matters were left pendant.

In an April, 1976 order, 59 F.C.C.2d 83 (1976), we issued a declaratory ruling clarifying the "grandfathering" and short-form application procedures in response to petitions seeking such clarification.

Registered equipment is required to be connected to the telephone network using means of connection specified in Part 68. Standard plugs and jacks were adopted for this purpose in Docket No. 20774, 41 FR 28694, July 12, 1976.

Finally, the transition period during which "grandfathered" equipment may be connected without registration was recently extended by the Chief, Common Carrier Bureau under delegated authority to January 1, 1978. See Memorandum Opinion and Order released May 31, 1977, No. 70182.

States Court of Appeals, Fourth Circuit, imposed a stay pendente lite of the entire program (by Order dated April 28, 1976), which was subsequently modified to allow the program to become effective as to customer-provided data and ancillary equipment (Order dated June 16, 1976). The Commission has been processing applications for registration of data and ancillary equipment since June, 1976. In its March 22, 1977 decision on the merits, the Court of Appeals specifically affirmed the First and Second Reports in Docket No. 19528, our policies concerning inclusion of carrier-provided equipment and connection of registered equipment to the telephone network using standard plugs and jacks, and our reconsideration and clarification Orders dated February 13, 1976, March 15, 1976 and April 28, 1976.[2]

2. We have before us various petitions, comments and pleadings at this time. First, petitions for reconsideration of the Second Report were filed by American Telephone and Telegraph Company (AT&T), Gaines M. Crook & Associates, GTE Service Corporation (GTE) and International Telephone and Telegraph Corporation (ITT). Oppositions thereto were filed by AT&T, Computer and Business Equipment Manufacturers Association (CBEMA), GTE, International Business Machines Corporation (IBM), ITT and North American Telephone Association (NATA) and replies were filed by AT&T and GTE. GTE then filed "comments in support of petition for reconsideration" which were opposed by AT&T,[3] and NATA and ITT filed motions for extension of time to allow their technical personnel time to analyze and respond to GTE's "comments in support."[4] Second, we have before us pleadings and petitions for reconsideration relating to our March 15, 1976 Order, 58 F.C.C. 2d 716 (1976) and 41 FR 12673–79, March 26, 1976, filed by CBEMA, IDCMA and IBM, and a response thereto filed by AT&T. Third, we have before us a motion filed by AT&T on August 23, 1976 requesting a restrictive interpretation of the First Report and our February 13, 1976 and April 28, 1976 Orders with regard to "grandfathering" and short-form application procedures adopted therein; oppositions thereto were filed by the Independent Data Communications Manufacturers Association (IDCMA) and NATA, and AT&T replied. Finally, GTE has filed a petition for partial reconsideration of a September 20, 1976 Order, FCC 76–874, which accepted certain proposals made on behalf of their members by the Organization for the Protection and Advancement of Small Telephone Companies and the National Telephone Cooperatives Association.

3. In large part, the petitions for reconsideration of the Second Report relate to the problems posed by wiring and connection of Private Branch Exchange (PBX) and key telephone systems. In a companion notice of proposed rulemaking which we are adopting today we discuss these problems in detail, invite additional comments, and make specific proposals for rule changes. Because of this action, we shall not rule at this time on issues which relate to wiring, to connection of PBX and key telephone systems to the telephone network except as stated herein, and to installation procedures which might have the effect of negating the network protection provided by registered equipment itself. However, a variety of other issues are presently ripe for decision, and they are addressed in this order. Because of the procedural complexity of the various comments and responses which are before us (see the previous paragraph), we will address the issues seriatim without indicating the specific pleadings which raised and commented upon these issues. We have, of course, carefully reviewed all of the pleadings and responses before us.

I. Technical Issues

4. *Definitions.* AT&T has proposal several new definitions in clarification of the Part 68 Subpart D technical requirements. First, AT&T proposes a definition of "auxiliary leads" to be applied to connections between terminal equipment and telephone facilities other than "tip" and "ring" connections (e.g., A/A1 connections to key telephone systems). This unopposed new definition resolves ambiguity and imposes constraints on such connections which are consistent with the constraints upon telephone connections. Since this originally was our intent, we are adopting the definition. Second, AT&T proposes definitions of "network port" and "terminal port" to clarify which port faces the telephone network and which port faces the terminal equipment for protective circuitry. We are adopting this proposal as well as it also removes ambiguity and is consistent with the public interest.

5. AT&T has also proposed a new definition of "loop simulator circuit" to accomodate reverse-battery circuits, a form of trunk used with PBX equipment and not presently accomodated in the rules. As was the case of the present definition, this proposal is in the from of a schematic diagram. Gaines M. Crook comments that our present schematic diagram is too limiting as other means could be employed to generate the necessahy parameters. While AT&T takes issue with the specific alternative means advanced by Crook, it notes and we concur, that the parameters of dc line current and voltage and the ac specification of a 600 ohm load impedance, are the important criteria of the loop simulator definition and not the specific circuit depicted in the rule. We have used and will continue to use a schematic representation as we believe that this form of representation best conveys the information required. However, in adopting AT&T's proposed revision of the "loop simulator circuit" definition, we are adding clarifying language to indicate that alternative circuitry with the same parametric characteristics is acceptable.

6. AT&T has proposed other new definitions to be added to Section 68.3 which relate to matters which we are setting for further comment in our companion notice of proposed rulemaking (e.g., "common equipment", "direct connection" and "system") and we will not address them at this time. A proposed new definition of "on-site wiring" forms a substantive part of AT&T's proposals for handling connection of key telephone and PBX systems to the telephone network, and it is included in our companion notice for comment. AT&T also proposes a new definition of "special assembly" to define a class of telephone company-provided terminal equipment (but not customer-provided) which would be exempt from the registration requirements of Part 68. In conjunction with this proposed definition, AT&T proposes that such "special assemblies" be removed from the scope of the program which is expressed in Section 68.2.[5] In support of this proposal, AT&T claims that it is "necessary to allow the telephone companies to provide individualized designs for customers with nonstandard service requirements", and AT&T exemplifies such customers as "federal, state and local governments, the military, the handicapped, medical and penal institutions, and others with unique needs." In response, CBEMA, IBM, NATA and ITT argue that the proposed definition is too broad, and if granted the exemption should apply both to customer-provided and to telephone company-provided equipment. CBEMA, IBM and ITT note that much customer-provided equipment is "individualized",[6] and ITT further notes that for competitive reasons the nontelephone company independent equipment suppliers are generally more responsive than telephone companies to customers' specialized needs. AT&T replies with a claim that the proposed category of exempt equipment does not duplicate services or equipment offered by others, and that therefore the Commission's reasons for including carrier-provided equipment within the ambit of

[2] North Carolina Utilities Commission v. F.C.C., No. 76-1002 (4th Cir., March 22, 1977). The policy of connection using standard plugs and jacks, embodied in § 68.104 of the rules and adopted in the First Report, was before the Court for review, although the merits of the specific plugs, jacks and wiring configurations which were adopted in another proceeding (Docket No. 20774) were not. See 41 FR 28694, July 12, 1976, for a discussion of the relationship of Docket No. 20774 to Docket No. 19528.

[3] The Chief, Common Carrier Bureau accepted these comments under delegated authority, by Order released August 27, 1976, and gave interested parties an opportunity to comment thereupon.

[4] Our action today renders these motions moot.

[5] The specific proposed definition of "special assembly" is: "A custom design or arrangement of terminal equipment provided by a telephone company to meet an unusual service requirement."

[6] IBM states that almost all PBX equipment is customized to the customer's specific requirements, and CBEMA states that many data equipment systems are tailored to the individual customer, and are often specially constructed for the customer.

Part 68 are inapplicable to such equipment. Further, AT&T argues that if such an exemption were to be extended to "special assemblies" provided by other than telephone companies, harm potentially could result as this equipment would not have been evaluated either by the Commission (under the program) or by a telephone company. Finally, AT&T claims that if such one-of-a-kind "special assemblies" are not exempted from registration, the cost of providing this equipment on a registered basis might price the equipment out of the range of some users, and thereby injure them.

7. In analyzing this proposal, we note that the arguments in support of it are inconsistent with the language itself. The proposed language defining the exempt class of equipment is so broad as to include virtually all key telephone and PBX equipment, which largely is customized to the users' specific requirements. The language leaves the determination of what is, and what is not, a special assembly to the telephone companies themselves, subject only to the complaint procedures of Part 68. The proposed definitional language, "a custom design" to meet "an unusual service requirement" is overly broad and ambiguous; nowhere are the boundaries of a non-custom design, or a usual service requirement stated. In addition, as NATA has pointed out, the definition does not impose any quantitative or even qualitative numerical limitation on the class of exempt equipment; AT&T's pleadings speak of "one-of-a-kind" items, but the proposed rule does not. This proposal simply seeks reconsideration of the First Report's inclusion of telephone company-provided terminal equipment, which was sought and ruled upon in our February 1976 ruling in reconsideration of the First Report. Moreover, much of the equipment which AT&T ostensibly would place in the exempt category can be connected to the telephone network under Part 68 without registration, through registered protective circuitry.

8. Nevertheless, we are not unmindful of the concerns expressed in AT&T's pleadings where one-of-a-kind (or extremely limited production) items may not practicably be connected to the telephone network using protective circuitry. However, these concerns are more properly met in the context of specific equipments, and not broad exemptions in the rules which might be abused. Accordingly, we will entertain, as necessary, requests for waiver of the registration requirements for such equipment.

9. *Registration requirement.* AT&T has proposed specific changes to our § 68.102 rule to accommodate the tentative approach which we had adopted in our Second Report, for connection of PBX and key telephone systems. In view of our revisitation of connection issues in the notice of proposed rulemaking which we are adopting today, we will not address these proposed changes at this time.

10. *Notification to the telpehone company.* AT&T has proposed several changes to our present § 68.106 rule regarding notification to the local telephone company (by its customer). First, AT&T proposes that the rule be changed to require the customer to give notice of final disconnection of registered equipment. This unopposed change is reasonable, and is merely a "housekeeping" amendment which embodies our discussion of final disconnection in our February 1976 Order, 57 F.C.C. 2d at 1222, n. 7. Second, AT&T proposes that language be added to the rule to require a customer connecting "systems requiring on-site wiring" to give the telephone company compatibility information, information concerning the type of installation involved, the FCC registration numbers of registered protective circuitry, and the largest ringer equivalence for each line to which connection is sought. Moreover, AT&T proposes that, for such systems, the customer provide a complete list of all of the FCC registration numbers of equipment used in the system, which numbers might not otherwise be provided when per-line equipment is described. We are adopting the substance of AT&T's proposal, but without any reference to systems requiring on-site wiring. The issues surrounding on-site wiring are dealt with in the companion notice of proposed rulemaking which we are issuing today, and we do not wish to prejudice the outcome of that proceeding. Rather, we are preserving the thrust of AT&T's proposed modifications by reference to "systems assembled of combinations of individually-registered terminal equipment and protective circuitry." The "information required for compatible operation of the equipment" which will be required to be given is intended to refer primarily to means of connecting the equipment to the telephone network, and to such information as may be necessary to assure compatible network control signaling transfer between the telephone network and the terminal equipment.

11. *Registration application.* AT&T has proposed several revisions to our § 68.200 application rules. First, AT&T proposes changes to identify protective circuitry conformity to the tentative requirements of our Second Report for PBX and key telephone systems; these changes, if necessary, will depend upon the outcome of our companion notice of proposed rulemaking and will not be addressed at this time. Second, AT&T proposes changes to our subpart (c) requirement for a description of all circuitry employed in assuring compliance with Part 68 to (1) remove our requirement for submitting specifications of circuit elements which provide isolation means; (2) remove our requirement for a circuit diagram of the protective circuitry and substitute therefore a block diagram supplemented by a narrative description; and (3) impose on the Commission an obligation to treat any additional information which is supplied as exempt from public disclosure under the Freedom of Information Act, at the request of an applicant. ITT has proposed that our subpart (f) requirement of photographs of the equipment construction and labels be modified to allow for the submission of drawings.

12. AT&T's proposed changes are founded upon its view that the design of means of protecting the telephone network, which means are required to be disclosed in a registration application under our present § 68.200(c) requirements, may form the basis of a trade secret. Thus, AT&T seeks revisions which would limit the information to be provided in a registration application, unless the Commission specifically requests additional information. In the event of a specific governmental request, AT&T apparently feels that it would be on firm ground to request exemption from public disclosure of such additional information under the trade secret exemption provision of the Freedom of Information Act, 5 U.S.C. 552(b)(4) and the Commission's rules in implementation thereof.

13. We reject any view which would allow for non-disclosure of registration applications. The public interest requires that interested entities have an opportunity to review and comment upon registration applications, pursuant to the notice and comment procedures of §§ 68.202 and 68.204 of the rules, and non-disclosure would largely defeat the intent of this review. Moreover, our program has been carefully designed to allow for the preservation of trade secret information. An equipment manufacturer is free to preserve a trade secret design from disclosure in a registration application by using protective circuitry registered by that manufacturer, or by another. Similarly, a manufacturer is free to market unregistered equipment; a user thereof can connect it to the telephone network using registered protective circuitry. In addition, the rules do not require disclosure of an entire equipment design; they only require disclosure, in a registration application, of the specific means which assure compliance with our rules. To clarify this point, and remove any ambiguity which remains, we are modifying the language presently contained in § 68.200(c), subparts (1) and (2) to substitute "circuitry which ensures compliance with Subpart D of this part" for the present "isolation means at the interface." Finally, the actual design of protective circuitry itself will not be treated as trade secret information by this Commission. Our public interest determination of the suitability of such designs for assuring compliance with Part 68 must, of necessity, override any private interests in maintaining this small portion of an entire equipment's design as a trade secret.[7]

14. We are rejecting ITT's proposal that drawings be substituted for the photographs required by § 68.200(f) Equipment construction and layout are vital elements to assuring compliance with Part 68, particularly with regard to

[7] An applicant who desires protection of an intellectual property right in such a design is free to use the patent system for such protection, if the design is consistent with the requirements of the patent statutes. Patent protection is consistent with our public interest conclusions herein because it mandates public disclosure of the design.

the hazardous voltage limitations contained in § 68.306, which section addresses, inter alia, separation of telephone connections from power connections. We see no reason to introduce the possibility of misleading or erroneous presentations which might result if drawings are permitted to be substituted for photographs.

15. Finally, on our own motion, we are changing the language of § 68.200(g) to require that FCC registration numbers of equipment operated in conjunction with the subject of the application, if any are outstanding, be supplied.[8]

16. *Changes to registered equipment.* AT&T proposes that we amend § 68.214 to require that changes to registered equipment be made only by the grantee, or by a trained, authorized agent thereof. This modification is consistent both with the intent of the rule, and with our approach to repair of registered equipment (§ 68.216). Accordingly, we will clarify the rule to reflect our original intent that only the original grantee may file a "change" application. Anyone else modifying registered equipment must file an entirely new registration application.

17. *Grantee's responsibility.* AT&T proposes that telephone companies be exempted from the requirement of supplying certain instructions to the user (e.g. installation and repair procedures, notification to the telephone company) because telephone companies already will have notice of connection of equipment which they themselves supply, and customers do not need specific instructions concerning repair and installation services which the telephone companies provide as part of their services. We would agree that the telephone company does not have to receive notice of connection of equipment which it provides; it already will have such notice. However, we do not see why the telephone companies should not provide the information required by § 68.218(b) (1) and (3). A customer using telephone company-provided equipment terminated in standard plugs should be informed of the use of such plugs ("installation" instructions) and provision to the user of "repair procedures" could be limited to instructions concerning the calling of the telephone company's repair service. Moreover, instructions concerning fault-isolation, as contained in sub-section (3) would appear appropriate for telephone company equipment as well as customer-provided equipment, to minimize the possibility of violations of Part 68 in the event of equipment malfunction.

18. ITT seeks clarification of the registrant's responsibility for repairs and/or changes to registered equipment if performed by the registrant's agent, and "assumes" that a registrant would not be responsible for improper actions by its agents. In this regard we note that a registrant is responsible for the continuing conformance of registered equipment to the requirements of Part 68, and assumes this responsibility in a registration application. As such, the registrant is responsible for assuring that its agents, who are the only entities other than the registrant who are authorized to perform repairs and changes to registered equipment, perform these operations correctly.

19. In addition, we are adding on our own motion a new subsection to § 68.218 to require that any FCC-registered equipment which is offered to a user must be equipped with standard means of connection to the telephone network, specified in Subpart F of Part 68, and we are also amending § 68.218(b) to require that the user be provided with the appropriate Universal Service Order Code(s) compatible therewith. By this change, an anomaly which presently exists in the rules will be cured. At present, it is possible for a user to acquire FCC-registered equipment which cannot be connected to the telephone network using FCC-specified means; thus such a user cannot rely upon the existence of FCC registration as an assurance that he will be able to connect registered equipment.[9]

20. *Environmental simulation—mechanical.* Many of the comments before us have addressed the applicability of our environmental stress requirements to large systems such as PBX and key telephone systems. GTE has taken the position that § 68.302 should not be applicable to PBX equipment as, in GTE's view, it is intended for small, portable terminal devices. ITT argues that "large" PBXs (greater than 800 lines) should be exempt from our temperature and humidity, and vibration and shock stresses, because acceptance testing which is associated with installations of such equipment would, in ITT's view, disclose any failures due to mechanical stress during shipment. In the alternative, ITT argues that these rules not be applied to any PBX equipment. NATA agrees with the fundamental GTE and ITT position that physically large equipment need not be subjected to mechanical stress, and urges extension of the concept to large key telephone system common equipment, and to large 18 and 30 button key telephone instruments. AT&T opposes all of these comments and notes that large equipment is, in fact, subjected to mechanical stress during shipment and operation, and should conform to Part 68 under such foreseeable stress.

21. We find little merit in those comments which claim that our environmental stress rules are not intended for physically large equipment.[10] The mechanical and electrical stresses which are currently specified are intended to be representative of those stresses which foreseeably will occur to registered equipment, during shipment and use. We can, however, appreciate those comments which indicate that testing of conformance to the stresses could prove costly. Physically large equipment would require a physically large vibration table for testing to § 68.302(a), and would require a physically large temperature and humidity chamber for testing to § 68.302(b). On the other hand, the shock tests required by § 68.302(c) do not require more than a concrete surface covered by asphalt tile (or similar material) which typically would be found on the floor of the manufacturer's production facility. Thus, we are not faced with inapplicable standards here; we are faced with a possible burden if the standards are applied to physically large equipment.

22. As is discussed in greater detail in the companion notice of proposed rulemaking which we are issuing today, we are revisiting other issues related to the registration and connection of PBX and key telephone systems. Thus, we have an opportunity to elicit further comments on the mechanical stresses to be applied to large equipment. Therefore, we are requesting comments, in the companion notice, on: (1) A definition of physically "large" equipment, which might be burdensome to test under § 68.302 (a) and (b); (2) whether or not a demonstration of conformance to § 68.302(c) will be adequate for such "large" equipment, in view of the packaging, shipment and installation techniques associated with this equipment; and (3) in view of the comments on the first two issues, what specific rules or rule changes would be adopted in Part 68.

23. *Environmental simulation—electrical.* ITT has raised a problem attendant to our present electrical stresses, specified in § 68.302 (d)–(e). It seeks to use equipment designs that secure fail-safe protection from the adverse effects of lightning surges by causing an intentional connection between the telephone connections and earth ground. However, the use of this technique might then cause the equipment to violate our longitudinal balance limitations (§ 68.308) because of the ground connection. In response, AT&T comments that such a design technique would not cause "harm", provided that this failure-mode is either one which would render the equipment un-

[8] This change is a rule of agency procedure, and does not incorporate any new substantive requirements in the rules. It allows for an administratively-orderly method of demonstrating compliance with Subpart D through the use of previously-evaluated, registered equipment. As such, it is exempt from the requirements for notice and comment, under 5 U.S.C. 553(b).

[9] In accordance with 5 U.S.C. 553, we hereby find that the orderly administration of the registration program, and the public's interest in acquiring registered equipment which in fact may be connected in accordance with Part 68, requires these revisions. As is discussed in detail in our "Order to Show Cause, Memorandum Opinion and Order" in Docket No. 21183, FCC 77-229, released April 7, 1977, the possibility of FCC-registered equipment being unable to be connected to the telephone network in accordance with the rules is not theoretical and has already occurred. The public has a reasonable right to expect that equipment registered by the Commission can be connected and used in accordance with Part 68, and for this reason immediate adoption of the revisions is imperative.

[10] The shock stress specifications, § 68.302 (c) cover equipment weighing 600 to 1000 pounds, and over 1,000 pounds; such equipment would not be "small."

usable, or one which will cause the condition to be readily identifiable (e.g., sounding of an alarm), so that the equipment can be immediately disconnected from the telephone network. We agree with AT&T's comments on ITT's concerns, and further note that such imbalance will not result in inteference to others' telephone service if no voice-band energy is present while the unbalanced condition exists, which often will be the case when the ground connection is present because of its interference with network control signaling on the connection. Accordingly, we are modifying § 68.302 consistent with the ITT and AT&T comments to secure further flexibility in equipment designs.

24. In addition, AT&T has proposed changes to § 68.302 (d)–(e) to indicate the appropriate termination of equipment connections other than those under test. We are adopting these changes to clarify the limitations of the rule and to remove its present ambiguity. (See below.)

25. *Leakage current limitations.* ITT seeks clarification of § 68.304 to accommodate intentional connections of ground-start trunks with earth ground during signaling. AT&T concurs with these comments and proposes rule changes consistent therewith. We will adopt the requested clarification, and note that imbalance during signaling, when there is no voice-band energy present on the connection, is not harmful. In addition, AT&T proposes that "auxiliary lead terminals" (e.g., A/A1 connections for key telephone systems) be treated as a separate category of connections and be subjected to the same leakage current limits as telephone connections, with which they are normally run. This was our original intent, and we are adopting AT&T's proposed clarification to remove any ambiguity.

26. *Hazardous voltage limitations.* Similarly, AT&T seeks changes in § 68.306 to clarify that "auxiliary lead" connections are subject to hazardous voltage limitations in the same manner as telephone connections. In addition, AT&T seeks refinement of the requirement of physical separation of power conductors from telephone (and auxiliary) conductors, to remove ambiguity relating to non-hazardous voltage sources. Telephone connections, auxiliary connections and non-hazardous voltage sources must be adequately physically separated from hazardous power sources to preclude the possibility of hazardous voltages appearing on the telephone network, and we wish no ambiguity in the requirements for such separation. Accordingly, we are adopting AT&T's proposed revisions herein, as modified by NATA's comments thereupon which would allow for sharing of connectors by telephone connections and non-hazardous voltages. (See below.)

27. *Signal power limitations — voice equipment.* AT&T has proposed several changes to § 68.308. First, AT&T wishes us to explicitly reserve a sub-section for equipment containing "electro-acoustic transducers" (e.g. microphones) to indicate that, in the future, standards might be imposed on such equipment. In view of the natural processes which tend to limit excessively loud live-voice speech volumes to acceptable levels [11] such standards may never in fact become necessary. Thus, absent any concrete proposal for such standards, and absent any demonstration that they are required, we shall not reserve such a sub-section at this time. Second, AT&T proposes a manufacturing tolerance on internal signal sources, not intended for network control signaling, within registered equipment or circuitry. This unopposed change removes any ambiguity, is consistent with the public interest, and accordingly will be adopted. Third, AT&T proposes changes to accommodate the tentative requirement of our Second Report which would require (if adopted) interposed protective circuitry between the telephone network and PBX and key system wiring. The change which AT&T proposes would require voice signals traversing such interposed circuitry to be limited to −9 dBm by means internal to the circuitry. While we will not rule on such a change at this time, in view of our solicitation of further comments concerning PBX and key system equipment, we would note that such a limitation of live-voice signal power within protective circuitry would be inconsistent with the absence of such a limitation for all other protective circuitry used for live-voice. To implement such a requirement, additional hardware is required (e.g. a clipping device) which device would appear to be unnecessary so long as the PBX or key telephone system supplies remotely-located station equipment with loop current (DC) within the ranges supplied by our loop simulator circuit, or equivalent. In fact, AT&T also has proposed revision to § 68.308(a)(3) which would require that such dc loop current be within these ranges, and we are adopting this proposed revision herein to ensure proper limitation of live-voice signal power as it might be affected by the loop current (See below.)

28. *Signal power limitations—data equipment.* IDCMA has requested that we clarify a discrepancy which presently exists between the signal power limitations for programmable data equipment (§ 68.308(a)(4)(ii), a level set by connections in the jack which can be programmed in 1db steps between −12 and −3 dB with respect to 1 milliwatt) contained in § 68.308(a)(4)(ii), and the standard jacks we have adopted to implement this section (specifying a range of −12 to 0 dB with respect to 1 milliwatt in § 68.502(e)). IDCMA proposes that the two ranges be reconciled as −12 to 0 dB with respect to 1 milliwatt because it has been informed that loop losses in Independent telephone company areas often exceed 9 dB, and the more limited range would not permit equipment to operate properly in these areas. Comments were filed on this issue both in this proceeding and in Docket No. 20774 (the proceeding which adopted § 68.502(e)), and in reaching our decision herein we also are taking cognizance of the comments filed in Docket No. 20774. In reply to IDCMA, AT&T does not object to the proposal, although it notes that the higher levels would be unnecessary in Bell System areas. Finally, IBM supports IDCMA's proposal.

29. We will modify § 68.308(a)(4)(ii) to conform it with § 68.502(e) and therefore specify an upper limit of 0 dB with respect to 1 milliwatt. We do so not only for the reasons advanced by IDCMA and IBM, but also for an additional reason. Much data equipment is transferred between private lines and the switched telephone network, and for such private line service as 1 milliwatt signal power level is standard. By adopting the 1 milliwatt upper bound for registered data equipment, which level is programmed by a short-circuit connection in the jack, we facilitate the dual usage of data equipment for both the switched network, and for voice-grade private line channels.

30. Two additional proposed changes are before us. First, it is proposed that we reference the "Universal" data jack in § 68.308 for clarity. Second, it is proposed that we clarify the rules to require that data equipment connected behind non-data protective circuitry or no protective circuitry (as would typically be the case of PBX and key telephone systems) only be connected through voice jacks, in the permissive, −9 dB with respect to 1 milliwatt, mode. We are adopting both of these proposals to clarify the rules, as they accord with our original intent, and are in the public interest.

31. *Longitudinal Balance Limitations.* There has been much confusion, expressed in comments and applications which we have received, about the parameter which is required to be evaluated by § 68.310. This parameter, the metallic-to-longitudinal balance coefficient, relates longitudinal imbalance at the terminal equipment to induced energy in other loops or lines, and is the appropriate measure of potential for interference with telephone service. The telephone industry has devoted considerable effort, in the past, to arriving at measuring techniques for another parameter, the longitudinal-to-metallic balance coefficient, which relates longitudinal imbalance at the terminal equipment to induced energy in the equipment's own loop or line. This other parameter is relevant to assuring noise-free operation of the registered equipment, but is not relevant to harm. AT&T has provided an analysis which demonstrates that the two parameters are not necessarily identical, and this analysis is reproduced for informational purposes in Appendix A below. Our rules do not specify the use of any specific test apparatus for imbalance; all that they require is the measurements be performed which yield reliable results in terms of the parameter

[11] The listener at the other end of a live-voice connection will tell the excessively loud speaking person not to shout. This mechanism statistically controls live-voice signal power.

which requires evaluation under § 68.310. Thus, if tests of the longitudinal-to-metallic balance coefficient can be mathematically converted to a measurement of the requisite metallic-to-longitudinal balance parameter, this would be acceptable. Similarly, if a test apparatus alternative to the suggested means accompanying § 68.310 will yield results of sufficient accuracy and precision, use of alternative means is also acceptable.[12]

32. AT&T proposes revisions to § 68.310 to clarify that reverse-battery trunks are subject to the same limitations as ground-start trunks. We are adopting AT&T's proposed addition of the words "and reverse battery" to each sub-section which refers to ground-start trunks, as both types of trunks, although differently named, are subject to the same balance limitations. AT&T also proposes other revisions to implement its proposals regarding system wiring; in view of our revisiting such issues in our companion Notice, we will not rule at this time on such changes. Finally, AT&T proposes substitution of certain repeat coil (transformer) designations for those presently contained in the figures appended to this Section, because of unavailability of the present repeat coils. The substitute repeat coils appear to have the requisite characteristics to meet the requirements of this Section, and accordingly we are adopting their designation.

33. *On-Hook Impedance Limitations.* Several issues are pending concerning § 68.312. First, GTE seeks the addition of a type "P" ringer, covering the frequency range of 15–35 Hertz, as a "straight line" ringer designation; it seeks a change of the lower frequency bound for a type "C" ringer from 16.0 to 15.3 Hertz; and it seeks a redesignationof the parenthetical notations on types "D" and "F" to "frequency-selective ringing." We will make the changes proposed by GTE, but we note that the parenthetical designations were not intended to be restrictive of the use of types "D" and "F" ringers, but were intended to be tutorial to those who might not realize that these ringers may not be usable in type "A" areas. Second, GTE seeks the addition of superimposed dc for the types "C"–"P" simulated ringing voltages on the theory that the lack of such superimposed dc for these types, as compared with the requirement for superimposed dc for types "A" and "B" was oversight. It was not. The entries for these ringing designations were based upon GTE's own submissions in Docket No. 19528 which did not call for superimposed dc. Since it now appears that, upon reflection, superimposed dc is required for types "C"–"P" to be representative of actual ringing conditions, as is required by the purpose of the rule, we shall adopt this proposed revision to further ensure that harm does not result.

34. GTE's ringing detection techniques for what it calls "convenience" key telephone systems, and its use of ground-referenced ringing detection circuitry for key telephone systems and PBX systems, pose other problems. These techniques are inconsistent with the on-hook impedance limitations of our rules. GTE has requested that § 68.312 be made inapplicable to PBX and key telephone systems because of the use of such designs, and notes further that certain indicating lamps manufactured by the Western Electric Company (and presumably used in the Bell System, Western Electric's by far largest customer) similarly could not be used consistent with that rule. AT&T has responded by noting that the present rule is consistent with Bell System maintenance and insulation and cable pressure test requirements, and that relaxation of § 68.312's requirements in Bell System areas should not be permitted. However, AT&T does not object to a relaxation of the requirements so long as such relaxation does not apply in Bell System service areas (which use types "A" and "B"). We cannot adopt a relaxation of the on-hook impedance requirements which would not be applicable to ringing types A and B; these two designations are general ones and are in wide use in the telephone industry, both in Bell System and Independent areas. What we will do instead to accommodate such designs is to establish a new ringing type designation, "Z." Type "Z" will designate on-hook impedance characteristics which do not conform to our rules, and equipment bearing a type "Z" designation may only be used with the consent of the local telephone company.[13] Such equipment, in essence, will only be conditionally-registered by the Commission, and will not automatically create a right of connection and use by virtue of such registration, as is the case of other registered equipment. We are confident that the amount of equipment which will bear the type "Z" designation will be limited; if abuses of the use of this designation occur, we will revisit this area in the future.

35. AT&T has proposed other revisions to § 68.312 which would refine the present voltage ranges therein-specified by establishing which specifications go with which voltages; it has proposed the addition of limitations for equipment used with ground-start facilities; and it proposes allowing trained agents of the registrant to perform action at the customer's premises which may have the effect of changing the on-hook impedance presented to the telephone network by the registered equipment. We are adopting the first proposal to clarify the existing rules. With regard to the second proposal, although we indicated in our Second Report that no party had commented that pre-trip and false-trip can occur on PBX trunks, and that therefore no on-hook impedance controls would be required for such trunks, both AT&T and GTE have now commented that these effects can occur. Therefore, we are adopting AT&T's proposed limitations for ground-start PBX trunks, and making the existing limitations applicable to loop-start PBX trunks. Finally, AT&T proposes allowing "trained, authorized agents" of the registrant to perform a form of discretionary action—to disconnect ringers and otherwise execute equipment options which affect ringer equivalence—after notification to the telephone company in accordance with § 68.106. We view AT&T's third proposal as constructive, and note that so long as the local telephone company is kept adequately informed of the actual on-hook impedance characteristics of equipment connected to its facilities, no harm will result. AT&T's proposal is reasonably directed to that end, and we are adopting it.

36. *Billing Protection.* AT&T proposes changes to § 68.314 to: (1) Reorganize the section for clarity; (2) accommodate reverse-battery equipment; and (3) provide an alternative method of assuring proper billing with regard to off-hook current during the first 5 seconds in the off-hook state. NATA has opposed AT&T's third proposal in the (apparently) mistaken belief that this limitation would require equipment to remain off-hook for at least 5 seconds. In reply AT&T has pointed out that the rule simply requires some minimum current flow during this 5 second interval "unless the equipment is returned to the on-hook state" (which would occur if the user were to "hang up"). Thus, the burden which NATA adverts to does not exist; voice equipment is not required to remain off-hook for at least 5 seconds. Accordingly, we are adopting the substance of the proposed revisions as they will clarify the existing rules and allow for greater flexibility in equipment designs. (See below.)

II. GTE's Petition for Partial Reconsideration of the September 20, 1976 Order

37. In our April, 1976 order in clarification of the "grandfathering", short-form and transition period procedures, 59 F.C.C. 2d 83 (1976), we ordered all telephone companies to file lists containing sufficient descriptive information to identify all terminal equipment of which the carriers were aware which was directly connected to the telephone network as of May 1, 1976. These lists were to be amalgamated and form a basis for resolving disputes concerning eligibility of equipment for "grandfathering" and short-form application procedures. Subsequent to our adoption of this order, the United States Court of Appeals, Fourth Circuit, stayed the order and then subsequently removed the stay with respect to data and ancillary equipment.

[12] The foregoing moots further consideration of proposed changes by Gaines M. Crook, which seek specification of an alternative to the "recommended test apparatus" of Figure 68.310(a).

[13] Such consent, however, may not be given so as to discriminate. If the telephone company itself provides "Z" equipment, customers must also be allowed to use "Z" equipment with similar characteristics.

38. The Organization for the Protection Advancement of Small Telephone Companies, and the National Telephone Cooperative Association, on behalf of their members, then filed a petition seeking our acceptance of a unified list of equipment prepared by the Rural Electrification Administration in lieu of indiviual submissions by their small telephone company members, and in our September 20, 1976 order, FCC 76-874, we accepted that list. GTE has filed a petition for partial reconsideration of the September order seeking deletion of items on the unified list which either were inconsistent with the stay (e.g. telephone instruments, PBX and key telephone equipment) or which were components that cannot operate without other equipment. We are granting GTE's petition because the items identified therein do not properly belong in our amalgamated list of equipment eligible for "grandfathering" and short-form application procedures; these items have been removed from the list.

III. Summary

39. In this order and in various predecessor orders, we have ruled on all of the petitions for reconsideration which are presently pending before us in Docket No. 19528. Our rulings herein have resulted in modifications to the present Part 68 rules and are contained below. In our predecessor orders we have distinguished protection of the telephone network, the object of Part 68, from compatible operation of terminal equipment and have encouraged cooperative industry-wide dissemination of information to deal with the latter. We are pleased to observe that such cooperation is presently occurring.[14] The final set of issues which still remain relate to installation and connection of PBX and key telephone equipment; these issues are treated in a companion supplemental notice of proposed rulemaking which we are also adopting today.

40. The United States Court of Appeals, Fourth Circuit, has affirmed our decisions in Docket No. 19528, including our decision to adopt a registration program applicable to all terminal equipment (except coin equipment and equipment connected to party lines), and our decision to require that registered equipment be connected to the telephone network through means of connection specified in Part 68. However, the Court has decided to maintain the present stay *pendente lite* to allow parties to seek review of the Court of Appeals' decision in the United States Supreme Court. In view of the continuation of the stay, our solicitation of further comments concerning PBX and key telephone equipment will not delay implementation of the registration program as to such equipment; the Court's stay will continue to apply to other than customer-provided data and ancillary equipment.

41. Although implementation of the registration presently remains stayed as to PBX and key telephone equipment, the public interest still requires expeditious resolution of the issues which we have not addressed in this order, and which we have set for further rulemaking in our companion notice. While we probably have an adequate record before us to amend the rules at this time, we are permitting a final round of comments and replies to assure that the rules which we adopt for the registration, installation and connection of PBX and key telephone equipment are economical, reasonable, and consistent with the public interest.

42. Accordingly, and for the reasons heretofore stated, *It is hereby ordered*, That pursuant to 47 U.S.C. 154(i), 154 (j), 201-05 and 405, Part 68 of the Commission's rules and regulations, 47 CFR 68.1 et seq., is hereby revised, as shown below, effective July 20, 1977.

(Secs. 4, 201-205, 405, 48 Stat., as amended, 1066, 1070, 1071, 1072, 1095; (47 U.S.C. 154, 201-205, 405).)

FEDERAL COMMUNICATIONS COMMISSION,[15]
VINCENT J. MULLINS,
Secretary.

[14] E.g. 41 FR 28694, July 12, 1976, and 61 F.C.C. 2d 396, 404, n. 28. The Commission wishes to recognize committee activity sponsored by the Electronic Industries Assocation and by the Institute of Electrical and Electronics Engineers which is currently addressing dissemination of information and voluntary design criteria relating to compatible operation of terminal equipment, as well as analysis of the Part 68 technical requirements, and to express its hope that such industry-wide cooperation will continue.

[15] Commissioner Hooks concurring in the result; Commissioner Quello absent.

Appendix A

Relationship Between Metallic-to-Longitudinal Balance and Longitudinal-to-Metallic Balance

(a) Metallic-to-Longitudinal Balance

From Figure 1a, the metallic-to-longitudinal balance is

$$BAL_{m-\ell} = 20 \log_{10} \left| \frac{V_m}{V_\ell} \right| = 20 \log_{10} \left| \frac{E_m - i_{m_1} \bar{z}_m}{i_{\ell_1} \bar{z}_\ell} \right|$$

(b) Longitudinal-to-Metallic Balance

From Figure 1b, the longitudinal-to-metallic balance is

$$BAL_{\ell-m} = 20 \log_{10} \left| \frac{V'_\ell}{V'_m} \right| = 20 \log_{10} \left| \frac{E_\ell - i_{\ell_2} \bar{z}_\ell}{i_{m_2} \bar{z}_m} \right|$$

(c) Comparison Between $BAL_{m-\ell}$ and $BAL_{\ell-m}$.

If $E_m = E_\ell$, then, using the reciprocity theorem, $i_{\ell_1} = i_{m_2}$ and

$$BAL_{m-\ell} - BAL_{\ell-m} = 20 \log_{10} \left| \frac{(E - i_{m_1} \bar{z}_m)(\bar{z}_m)}{(E - i_{\ell_2} \bar{z}_\ell)(\bar{z}_\ell)} \right|$$

Where $E = E_m = E_\ell$.

...te that these balances are only equal if $Z_\ell = Z_m$ (the test circuit impedances) and if $i_{m_1} = i_{\ell_2}$. Examining the two figures, it is clear that i_{m_1} depends on the metallic impedance of the terminating equipment and i_{ℓ_2} depends on the longitudinal impedance of the terminating equipment. Therefore, the balances in general would not be equal.

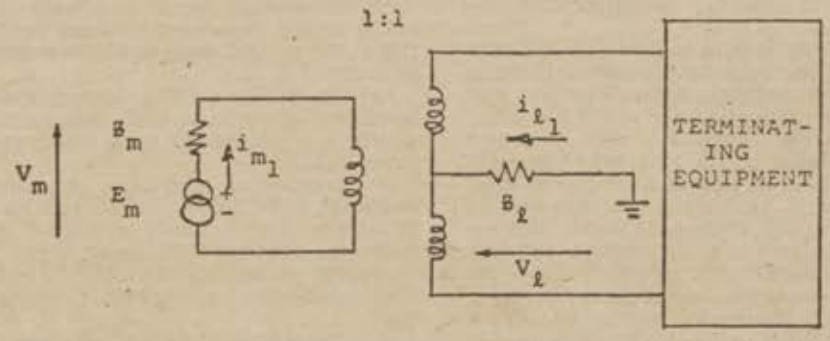


Figure 1a: $BAL_{m-\ell}$

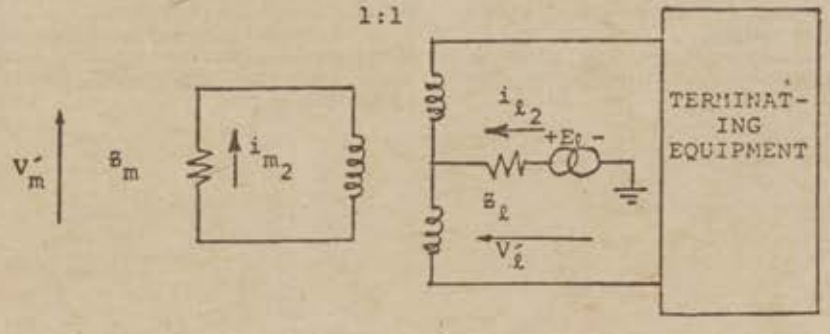


Figure 1b: $BAL_{\ell-m}$

Part 68 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

1. Section 68.3 is amended as follows:

§ 68.3 Definitions.

As used in this part:

(a) *Auxiliary leads.* Terminal equipment leads at the interface, other than telephone connections, which leads are to be connected either to common equipment or to circuits extending to central office equipment.

(b) *Direct connection.* Connection of terminal equipment to the telephone network by means other than acoustic and/or inductive coupling.

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

(d) *Interface.* The point of interconnection between terminal equipment and telephone company communication facilities.

(e) *Longitudinal voltage.* One-half the sum of the potential difference between the tip connection and earth ground, and the ring connection and earth ground.

(f) *Loop simulator circuit.* A source of dc power and a load impedance for connection, in lieu of a telephone loop, to terminal equipment loop and ground start circuits (Figure 68.3(a)), and reverse battery circuits (Figure 68.3(b)) during testing. The schematic diagrams of Figures 68.3(a) and 68.3(b) are illustrative of the type of circuit which will be required; alternative implementations may be used: *Provided,* That the same dc voltage and current characteristics and ac impedance characteristics will be presented to the equipment under test as the presented in the illustrative schematic diagrams. When used, the simulator shall be operated over the entire range of loop resistance as indicated in the Figures, and with the indicated polarities and voltage limits. Whenever loop current is changed, sufficient time shall be allocated for the current to reach a steady-state condition before continuing testing.

(g) *Metallic voltage.* The potential difference between the tip and ring connections.

(h) *Multi-port equipment.* Equipment that has more than one telephone connection with provisions internal to the equipment for establishing transmission paths among two or more telephone connections.

(i) *Network port.* An equipment port of registered protective circuitry which port faces the telephone network.

(j) *One-port equipment.* Equipment which has either exactly one telephone connection, or a multiplicity of telephone connections arranged so that no transmission among such telephone connections, within the equipment, is intended.

(k) *Power connections.* The connections between commercial power and any transformer, power supply rectifier, converter or other circuitry associated with registered terminal equipment or registered protective circuitry. The following are not power connections:

(1) Connections between registered terminal equipment or registered protective circuitry and sources of non-hazardous voltages (see § 68.306(b)(4) for a definition of non-hazardous voltages).

(2) Conductors which distribute any power within registered terminal equipment or within registered protective circuitry.

(3) Green wire ground (the grounded conductor of a commercial power circuit which is UL-identified by a continuous green color).

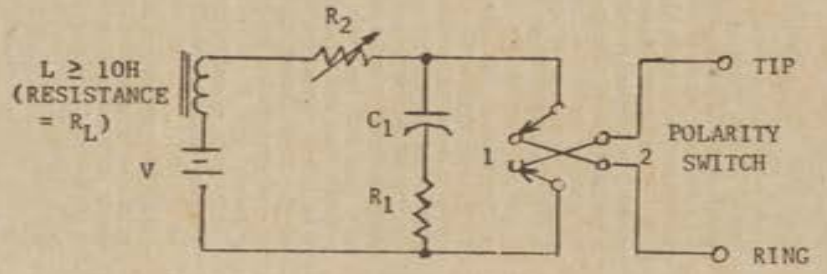
(l) *Registered protective circuitry.* Separate, identifiable, and discrete electrical circuitry designed to protect the telephone network from harm, which is registered in accordance with the rules and regulations in Subpart C of this part.

(m) *Registered terminal equipment.* Terminal equipment which is registered in accordance with the rules and regulations in Subpart C of this part.

(n) *Telephone connection.* Connection to telephone tip and ring and all connections derived from telephone tip and ring. The term "derived" as used here means that the connections are not separated from telephone tip and ring by a sufficiently protective dielectric barrier.

(o) *Telephone network.* The public switched telephone network.

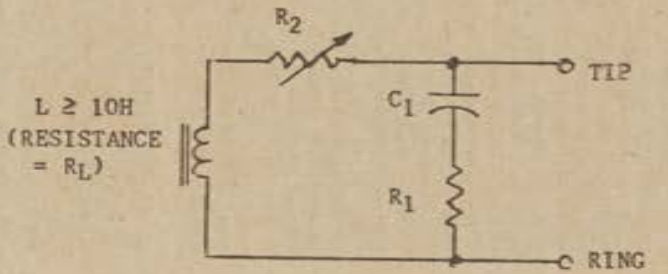
(p) *Terminal port.* An equipment port of registered protective circuitry which port faces remotely-located terminal equipment.



C_1 = 500 μFD, -10%, + 50%
R_1 = 600Ω ± 1%

CONDITION	V, VOLTS		SWITCH POSITION FOR TEST	$R_2 + R_L$
	MIN	MAX		
1	42.5	52.5	BOTH	CONTINUOUSLY VARIABLE OVER 400 TO 1740Ω
2	105		2	2000Ω

Figure 68.3(a): Loop Simulator for Loop Start and Ground Start Circuits.



C_1 = 500 μFD, -10%, +50%
R_1 = 600Ω ± 1%

$R_2 + R_L$
CONTINUOUSLY VARIABLE OVER 400 TO 2450Ω

Figure 68.3(b): Loop Simulator for Reverse Battery Circuits.

NOTES:

1. Means shall be used to generate, at the point of tip and ring connections to the terminal equipment or protective circuitry, the parameters of dc line current and ac impedance which are generated by the illustrative circuits depicted above (as appropriate for the equipment under test).
2. In the Longitudinal Balance Limitations, Section 68.310, the use of the "dc portion of the loop simulator circuit" is specified. In such case, components R_1 and C_1 above should be removed.

FIGURE 68.3. LOOP SIMULATOR CIRCUITS

2. Section 68.106 is amended as follows:

§ 68.106 Notification to telephone company.

(a) *General.* Customers connecting terminal equipment or protective circuitry to the telephone network shall, before such connection is made, give notice to the telephone company of the particular line(s) to which such connection is to be made, and shall provide to the telephone company the F.C.C. Registration Number and Ringer Equivalence of the registered terminal equipment or registered protective circuitry. The customer shall give notice to the telephone company upon final disconnection of such equipment or circuitry from the particular line(s).

(b) *Systems assembled of combinations of individually registered terminal equipment and protective circuitry.* Customers connecting such assemblages to the telephone network shall, before such connection is made, shall provide the following information to the telephone company:

(1) For each line:

(i) Information required for compatible operation of the equipment with telephone company communications facilities.

(ii) The FCC Registration Numbers for all equipment dedicated to that line.

(iii) The largest Ringer Equivalence to be presented to that line.

(2) A list of FCC Registration Numbers for equipment to be used in the system.

3. Section 68.108 is amended as follows:

§ 68.108 Incidence of harm.

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

4. In § 68.200, paragraphs (c)(1), (c)(2), and (g) are amended to read as follows:

§ 68.200 Application for equipment registration.

* * * * *

(b) * * *

(c) A description of all circuitry employed in assuring compliance with this Part 68, including the following:

(1) Specifications, including voltage or current ratings of all circuit elements, whether active or passive, in that part of the equipment or circuitry which ensures compliance with Subpart D of this part.

(2) A circuit diagram containing the complete circuit of that part of the equipment or circuitry which ensures compliance with Subpart D of this part. If this portion of the device is subject to factory or field adjustment by the applicant or an agent thereof, instructions for such adjustments shall be included. In addition, if the equipment or circuitry is designed to operate from power supplied by electric utility lines, the circuit diagram shall also include that portion of the device connected to such lines, including the power supply to the internal circuitry, and whatever means are employed to isolate such utility lines from the internal circuitry.

(3) * * *

(d) * * *

(e) * * *

(f) * * *

(g) If the device covered by the application is designed to operate in conjunction with other equipment, the characteristics of which can affect compliance of the device covered by the application with Subpart D of this part, then such other equipment must also be registered. If such other equipment already is registered, then the F.C.C. Registration Number(s) must be supplied.

5. In § 68.214, the headnote and text are amended to read as follows:

§ 68.214 Changes in registered equipment and circuitry.

Changes in registered terminal equipment or registered protective circuitry shall be made as follows:

(a) No change in registered terminal equipment or registered protective circuitry that would result in any change in the information furnished the Commission pursuant to § 68.200 may be made, except after grant of a new application made on FCC Form 730.

(b) Changes which do not result in any change in the information furnished the Commission pursuant to § 68.200 may be made without express Commission approval. *Provided,* That prior written notification is given the Commission on FCC Form 730.

(c) Where equipment is registered by virtue of incorporation of registered protective circuitry therein, no notification need be given of changes to other than the protective circuitry, its mechanical and electrical connections to the equipment.

(d) Changes in registered terminal equipment or registered protective circuitry made pursuant to pargraphs (b) and (c) of this section may be made only by the grantee, or an authorized agent thereof, and the grantee will remain responsible for the performance of such changes.

6. In § 68.218, paragraphs (b), (b)(3), and (b)(4) are amended and paragraph (d) is added to read as follows:

§ 68.218 Responsibility of grantee of equipment registration.

(b) The grantee or its agent shall provide the user of the registered equipment the following:

(1) Instructions concerning installation, operational, and repair procedures, where applicable.

(2) Instructions that registered terminal equipment or protective circuitry may not be used with party lines or coin lines.

(3) Instructions that when trouble is experienced the customer shall disconnect the registered equipment from the telephone line to determine if the registered equipment is malfunctioning, and that if the registered equipment is malfunctioning, the use of such equipment shall be discontinued until the problem has been corrected.

(4) Instructions that the user must give notice to the telephone company in accordance with the requirements of § 68.106, and instructions specifying the Universal Service Order Code(s), other than RJ11 (see § 68.502), of means of connection of the equipment which may be required to be ordered from the telephone company if not already installed.

A telephone company which provides and installs the registered equipment need only provide the user with subparagraphs (1) and (3) of this paragraph.

(c) * * *

(d) The grantee or its agent shall assure that any registered equipment or circuitry which is offered to a user shall be equipped with standard means of connection to the telephone network specified in Subpart F of this part.

7. Section 68.220 is amended as follows:

§ 68.220 Cross reference.

Applications for registration of terminal equipment or protective circuitry shall, in addition to the requirements of this subpart, comply with the provisions of Subpart L of Part 2 of this chapter.

8. In § 68.302, the headnote, paragraphs (d)(3) and (e)(3) are amended and paragraph (f) is added to read as follows:

§ 68.302 Environmental simulation.

* * * * *

(d) *Metallic voltage surge.* Two 800-volt peak surges of a metallic voltage (one of each polarity) having a 10-microsecond maximum rise time to crest and a 560-microsecond minimum decay time to half crest applied between tip and ring and between any other pair of connections on which lightning surges may occur (with one of the connections of the pair under test grounded) with the equipment in each of the following states:

(1) Any operational state which can affect compliance with the requirements of Part 68;

(2) Any state in which the equipment might be connected to the telephone network and from which it is capable of transferring to an operational state by an automatic or manual action required for proper use of the equipment; *And, provided,* That any such state can affect compliance with the requirements of this Part 68; and

(3) Any state in which the equipment might be connected to the telephone net-

work through an automatic or manual action under all reasonably foreseeable possibilities of disconnection of connections of such equipment with primary commercial power sources (including possible loss of equipment grounding through disconnection of a third-wire ground connection contained in a primary power source plug).

All other equipment leads (telephone connections, auxiliary leads, and terminals for connection to nonregistered equipment) not being surged or connected to those being surged should be terminated in a manner which is no less severe than that which occur in normal use and affect compliance with Subpart D of this part. Also, equipment states which cannot be achieved by normal means of power shall be achieved artificially by appropriate means, if necessary to comply with the above requirements. The peak current drawn from the surge generator must not be limited to less than 100 amperes by the capabilities of the surge generator.

(e) *Longitudinal voltage surge.* * * *

(1) * * *

(2) * * *

(3) * * *

All other equipment leads (telephone connections, auxiliary leads, and terminals for connection to non-registered equipment) not being surged or connected to those being surged should be terminated in a manner which is no less severe than that which would occur in normal use and affect compliance with Subpart D of this part. Also, equipment states which cannot be achieved by normal means of power shall be achieved artificially by appropriate means, if necessary to comply with the above requirements.

(f) *Failure modes resulting from the application of metallic and longitudinal surges.* Registered terminal equipment and registered protective circuitry is permitted to reach a failure-mode state in violation of the longitudinal balance requirements of § 68.308 after application of the electrical surges specified in paragraphs (d) and (e) of this section: *Provided,* That:

(1) Such failure results from an intentional, designed failure-mode which has the effect of connecting telephone or auxiliary connections with earth ground; and

(2) If such a failure-mode state is reached, the equipment is designed in such a manner that it would become substantially and noticeably unusable by the user, or an indication is given to the user (e.g. an alarm), in order that such equipment can be immediately disconnected or repaired.

NOTE.—The objective of this sub-section is to allow for safety circuitry which diverts lightning-like transients to earth ground, but which may continue to maintain the earth ground connections after the transients have ceased. Such a failure-mode has the potential for causing interference resulting from longitudinal imbalance, and therefore designs must be adopted which will cause the equipment either to be disconnected or repaired rapidly after such a state is reached, should it occur in service.

9. Section 68.304 is amended as follows:

§ 68.304 Leakage current limitations.

Registered terminal equipment and registered protective circuitry shall assure that, if a voltage source is connected to the combinations listed in the table below, of the following points on such equipment:

(a) All telephone connections,

(b) All power connections,

(c) All possible combinations of exposed conductive surfaces on the exterior of such equipment or circuitry excluding terminals for connection to other terminal equipment,

(d) All terminals for connection to nonregistered equipment,

(e) Points having a conducting path to the secondaries of any power supply, and

(f) All auxiliary lead terminals.

and is gradually increased, from zero to the values listed in the table below, over a 30 second time period, and then applied continuously for 1 minute, the current in the mesh formed by the voltage source and these points shall not exceed 10 milliamperes peak at any time during this 90 second time interval.

VOLTAGES APPLIED FOR VARIOUS COMBINATIONS OF ELECTRICAL CONNECTIONS

Voltage source connected between:	*Value to which test voltage is gradually increased, rms, 60 Hz*
(1) and (3)	1000
(1) and (4)	1000
(1) and (6)	1000
(2) and (3)	1500
(2) and (4)	1500
(2) and (5)	1500
(3) and (6)	1000
(4) and (6)	1000

NOTES: (a) If, in any operational state, one of the telephone connections or auxiliary leads has an intentional conducting path to earth ground, that lead may be excluded from the leakage current test in that operation state. Connections excluded for this reason must comply with the requirements of § 68.306(c) in addition to other applicable rules.

(b) Terminal port connections to registered protective circuitry shall be treated as point (4) leads for the purposes of leakage current limitation.

(c) Leakage current limitations shall be met between each of the point (4) or point (6) leads and all pairs of tip and ring telephone connections. (Testing all pairs may be done by a sequence of appropriate combinations of pairs.)

(d) Equipment states which cannot be achieved by normal means of power shall be achieved artificially by appropriate means, if necessary to comply with the requirements of this section.

10. Section 68.306(b) is amended and a new § 68.306(c) is added, as follows:

§ 68.306 Hazardous voltage limitations.

(a) * * *

(b) *Connection of nonregistered equipment to registered terminal equipment or registered protective circuitry.*—(1) *General.* Leads to or any elements having a conducting path to telephone connections or auxiliary leads shall:

(i) Be reasonably physically separated and restrained from; not routed in the same cable as; nor use the same connector as leads or metallic paths connecting to power connections;

(ii) Be reasonably physically separated and restrained from; not routed in the same cable as; nor use adjacent pins on the same connector as metallic paths to leads to nonregistered equipment, when specification details provided to the Commission pursuant to § 68.200(g) do not show that the interface voltages are less than non-hazardous voltage source limits in § 68.306(b)(4).

(2) *Connections to registered terminal equipment.* The voltage measurable between auxiliary leads, auxiliary leads to ground, tip and ring, tip to ground, and ring to ground, shall not exceed 70 volts peak for more than 1 second, with tip to ring and auxiliary lead to auxiliary lead each terminated with 1500 ohms center-tapped through 1000 ohms to ground, if 120 volts rms 60 Hz. ac is applied between all connections to other equipment tied together (except connections to non-hazardous voltage sources) and ground. The source shall not be limited to less than 20 amperes continuously, nor to less than 50 amperes for 1 minute, and shall not be interrupted by an overcurrent device permitting less total energy flow than a 20 ampere time delay fuse or breaker.

(3) *Connections to registered protective circuitry.* The voltage measurable between auxiliary leads, auxiliary leads to ground, tip and ring, tip to ground, and ring to ground, shall not exceed 70 volts peak for more than 1 second, with tip to ring and auxiliary lead to auxiliary lead each terminated with 1500 ohms, center-tapped through 1000 ohms to ground, if either 120 or 300 volts rms 60 Hz. ac is applied:

(i) Between all protective circuitry connections, other than telephone connections (and connections to non-hazardous voltage sources), tied together and ground; and

(ii) Across all protective circuitry connections, other than telephone connections (and connections to non-hazardous voltage sources) which have a transmission path to the telephone connections, with alternate leads grounded;

under all reasonable applications of earth ground to the protective circuitry. The source shall not be limited to less than 20 amperes continuously, nor to less than 50 amperes for 1 minute, and shall not be interrupted by an overcurrent device permitting less total energy flow than a 20 ampere time delay fuse or breaker.

(4) *Non-hazardous voltage source.* A voltage source is considered a non-hazardous voltage source if it conforms with the requirements of §§ 68.302, 68.304 and 68.306(b)(1), with all connections to the source other than primary power connections treated as "telephone connections," and if such source supplies voltages no greater than the following under all modes of operation and of failure:

(i) Ac voltages less than 42 volts peak;

(ii) Dc voltages less than 80 volts; and

(iii) Combined ac and dc voltages with the dc component between 21 and 80 volts, ac voltages less than $(55-0.6 \times V_{dc})$ peak.

(c) *Hazards from exposed surfaces (to be applied for intentional conductive paths to ground as required by § 68.304).* The voltage measurable between auxiliary leads, auxiliary leads to ground, tip and ring, tip and ground, and ring and ground, shall not exceed 70 volts peak for more than 1 second, with tip to ring and auxiliary lead to auxiliary lead each terminated with 1500 ohms, center-tapped through 1000 ohms to ground, if 120 volts rms 60 Hz. ac is applied between conductive exposed surfaces and ground. The source shall not be limited to less than 20 amperes continuously, nor to less than 50 amperes for 1 minute, and shall not be interrupted by an overcurrent device permitting less total energy flow than a 20 ampere time delay fuse or breaker.

11. In § 68.308, paragraphs (a)(1), (a)(3), (a)(4) and (c) are amended to read as follows:

§ 68.308 Signal power limitations.

(a) *Voiceband metallic signal power.*—(1) *Limitations on internal signal sources not intended for network control signaling.* For registered terminal equipment or registered protective circuitry, other than data equipment or data protective circuitry which is registered in accordance with § 68.308(a)(4), the maximum power of other than live voice signals delivered to a loop simulator circuit shall not exceed −9 dB with respect to one milliwatt, when averaged over any 3-second interval. No manufacturing tolerance is allowed which would permit this power to be exceeded by any unit of equipment.

(2) *Limitations on internal signal sources primarily intended for network control signaling, contained in voice and data equipment.* For all operating conditions of registered terminal equipment and registered protective circuitry, the maximum power delivered to a loop simulator circuit shall not exceed one milliwatt when averaged over any 3-second interval, during normal usage.

(3) *One port terminal equipment and protective circuitry with provision for through transmission from other equipment, excluding data equipment and data protective circuitry which is registered in accordance with § 68.308(a)(4).* (i) Registered terminal equipment and registered protective circuitry shall have no adjustments that will allow net amplification to occur in the through-transmission path within the frequency range of 200 to 4000 Hertz, when measured from a 600 source into a loop simulator circuit. The net gain of such equipment shall be designed so as not to exceed 0 dB; however, the gain for any single unit of registered terminal equipment or registered protective circuitry may exceed 0 dB by as much as 1.5 dB, provided that the net gain, averaged over all such units, is no greater than 0 dB.

(ii) Where through-transmission equipment provides a dc electrical signal to equipment connected therewith (e.g. for powering of electro-acoustic transducers), dc conditions shall be presented which fall within the range of conditions provided by a loop simulator circuit, unless the combination of the through-transmission equipment and equipment connected therewith is registered as a combination which conforms to § 68.308(a)(1)–(2).

(iii) Through-transmission equipment to which remotely-connected data terminal equipment may be connected shall not be equipped with, or connected to, either a Universal or Programmed data jack (see § 68.308(a)(4)).

(4) *Limitations on registered data terminal equipment and registered one-port protective circuitry with provision for through-transmission from data equipment.* When such equipment or circuitry is used for the transmission of data signals to the telephone network, it shall assure in all operating conditions, other than during network control signaling (see § 68.308(a)(2)), that one of the following limitations is met, depending upon the means of connection of the equipment or circuitry to the telephone network. The transmitted signal power, averaged over any 3-second time interval, delivered to a loop simulator circuit, shall not exceed:

(i) A maximum level adjustable to no greater than −4 dB with respect to one milliwatt, for connection to a Universal Data Jack used in the "fixed-loss loop" configurations (see § 68.502(e)).

(ii) A maximum level determined by means of connections in a Programmed Data Jack, or Universal Data Jack used in the "programmed" configurations (see § 68.502(e)), which level can be programmed in 1 dB steps from −12 dB to 0 dB with respect to one milliwatt.

(iii) A nonadjustable level no greater than −9 dB with respect to one milliwatt for connection by means of connection other than the Programmed or Universal Data Jacks. Equipment or circuitry designed in accordance with the −9 dB limitation shall conform to § 68.308(a)(1) and therefore be treated as non-live voice equipment; *Provided*, That the data terminal equipment or through-transmission equipment shall not be equipped with or connected to either a Universal or Programmed Data Jack, unless a registered adapter is interposed between such jacks and any through-transmission path to the telephone network, to assure compliance with the −9 dB limitation.

The maximum signal power specified in subdivisions (i) and (ii) of this subparagraph may exceed the specified maximum level by as much as 1.0 dB; *Provided*, that the power, averaged over all units of the equipment, complies with the specified maximum. In accordance with § 68.308(a)(1), the maximum signal power specified in subdivision (iii) of this subparagraph may not be exceeded by any units.

(b) * * *

(c) *Longitudinal voltage except during network control signaling.* At the telephone connections of registered terminal equipment and registered protective circuitry, the longitudinal voltage shall be less than the maximum voltages listed below when measured across the specified longitudinal termination and a 600 ohm metallic termination in the states and under the conditions specified in paragraph (b) of this section for metallic signal power above 4005 Hertz.

Frequency band	Maximum voltage (dBV)[1]	Longitudinal termination impedance (ohms)
100 Hz to 4 kHz	−53 (2.2 mV)	500
4 kHz to 10 kHz	−57 (1.4 mV)	500
10 kHz to 25 kHz	−62 (0.80 mV)	300
25 kHz to 40 kHz	−74 (0.20 mV)	200
40 kHz to 1 MHz	−80 (0.10 mV)	200

[1] dBV is the voltage in decibels relative to 1 V rms.

In the 100 to 4000 Hertz band, the −53 dBBV limit applies to the longitudinal voltage that is the resultant of all the component voltages in that band after they are weighted according to the curve in Figure 68.308. The weighting curve in Figure 68.309 has an absolute gain of unity at 4000 Hertz. A circuit which provides a longitudinal termination impedance of 500 ohms is depicted in Figure 68.310(g) in the longitudinal Balance Limitations section of these rules. The specific resistor values depicted therein should be appropriately changed to yield other Y-networks with a metallic termination of 600 ohms impedance and with the 200 and 300 ohm aggregate longitudinal termination impedances required in this section.

* * * * *

12. In § 68.310, paragraphs (a), (d), (f) and (h) are amended and (i) is added to read as follows:

§ 68.310 Longitudinal balance limitations.

(a) *Technical Description and Application.* The metallic-to-longitudinal balance coefficient, BALANCEm-l, is expressed as:

$$\text{Balance}_{m-l} = 20 \log_{10} \left| \frac{e_M}{e_L} \right|$$

where e_L is the longitudinal voltage produced across a 500-ohm longitudinal termination and e_M is the metallic voltage across the tip-ring interface of the input port when a voltage (at any frequency $200 < f < 400$ Hertz) is applied from a balanced 600-ohm metallic source. The source voltage should be set such that $e_M = 0.775$ volts rms (0 dBm) when a 600-ohm termination is substituted for the terminal equipment. The minimum balance coefficient specified in this section (as appropriate) shall be equalled or exceeded at all values of dc loop current that the port under test is capable of drawing when attached to a loop simulator circuit (see § 68.3). An illustrative test circuit that satisfies the above conditions is shown in Figure 68.310(a); other means may be used to determine the balance coefficient specified herein: *Provided*, That adequate documentation of the appropriateness, precision and accuracy of the alternative means is provided by the applicant. The minimum balance requirements specified below shall be equalled or exceeded under all reasonable conditions of the application of earth ground to the equipment or protective circuitry under test:

Equipment state	Minimum balance requirement (decibel)		Frequency range (hertz)
Subpars.:			
(b)	Both on-hook and off-hook	60	200 to 1000.
		40	1000 to 4000.
	On-hook	60	200 to 1000.
(c)		40	1000 to 4000.
	Off-hook	40	200 to 4000.
(d)	Off-hook	40	200 to 4000.
Subpar. (e) voice equipment	Both on-hook and off-hook	60	200 to 1000.
		40	1000 to 4000.
Subpar. (e)	On-hook	60	200 to 1000.
Data equipment		40	1000 to 4000.
	Off-hook	40	200 to 4000.
Subpars.:			
(f)	Off-hook	40	200 to 4000.
(g)	Both on-hook and off-hook	60	200 to 1000.
		40	1000 to 4000.
(h)	Off-hook	40	200 to 4000.

* * * * *

(d) *Registered one-port equipment for ground-start and reverse-battery applications.* The one-port shall be driven from a 600-ohm metallic source having a 500-ohm longitudinal impedance.

* * * * *

(f) *Registered protective circuitry for ground-start and reverse-battery applications.* These criteria shall be met with either terminal of the interface to other equipment connected to earth ground. The interface to other equipment shall be terminated in an impedance which will be reflected to the telephone connection as 600-ohms in the off-hook state of the protective circuit. Figure 68.310(f) shows the interface of the protective circuitry under test and the required arrangement at the interface to other equipment.

* * * * *

(h) *Registered multi-port equipment for ground-start and reverse-battery applications.* These criteria shall be satisfied for all network ports when all ports not under test are terminated in their appropriate networks for both their on-hook and off-hook states, as will be identified below, and when interface connections other than the ports are terminated in circuits appropriate to that interface. The minimum balance coefficients shall also be satisfied for all values of dc loop current that the registered equipment is capable of drawing through each of its ports when these ports are attached to a loop simulator circuit. The port under test shall be driven from a 600-ohm metallic source having a 500-ohm longitudinal impedance. The terminations for all ports other than the particular one whose balance coefficient is being measured shall have a metallic impedance of 600-ohms and a longitudinal impedance of 500-ohms in their off-hook states and they shall be unterminated in their on-hook states. Figure 68.310(g) shows this termination.

(i) *Ringing type Z equipment for loop-start applications.* Equipment which has on-hook impedance characteristics which do not conform to the requirements of § 68.312 (e.g. "Type Z"), need comply with a minimum balance requirement of 40 dB in the frequency range 200 to 4000 Hertz, under the applicable subparagraph above. See § 68.312 (f) for conditions upon registration of "Type Z" equipment.

13. In § 68.312, paragraphs (a), (a)(1)(i) and (a)(1)(ii) are amended, (b) is redesignated as (c) as amended and new paragraphs (b), (d), (e) and (f) are added to read as follows:

§ 68.312 On-hook impedance limitations.

(a) *Limitations on individual equipment intended for operation on loop-start telephone facilities.*—(1) Registered terminal equipment and registered protective circuitry shall conform to the following limitations, for each Ringing Type which is listed as part of its Ringer Equivalence:

(i) The dc resistance between tip and ring conductors, and between each of the tip and ring conductors and earth ground shall be greater than 10 megohms for all dc voltages up to and including 100 volts.

(ii) The dc resistance between tip and ring conductors, and between each of the tip and ring conductors and earth ground shall be greater than 30 kilohms for all dc voltages between 100 and 200 volts.

(iii) * * *

(iv) * * *

(2) * * *

(b) *Limitations on individual equipment intended for operation on ground-start telephone facilities.* Registered terminal equipment and registered protective circuitry shall conform to the following limitations for each Ringing Type which is listed as part of its Ringer Equivalence Number:

(1) During the application of simulated ringing, as listed in Table I below, the total dc current flowing between tip and ring conductors shall not exceed 3.0 milliamperes.

(2) During the application of simulated ringing, as listed in Table I below, the total impedance of the parallel combination of the ac impedance across tip and ring conductors and the ac impedance from the ring conductor to ground (with ground on the tip conductor) shall be greater than the value specified in Table I. Except as provided in paragraph (a)(2) of this section, such impedance shall be less than 40 kilohms.

(c) *Ringer equivalence definition.* The values of each of the parameters for which a limitation is imposed in paragraph (a) or (b) of this section, as appropriate, shall be determined for a representative unit under test. Quotients of each such value shall be formed according to the following:

(1) For individual equipment intended for operation on loop-start telephone facilities:

(i) 50 megohms divided by the minimum measured on-hook dc resistance for all dc voltages up to and including 100 volts.

(ii) 150 kilohms divided by the minimum measured on-hook dc resistance for all dc voltages between 100 and 200 volts.

(iii) The maximum total dc current flowing between tip and ring during the application of simulated ringing as listed in Table I below, in milliamperes, divided by 0.6 milliampere.

(iv) Five times the impedance limitation listed in Table I, below, divided by the minimum measured ac impedance, defined as in paragraph (a)(1)(iv) of this section, during the application of simulated ringing as listed in Table I.

(2) For individual equipment intended for operation on ground-start telephone facilities:

(i) The maximum total dc current flowing between tip and ring conductors during the application of simulated ringing as listed in Table I below, in milliamperes, divided by 0.6 milliamperes.

(ii) Five times the impedance limitation listed in Table I below divided by the minimum measured ac impedance, defined in paragraph (b)(1)(ii) of this section, during the application of simulated ringing as listed in Table I.

The largest of the unitless quotients so formed, followed by the Ringing Type letter indicator representing the frequency range for which that number is valid, is the Ringer Equivalence. If Ringer Equivalence is to be stated for more than one Ringing Type, testing shall be performed at each frequency range to which Ringer Equivalence is to be determined in accordance with the above, and the largest resulting Ringer Equivalence number so determined will be associated with each Ringing Type letter designation for which it is valid.

(d) Registered terminal equipment and registered protective circuitry shall have at least one ringer equivalence number shown on the registration label. Where options that will vary the ringer equivalence are involved, either each option that results in a ringer equivalence number greater than 0.1 and its corresponding Ringer Equivalence shall be listed on the registration label, or the largest ringer equivalence number that can result from such options shall be stated on the label. A trained, authorized agent of the Grantee may disconnect ringers, bridge ringers to another line, or execute options affecting ringer equivalence after the telephone company has been notified in accordance with § 68.106.

(e) All registered terminal equipment and registered protective circuitry which can affect on-hook impedance shall be assigned a Ringer Equivalence. The sum of all such ringer equivalences on a given telephone line or loop shall not exceed 5; in some cases, a system which has a total ringer equivalence of 5 or less may not

be usable on a given telephone line or loop.

(f) *Ringing Type Z Equipment.* Equipment which has on-hook impedance characteristics which do not conform to the requirements of this Section may be conditionally registered, notwithstanding the requirements of this section: *Provided*, That it is labelled with a Ringing Type designation "Z". It should be noted that registration of equipment bearing the designation "Z" does not necessarily confer any right of connection to the telephone network under these rules; any equipment registered with the type Z designation may only be used with the consent of the local telephone company: *Provided*, That the local telephone company does not discriminate in its treatment of equipment bearing the type Z designation.

TABLE I

	Range of compatible ringing frequencies (hertz)	Simulated ringing voltage superimposed on 52.5 V d.c.	Impedance limitation (ohms)
Ringing type:			
A	20±3 and 30±3	40 to 130 V rms.	1400
B	15.3 to 68.0	40 to 150 V rms.	1600
C	15.3 to 17.4	54 to 120 V rms.	1600
D	19.3 to 20.7 [1] (frequency-selective)	do	1600
E	24.3 to 25.7	do	1600
F	29.3 to 30.7 [1] (frequency-selective)	do	1600
G	32.6 to 34.0	54 to 130 V rms.	1600
H	39.2 to 40.9	62 to 130 V rms.	1600
J	41.0 to 43.0	do	1600
K	49.0 to 51.0	62 to 140 V rms.	1600
L	52.9 to 55.1	do	1600
M	58.8 to 61.2	68 to 150 V rms.	1600
N	65.4 to 68.0	do	1600
P	15.3 to 34.0	54 to 130 V rms.	1600

[1] Requirements at these frequencies, which are identical to type A frequencies, are not consistent with the type A requirements; equipment intended for use both on type A facilities and facilities using frequency-selective ringing must comply with the requirements on types A, D, and F independently.

14. In § 68.314, paragraph (b) is amended and (c) and (d) are added to read as follows:

§ 68.314 Billing protection.

(a) * * *

(b) *Voice and data equipment on-hook signal requirements.* Registered protective circuitry and registered terminal equipment shall comply with the following:

(1) The power delivered into a loop simulator circuit in the on-hook state, by loop-start or ground-start equipment, shall not exceed −55 dB with respect to one milliwatt within the frequency band from 200 to 4000 Hertz. Registered protective circuitry shall also assure that for any input level up to 10 dB above the maximum level that is expected under normal operation, the power delivered to the loop simulator circuit does not exceed the above limits.

(2) The power delivered into a loop simulator circuit in the on-hook state by reverse battery equipment shall not exceed −55 dB with respect to one milliwatt, unless the equipment is arranged to inhibit incoming signals.

(c) *Voice and data equipment loop current requirements.* The loop current through registered terminal equipment or registered protective circuitry, when connected to a loop simulator circuit with the 600 ohm resistor and 500 microfarad capacitor therein disconnected, shall, for at least 5 seconds after the equipment goes to the normal off-hook state which would occur in response to ringing (called party condition) shall:

(1) Be at least as great as the current obtained in the same loop simulator circuit with a 200 ohm resistance connected across tip and ring in place of the registered terminal equipment or registered protective circuitry; or

(2) Not decrease by more than 25 percent from its maximum value attained during this 5-second interval;

unless the equipment is returned to the on-hook state during the above 5-second interval.

(d) *Signaling interference.* Registered terminal equipment and registered protective circuitry shall not deliver signals into a loop simulator circuit, from sources internal to the registered equipment or circuitry, with energy in the 2450 to 2750 Hertz band unless an at least equal amount of energy is present in the 800 to 2450 Hertz band.

[FR Doc.77-17870 Filed 6-23-77;8:45 am]

Title 50—Wildlife and Fisheries

CHAPTER I—UNITED STATES FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 32—HUNTING

Opening of Kirwin National Wildlife Refuge, Kansas, to Dove Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to dove hunting of Kirwin National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: September 1, 1977, through October 30, 1977.

FOR FURTHER INFORMATION CONTACT:

Keith S. Hansen, Kirwin, Kansas 67644, telephone 913-646-2373.

SUPPLEMENTARY INFORMATION:

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

Dove Hunting is permitted on the Kirwin National Wildlife Refuge, Kansas, only on the areas designated by signs as being open to hunting. These areas comprising 3,700 acres are delineated on maps available at the refuge headquarters and from the office of the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 25486, Denver Federal Center, Denver, Colorado 80225.

Dove hunting shall be in accordance with all applicable State regulations governing dove hunting.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service 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: June 6, 1977.

KEITH S. HANSEN,
Refuge Manager.

[FR Doc.77-18037 Filed 6-23-77;8:45 am]

PART 33—SPORT FISHING

Opening of Pool 10 Lacreek National Wildlife Refuge, South Dakota to Sport Fishing

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening of parts of the Lacreek National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: July 1, 1977 through March 31, 1978.

FOR FURTHER INFORMATION CONTACT:

Refuge Manager, Lacreek National Wildlife Refuge, Martin, SD 57551 or telephone 605-685-6508.

SUPPLEMENTARY INFORMATION:

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

Sport fishing is permitted on Pool 10 and adjacent streams, Lacreek National Wildlife Refuge, only on those areas designated by public fishing signs as being open to fishing. These areas comprising about 600 acres are delineated on maps available at the refuge headquarters and at the office of the Area Manager, Federal Building, Pierre, SD. Sport fishing shall be in accordance with all applicable State regulations subject to the following conditions:

1. Fishermen must use designated parking areas and/or boat landings.

2. No motors may be used on boats or canoes in the Refuge.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 33. The public is invited to offer suggestions and comments at any time.

The U.S. Fish and Wildlife Service 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.

HAROLD H. BURGESS,
Refuge Manager, Lacreek National Wildlife Refuge, Martin, South Dakota.

JUNE 15, 1977.

[FR Doc.77-17899 Filed 6-23-77;8:45 am]

CHAPTER II—NATIONAL MARINE FISHERIES SERVICE, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 255—FISHING VESSEL OBLIGATION GUARANTEE PROGRAM PROCEDURES

Fee Increase

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Amendment to procedures.

SUMMARY: This amendment increases fees to be paid by those applying for or receiving guarantees under the Fishing Vessel Obligation Guarantee Program. This increase is required because of the administrative decision not to seek appropriated funds to pay program administration costs.

EFFECTIVE DATE: Effective for all applications received on or after June 27, 1977.

FOR FURTHER INFORMATION CONTACT:

Michael L. Grable, Chief, Financial Assistance Division, National Marine Fisheries Service, Washington, D.C. 20235 (202-634-7496).

SUPPLEMENTARY INFORMATION: On April 27, 1977, the National Oceanic and Atmospheric Administration published a proposed amendment (42 FR 21499) to increase the fees paid by those applying for or receiving guarantees under this program. As stated in the proposal, the increase is required because of the administrative decision not to seek appropriated funds to pay program administration costs.

One comment received in response to the proposed change suggested that the decision not to seek appropriations for administration of the fund be re-evaluated and the increase in fees be eliminated. Since the decision not to seek appropriated funds for this program's cost of administration had been thoroughly evaluated previously without a reversal of the policy that this program should be made self-financing if possible and since the comment presented no new fact, the fee increase will be adopted as proposed.

The Amendment provides for an increase in fees as follows:

(1) Guarantee fee (annual fee based on unpaid principal balance of guaranteed obligation). Increase is from ½ of 1 percent to ¾ of 1 percent.

(2) Filing and Commitment fee (one-time fee based on initial principal amount of obligation to be guaranteed). Fee had previously been ½ of 1 percent of first $100,000 of original principal amount of obligation to be guaranteed, ¼ of 1 percent of the next $200,000, and nothing thereafter. Increase will be to a total filing and commitment fee of ½ of 1 percent of the first $300,000 of the obligation to be guaranteed and ¼ of 1 percent on the remaining balance (with no ceiling). One-half of the total amount of the new filing and commitment fee is due as a filing fee at the time of application and is non-refundable. The other one-half of the new total amount is not payable unless the application is approved and is due as a commitment fee at the time the Secretary's commitment is issued.

Additionally, a filing fee is for the first time established for refinancings and assumptions of previously guaranteed obligations at ¼ of 1 percent of the unpaid principal balance of guaranteed obligations to be refinanced or assumed.

Accordingly, 50 CFR Part 255 is amended as follows:

§ 255.3 [Amended]

1. In § 255.3(g)(1) substitute "Three-quarters" for "One-half."

2. Substitute the following for 255.4(f).

§ 255.4 Applications.

* * * * *

(f) (1) *Filing fee.* The filing fee for all applications (other than those in paragraph (f)(3) of this section) shall be an amount equal to ¼ of 1 percent of the first $300,000 (or portion thereof) of the principal amount of the obligation to be guaranteed and ⅛ of 1 percent of the balance of that obligation. This filing fee will be retained by the Secretary regardless of the application's disposition.

(2) *Commitment fee.* The commitment fee for all approved applications (other than those in paragraph (f)(3) of this section) shall be an amount equal to ¼ of 1 percent of the first $300,000 (or portion thereof) of the principal amount of the obligation to be guaranteed and ⅛ of 1 percent of the balance. This commitment fee is due when the Secretary first advises the applicant that its application for a guarantee has been approved and must be received by the Secretary before the actual commitment is issued. This amount, once the Secretary's commitment is issued, will be retained by the Secretary regardless of the commitment's subsequent disposition.

(3) *Refinancing or assumption fee.* The fee for refinancing or assuming previously guaranteed obligations shall be ¼ of 1 percent of the principal amount of the guaranteed obligation to be refinanced or assumed. This fee must accompany the application for refinancing or assumption and will be retained by the Secretary regardless of the application's disposition. Where an assumption serves mainly to protect the Secretary's interest (rather than principally as a convenience to the parties involved) the assumption fee may, in the Secretary's discretion, be waived.

(4) *Where payable.* All checks should be made payable to "NMFS, NOAA, FSFF—Commerce" and delivered to the Regional National Marine Fisheries Service Office processing the application involved.

By order of the Administrator, National Oceanic and Atmospheric Administration.

Dated: June 21, 1977.

WILMOT N. HESS,
Acting Associate Administrator.

[FR Doc.77-18218 Filed 6-23-77;8:45 am]

PART 280—PACIFIC TUNA FISHERIES

Miscellaneous Amendments

AGENCY: National Oceanic and Atmospheric Administration/Commerce.

ACTION: Amendments to Final Rulemaking.

SUMMARY: Under the Tuna Conventions Act of 1950, as amended, the United States has an obligation to assist the Inter-American Tropical Tuna Commission in obtaining accurate reports of yellowfin tuna catches by U.S. tuna vessels fishing under international management quotas in the Eastern Tropical Pacific Ocean.

Amended reporting requirements are being implemented to require U.S. flag tuna purse seine vessels which fish outside the Commission's Yellowfin Regulatory Area (CYRA) to report to the National Marine Fisheries Service prior to leaving port, prior to departing the CYRA and prior to reentering the CYRA. The reports are necessary to accurately assess the tonnage of yellowfin tuna taken inside and outside the regulatory area during the open season.

EFFECTIVE DATE: June 24, 1977.

FOR FURTHER INFORMATION CONTACT:

Gerald V. Howard, Regional Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Room 2016, Terminal Island, California 90731 (213-548-2575).

SUPPLEMENTARY INFORMATION: The Inter-American Tropical Tuna Commission (IATTC) has established an annual quota for yellowfin tuna. Pursuant to section 6(c) of the Tuna Conventions Act of 1950, as amended, the U.S. has an obligation to assist the Commission in obtaining accurate reports of tuna catches by U.S. vessels fishing inside the Inter-American Tropical Tuna Commission's Yellowfin Regulatory Area (CYRA) during the open season. It is

necessary to know the location of the vessels on the fishing grounds to allocate accurately yellowfin tuna catches by U.S. vessels fishing inside the CYRA.

Final regulations for the Pacific Tuna Fisheries were published May 20, 1977. On May 25, the National Marine Fisheries Service became aware that at least two tuna purse seiners might be operating outside the CYRA during the open season. On May 28, approximately 31 vessels were known to be operating outside the regulatory area. By May 30, 37 vessels were operating outside the CYRA. This is the first time since regulations were originally promulgated in 1966 that vessels have fished outside the CYRA during the open season.

The present reporting requirements for fishing this area do not provide adequate information to assess the tonnage of yellow tuna being taken inside and outside the CYRA. By requiring reports similar to those required during the closed season, adequate catch information can be accumulated to assess properly the current fishing effort. The closed season reporting requirements to be adopted for the open season are that a vessel must report, 48 hours prior to departure from port, 24 hours prior to departing the CYRA and 24 hours prior to reentering the CYRA. The requirement for daily reporting while outside the CYRA is already in the regulations but of itself is not sufficient to provide adequate information. For the above stated reasons, it is hereby for good cause found that the notice, public procedure and delayed effectiveness of provisions of 5 U.S.C. 553 are impractical and contrary to the public interest. These amendments are, therefore, effective June 24, 1977, as published.

Issued at Washington, D.C., and dated June 21, 1977.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

In consideration of the foregoing 50 CFR 280.6(b) is amended to read as follows:

§ 280.6 Procedures for fishing inside and outside CYRA on open season trips.

* * * * *

(b) Any fishing vessel electing to fish in the Pacific Ocean, but outside the regulatory area, shall report to the Regional Director, within 48 hours before leaving port, giving the name of the reporting vessel and the port of departure; within 24 hours before leaving the regulatory area, giving the latitude of departure, the approximate time of departure, and the tonnage by species aboard; and, within 24 hours before returning to the regulatory area, giving the latitude of reentry, the approximate time of reentry, and the tonnage by species aboard.

(1) Vessels which are at sea and elect to fish outside the CYRA in the Pacific Ocean may do so provided they report departing the CYRA 24 hours prior to departure.

(2) Vessels may fish both inside and outside the CYRA on the same voyage without restriction or well inspection.

(3) During the open yellowfin tuna season, every fishing vessel operating in the Pacific Ocean, but outside the regulatory area, shall transmit daily a message between 1600 Coordinated Universal Time (C.U.T.) and 1800 C.U.T. The message shall be transmitted directly to Coast Guard Radio San Francisco (NMC) on frequency 16,565.0, 12,421.0, or 8,281.2 KHz and shall state: "This message is being transmitted in compliance with the U.S. Eastern Tropical Pacific Yellowfin Tuna Regulations and confirms that the vessel (name of reporting vessel) is fishing in the Pacific Ocean, but outside the regulatory area as of this date (give date)."

[FR Doc.77-18127 Filed 6-23-77;8:45 am]

CHAPTER VI—FISHERY CONSERVATION AND MANAGEMENT, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 661—SALMON FISHERY

Commercial and Recreational Salmon Fisheries Off the Coasts of Washington, Oregon, and California

AGENCY: National Oceanic and Atmospheric Administration/Commerce.

SUMMARY: At the request of the Pacific Fishery Management Council, the Secretary amends the emergency regulations of May 24, 1977 (42 FR 26580) to provide fishing rights to the Quileute Indian Tribe in a portion of Management Area A, from May 1, 1977, to October 31, 1977. This amendment will conform the emergency regulations to similar changes made by the Pacific Fishery Management Council to the fishery management plan.

EFFECTIVE DATE: 0001 a.m., on June 24, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Donald Johnson, Northwest Regional Director, National Marine Fisheries Service, Seattle, Washington, 98109 (206-442-7575).

SUPPLEMENTARY INFORMATION: During the Pacific Fishery Management Council meetings on June 13-14, 1977, in Los Angeles, California, a representative of the Quileute Tribal Council requested recognition in the Ocean Salmon Management Plan of that tribe's treaty fishing rights.

The terms and conditions for fishing were discussed by the subcommittee of the Council and the representative of the Quileute tribe on June 14.

The Council, in a public meeting on June 14, 1977, voted to adopt a second amendment to the Fishery Management Plan for "Commercial and Recreational Salmon Fisheries off the Coasts of Washington, Oregon, and California" which would authorize for the Quileute Tribe an all-species salmon trolling season from May 1 to October 31, 1977, within the designated area.

Therefore, under section 305(e)(2) of the Fishery Conservation and Management Act of 1976, the Secretary hereby amends the emergency regulations which implement the fishery management plan for the Commercial and Recreational Salmon Fisheries off the Coasts of Washington, Oregon, and California.

Dated: June 22, 1977 at Washington, D.C.

WINFRED H. MEIBOHM,
Associate Director, National Marine Fisheries Service.

Title 50 CFR, Section 661.10 is amended as follows:

1. New § 661.10(b) is added and present (b) is changed to (c) as follows:

§ 661.10 Treaty Indian Rights.

* * * * *

(b) Members of the Quileute Tribe entitled to exercise rights under the Treaty of Olympia may fish for all salmon species in that portion of Management Area A, south of 48°07'36" north latitude and north of 47°31'42" north latitude from May 1, 1977, to October 31, 1977. Such persons are otherwise subject to the provisions of this Part 661, the Act, and any other regulations issued under the Act.

* * * * *

[FR Doc.77-18217 Filed 6-23-77;8:45 am]

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Agency for International Development

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 Administrator and four positions of Confidential Assistant which report to the Assistant Administrators of the Bureaus for Asia, Africa, the Near East, and Latin America because these positions are confidential in nature.

EFFECTIVE DATE: June 24, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling (202-632-4533).

Accordingly, 5 CFR 213.3368 (a)(5), (g), (h), (i), and (j) are added as set out below:

§ 213.3368 Agency for International Development.

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

(5) One Special Assistant to the Administrator.

* * * * *

(g) *Office of the Assistant Administrator of the Bureau for Asia.*

(1) One Confidential Assistant to the Assistant Administrator.

(h) *Office of the Assistant Administrator of the Bureau for Africa.*

(1) One Confidential Assistant to the Assistant Administrator.

(i) *Office of the Assistant Administrator of the Bureau for the Near East.*

(1) One Confidential Assistant to the Assistant Administrator.

(j) *Office of the Assistant Administrator of the Bureau for Latin America.*

(1) One Confidential Assistant to the Assistant Administrator.

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

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

[FR Doc.77-17738 Filed 6-23-77;8:45 am]

PART 213—EXCEPTED SERVICE

Department of Agriculture

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment changes the title of the position of Deputy Under Secretary for Congressional and Public Affairs to that of Director, Office of Congressional and Public Affairs.

EFFECTIVE DATE: June 24, 1977.

FOR FURTHER INFORMATION ON POSITION AUTHORITY CONTACT:

John W. McKee, Civil Service Commission (202–632–4625).

FOR FURTHER INFORMATION ON POSITION CONTENT CONTACT:

Sylvester B. Pranger, Director of Personnel, Department of Agriculture (202–447–3585).

Accordingly, 5 CFR 213.3313(c)(9) is changed as set out below:

§ 213.3313 Department of Agriculture.

* * * * *

(c) *Office of the Under Secretary* * * *

(9) One Director, Office of Congressional and Public Affairs.

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

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

[FR Doc.77-18071 Filed 6-23-77;8:45 am]

PART 213—EXCEPTED SERVICE

Department of Defense

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment changes the title of one position of Special Assistant for Foreign Affairs Legislation to the Assistant Secretary of Defense (Legislative Affairs) to Special Assistant for Foreign Affairs Legislation to the Assistant to the Secretary of Defense (Legislative Affairs). The change in title is appropriate to reflect the current title of the superior.

EFFECTIVE DATE: June 24, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling (202–632–4533).

Accordingly, 5 CFR 213.3306(a)(18) is amended as set out below:

§ 213.3306 Department of Defense.

(a) Office of the Secretary. * * *

(18) One position of Special Assistant for Foreign Affairs Legislation to the Assistant to the Secretary of Defense (Legislative Affairs).

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

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

[FR Doc.77-17734 Filed 6-23-77;8:45 am]

PART 213—EXCEPTED SERVICE

Department of Defense

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This section is amended to show that one position of Special Assistant to the Director, Defense Civil Preparedness Agency is excepted under Schedule C because it is confidential in nature. This section is further amended to show that another position of Special Assistant to the Director is revoked because it has been vacant over 60 days and has expired under the provisions of the automatic revocation system.

EFFECTIVE DATE: June 24, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling (202–632–4533).

Accordingly, 5 CFR 213.3306 (e)(2) is revoked and (e)(3) is added to read as follows:

§ 213.3306 Department of Defense.

* * * * *

(e) *Defense Civil Preparedness Agency.* * * *

(2) (Revoked)

(3) One Special Assistant to the Director.

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

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

[FR Doc.77-17735 Filed 6-23-77;8:45 am]

PART 213—EXCEPTED SERVICE

Environmental Protection Agency

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This section is amended to show that the following two positions are excepted under Schedule C because they are confidential in nature: one Special Assistant (Political Coordination) and one Special Assistant to the Administrator.

EFFECTIVE DATE: June 22, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling (202–632–4533).

Accordingly, 5 CFR 213.3318(a)(1) is amended to read as follows:

§ 213.3318 Environmental Protection Agency.

(a) *Office of the Administrator.* (1) Eleven Special Assistants and one Special Assistant (Political Coordination) to the Administrator.

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

NOTE.—This document is reprinted without change from the issue of Wednesday, June 22, 1977 (42 FR 31604), to comply with the agency's assigned day of the week.

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

[FR Doc.77-18014 Filed 6-21-77;11:15 am]

PART 213—EXCEPTED SERVICE

Federal Energy Administration

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C one position of Staff Assistant to the Assistant Administrator for International Energy Affairs because the position is confidential in nature.

EFFECTIVE DATE: June 24, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling (202–632–4533).

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

§ 213.3388 Federal Energy Administration.

* * * * *

(i) *Office of the Assistant Administrator for International Energy Affairs.* * * *

(2) One Staff Assistant to the Assistant Administrator.

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

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

[FR Doc.77-18072 Filed 6-23-77;8:45 am]

PART 213—EXCEPTED SERVICE

Federal Energy Administration

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 Assistant Administrator for Regulatory Programs because the position is confidential in nature.

EFFECTIVE DATE: June 24, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling (202-632-4533).

Accordingly, 5 CFR 213.3388(o)(1) is amended as set out below:

§ 213.3388 Federal Energy Administration.

* * * * *

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

(1) Two Special Assistants to the Assistant Adminstrator.

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

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

[FR Doc.77-18073 Filed 6-23-77;8:45 am]

PART 213—EXCEPTED SERVICE

Department of State

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This addition excepts from the competitive service under Schedule C one position of Special Assistant to the Assistant Secretary for East Asian and Pacific Affairs because of the confidential nature of the position.

EFFECTIVE DATE: June 24, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling (202-632-4533).

Accordingly, 5 CFR 213.3304(j)(2) is added as set out below:

§ 213.3304 Department of State.

* * * * *

(j) *Office of the Assistant Secretary for East Asian and Pacific Affairs.* * * *

(2) One Special Assistant to the Assistant Secretary.

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

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

[FR Doc.77-17736 Filed 6-23-77;8:45 am]

PART 213—EXCEPTED SERVICE

Department of State

AGENCY: Civil Service Commission.

ACTION: Final rule.

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

EFFECTIVE DATE: June 24, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling 202-632-4533).

Accordingly, 5 CFR 213.3304(a)(28) is amended to read as follows:

§ 213.3304 Department of State.

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

(28) Two Staff Assistants to the Deputy Under Secretary for Management.

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

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

[FR Doc.77-17737 Filed 6-23-77;8:45 am]

PART 213—EXCEPTED SERVICE

Department of the Treasury

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment changes the title of one position of Secretary to the Assistant to the Secretary and Director, Office of Revenue Sharing, to Secretary to the Director, Office of Revenue Sharing. This change in title is appropriate to reflect the current title of the superior.

EFFECTIVE DATE: June 24, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, (202-632-4533).

Accordingly, 5 CFR 213.3305(a)(66) is amended as set out below:

§ 213.3305 Department of the Treasury.

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

(66) One Secretary to the Director, Office of Revenue Sharing.

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

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

[FR Doc.77-17739 Filed 6-23-77;8:45 am]

PART 294—AVAILABILITY OF OFFICIAL INFORMATION

Disclosure of Information From Official Personnel Folders

AGENCY: Civil Service Commission.

ACTION: Final regulation.

SUMMARY: In order to comply with the requirement of subsection (a)(3) of the Freedom of Information Act, 5 U.S.C. 552, that information be made available to "any person," the regulations are amended to remove the restriction on disclosure of the name, present and past position titles, grades, salaries, and duty stations of a present or former Government employee when this information is sought for commercial or other solicitation purposes. The information will not be disclosed when it is subject to one of the exemptions of the Freedom of Information Act, as, for example, when the information is requested in such a way that disclosure would reveal information beyond the five items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

EFFECTIVE DATE: June 24, 1977.

FOR FURTHER INFORMATION CONTACT:

Donald J. Biglin, Assistant Executive Director for Freedom of Information and Privacy (Room 5554), Civil Service Commission, 1900 E Street, NW., Washington, D.C. 20415, 202-632-6161.

Accordingly 5 CFR 294.702 is amended by revising paragraph (a), adding a new paragraph (b) and relettering present paragraphs (b) through (f) as follows:

§ 294.702 Availability of information.

(a) The following information about most present and former Government employees is available to the public:

(1) Name;

(2) Present and past position titles;

(3) Present and past grades;

(4) Present and past salaries;

(5) Present and past duty stations (which include room numbers, shop designations, or other identifying information regarding buildings or places of employment).

(b) Disclosure of this information will not be made where the information requested is a list of present or past position titles, grades, salaries, and/or duty stations of Government employees which is determined by the agency official responsible for custody of that information, is:

(1) Selected in such a way as to constitute a clearly unwarranted invasion of personal privacy because the nature of the request calls for a response that would reveal more about the employees on whom information is sought than the five enumerated items; or

(2) Would otherwise be protected from mandatory disclosure under an exemption of the Freedom of Information Act.

(c) In addition to the information that may be made available under paragraph (a) of this section, the following information may be made available to a prospective employer of a Government employee or former Government employee:

(1) Tenure of employment;

(2) Civil service status;

(3) Length of service in the agency and the Government; and

(4) When separated, the date and reason for separation shown on the Notification of Personnel Action, Standard Form 50.

(d) In addition to the information to be made available under paragraphs (a) and (c) of this section, the home address of an employee shall be made available to a police or court official on receipt of a proper request stating that an indictment has been returned against the employee or that complaint, information, accusation, or other writ involving nonsupport or a criminal offense has been filed against the employee and the employee's address is needed for service of a summons, warrant, subpena, or other legal process.

(e) The General Services Administration, National Archives and Records Service, may make information from the Official Personnel Folder of an employee separated from the service available to a person engaged in research for historical or educational purposes or for similar purposes when the person has written permission from the Commission to receive such information. This permission may be requested in writing from:

Director, Bureau of Manpower Information Systems, U.S. Civil Service Commission, 1900 E Street, NW., Washington, D.C. 20415.

Requests for this type of information should include identifying information as described in § 294.106(c)(1) of this part, and verification from a publisher, educational research, or other similarly recognized institution that the information is being sought for historical, educational, or other similar purposes. Except as provided in § 294.703(a) of this part, information made available under this paragraph shall be in the form of an abstract of the former employee's service in the Government and, when he has been separated at least five years, an abstract of his educational experience background as reflected in his application for employment with the Government. Information that is derogatory to the former employee shall not be made available under this paragraph.

(f) In addition to the information to be made available under paragraph (a) of this section, the Social Security Account Number and place of actual residence shall be disclosed to a State or local tax authority, or both, as provided in the Office of Management and Budget Circular No. A-38 revised.

(g) Except as provided in paragraphs (a) through (f) of this section, information required to be included in an Official Personnel Folder by the instructions of the Commission is not available to the public.

(5 U.S.C. 552, Freedom of Information Act, Pub. L. 92-502.)

NOTE: The Civil Service Commission has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended, and OMB Circular A-107.

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

[FR Doc.77-18390 Filed 6-23-77;10:20 am]

Title 29—Labor

CHAPTER V—WAGE AND HOUR DIVISION, DEPARTMENT OF LABOR

SUBCHAPTER B—STATEMENTS OF GENERAL POLICY OR INTERPRETATIONS NOT DIRECTLY RELATED TO REGULATIONS

PART 775—GENERAL

AGENCY: Department of Labor.

ACTION: Final rule.

SUMMARY: The Supreme Court ruled on June 24, 1976, in *National League of Cities* v. *Usery* that the minimum wage and overtime compensation provisions of the Fair Labor Standards Act could not constitutionally be applied to State and local government employees who are engaged in traditional governmental activities. When the case was sent back to Federal district court for entry of a final judgment, the district court requested the Department of Labor to create a procedure by which to identify those governmental functions which are nontraditional, and therefore still constitutionally subject to the minimum wage and overtime provisions of the Fair Labor Standards Act. This rule sets forth those procedures in a special enforcement policy which has been endorsed by the district court.

EFFECTIVE DATE: June 24, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Carl W. Gerig, Jr., Deputy Associate Solicitor, Fair Labor Standards Division, Office of the Solicitor, U.S. Department of Labor, Room N-2620-A, 200 Constitution Avenue, NW., Washington, D.C. 20210, Telephone No. 202-523-7834.

SUPPLEMENTARY INFORMATION: The Fair Labor Standards Act, as originally enacted in 1938, did not apply to employees employed by States or political subdivisions. The first such application was in 1966, when Congress extended the Act's coverage (including the prohibition against sex-based wage differentials adopted by the Equal Pay Act of 1963) to employees of States and other public enterprises engaged in operating transit companies, hospitals, schools and related institutions. The constitutionality of this extension of the Act's provisions was upheld in *Maryland* v. *Wirtz*, 392 U.S. 183.

In 1974, Congress amended the Fair Labor Standards Act to cover virtually all public sector employees except those specifically exempt as one who holds a public elective office or is appointed by such an office holder to be a "member of his personal staff" or "to serve on a policymaking level" or as an immediate advisor "with respect to the constitutional or legal powers of his office." The 1974 amendments also extended the provisions of the Age Discrimination in Employment Act to all State and local government employees, except those who were elected or appointed by elected officials to the personal staffs or to policymaking positions.

On June 24, 1976, the Supreme Court ruled in *National League of Cities, Inc.*, v. *Usery*, 426 U.S. 833, that the minimum wage and overtime provisions of the Fair Labor Standards Act could not constitutionally be applied to State and local government employees who were engaged in traditional governmental activities. The Court expressly overruled its earlier decision in *Maryland* v. *Wirtz* insofar as that decision upheld the application of the Act's minimum wage and overtime provisions to public school and hospital employees. The Court's decision did not affect the continued application of the Act's minimum wage and overtime provisions to employees engaged in nontraditional functions nor did it affect the application to all nonexempt employees (including those engaged in traditional governmental functions) of the Age Discrimination in Employment Act, or of the other substantive provisions of the Fair Labor Standards Act other than its minimum wage and overtime provisions. Because the Court did not establish a test for distinguishing between traditional and nontraditional governmental functions for purposes of applying the Act's minimum wage and overtime provisions, the three-judge district court to which the case was remanded requested the Secretary to propose a means of providing interpretative guidance to public employers in identifying the nontraditional functions which are constitutionally subject to the minimum wage and overtime provisions of the Fair Labor Standards Act. The court also indicated that the States and political subdivisions should not be subject to an award for "liquidated damages" (over and above back wages) except as to activities which had already been identified as nontraditional. In response to this request, the Secretary submitted a proposal for the amendment of the Secretary's enforcement policy stated in 29 CFR 775. This proposal was approved by the court on March 9, 1977. The amendment would add §§ 775.2 and 775.3 by stating a "special enforcement policy" concerning the application of the Fair Labor Standards Act to the States and political subdivisions. It is published below as it was approved by the court, but with the addition of the last phrase to § 775.2(d), beginning with the words "or for periods * * *" which was added for purposes of clarity. Official citations have also been added.

PREPARATION OF DOCUMENT: This document was prepared under the direction and control of Warren D. Landis, Acting Administrator, Wage and Hour Division, and Carin Ann Clauss, Solicitor of Labor.

Accordingly, 29 CFR Part 775 is amended by amending the table of contents and by adding new §§ 775.2 and 775.3 as follows:

1. The table of contents is amended to read as follows:

Sec.
775.0 General enforcement policy.
775.1 Advisory interpretations announced by the administrator.

Sec.
775.2 Special enforcement policy concerning States and political subdivisions.
775.3 Nontraditional functions of States and their political subdivisions.

AUTHORITY: Fair Labor Standards Act, 52 Stat. 1060, 29 U.S.C. 201 et seq.

2. There is added to Part 775 a new § 775.2 which reads as follows:

§ 775.2 Special Enforcement Policy Concerning States and Political Subdivisions.

(a) On June 24, 1976, the United States Supreme Court ruled in *National League of Cities, et al.* v. *Usery*, 426 U.S. 833, 96 S. Ct. 2465, 49 L. Ed. 2d 245, that the mininmum wage and overtime compensation provisions of the Fair Labor Standards Act (FLSA) are not constitutionally applicable to the integral operations of the States and their political subdivisions in areas of traditional governmental functions. Such areas include, among others, schools and hospitals, fire prevention, police protection, sanitation, public health, and parks and recreation. They do not include, among others, the operation of a railroad by a State. 426 U.S. at 854, n. 18.

(b) In view of the *National League* decision, the Secretary will not file suit to enforce the minimum wage and overtime compensation provisions of the FLSA against a State or its political subdivisions unless at least 30 days notice has first been given that, in the opinion of the Administrator, the activities in question are not integral operations in areas of traditional governmental functions. Such notice will be provided either by specific notification of the employing body in question or by general notification by publication in the FEDERAL REGISTER in the form of amendments to § 775.3. A reasonable opportunity will be allowed the employing body, after the notice of the administrative determination, to come into compliance voluntarily before suit is brought.

(c) Each such notice will be made available to wage-hour reporting services and to any interested person or association, for information or further publication, except for deletions reasonably necessary to protect the privacy of individual employers and employees.

(d) Because of the complexity of the questions raised by the *National League* decision, it would be inappropriate to seek liquidated damages in addition to back pay in cases to enforce the minimum wage and overtime compensation provisions of the Act against States or their political subdivisions, except as to activities determined by prior controlling judicial decision, or by prior administrative ruling published in the FEDERAL REGISTER, not to be integral operations in areas of traditional governmental functions. The Secretary will therefore seek relief under Section 17, which does not authorize additional liquidated damages, and not under Section 16(c), as to activities not covered by such decision or ruling, or for periods of employment prior to the publication of such decision or ruling.

(e) As already noted, the *National League* decision applies only to the minimum wage and overtime compensation provisions of the FLSA. This section and § 775.3 accordingly do not apply to claims arising under:

(1) The Equal Pay Act of 1963 (see *Usery v. Allegheny Co. Institution Dist.*, 544 F.2d 148 (3rd Cir., 1976)).

(2) The Age Discrimination in Employment Act of 1967 (see *Usery* v. *Bd. of Educ. of Salt Lake City*, 421 F.Supp. 718 (D. Utah, 1976)).

(3) The child labor provisions of the Fair Labor Standards Act.

(4) The protective provisions of Section 15(a)(3) of the Act, making it unlawful to discriminate against any employee for participating or assisting in FLSA proceedings.

3. There is added to Part 775 a new § 775.3 which reads as follows:

§ 755.3 Nontraditional functions of States and their political subdivisions.

(a) In the *National League* decision, it was made clear that the operation of a railroad by a State or its political subdivision is not an integral operation in the area of traditional governmental functions. 426 U.S. 883, 854, n. 18.

(b) From time to time, this Section will be amended to list other operations determined by the Courts or by the Administrator not to be such integral operations. Listing in this Section will serve as a form of notice under the provisions of § 775.2 (b).

Signed at Washington, D.C., on June 22, 1977.

RAY MARSHALL,
Secretary of Labor.

[FR Doc.77-18289 Filed 6-23-77;8:45 am]

Title 7—Agriculture

SUBTITLE A—OFFICE OF THE SECRETARY OF AGRICULTURE

PART 2—DELEGATIONS OF AUTHORITY BY THE SECRETARY OF AGRICULTURE AND GENERAL OFFICERS OF THE DEPARTMENT

Assistant Secretary for Conservation, Research, and Education, et al.; Radiological Safety

AGENCY: Department of Agriculture.

ACTION: Final rule.

SUMMARY: The delegations of authority of the Department of Agriculture are amended to delegate to the Assistant Secretary for Conservation, Research, and Education, the authority to control the acquisition, use and disposal of material and equipment which may be a source of ionizing radiation hazard, and to redelegate such authority to the Administrator, Agricultural Research Service. When the delegations of authority were first promulgated, this assignment of function was not included.

EFFECTIVE DATE: June 24, 1977.

FOR FURTHER INFORMATION CONTACT:

Chester Z. Kwast, Radiological Safety Officer, Bg. 001, BARC-W, Beltsville, Maryland 20705 (301-344-3054).

In consideration of the foregoing, Part 2, Subtitle A, Code of Federal Regulations is amended as follows:

1. Section 2.19 is amended by adding a new paragraph (a)(26) to read as follows:

§ 2.19 Delegations of authority to the Assistant Secretary for Conservation, Research, and Education.

* * * * *

(a) *Related to agricultural research.*

* * *

(26) Control the acquisition, use and disposal of material and equipment which may be a source of ionizing radiation hazard.

* * * * *

2. Section 2.57 is amended by adding a new paragraph (a)(28) to read as follows:

§ 2.57 Administrator, Agricultural Research Service.

(a) *Delegations.* * * *

(28) Control the acquisition, use and disposal of material and equipment which may be a source of ionizing radiation hazard.

For § 2.19:

Dated: June 3, 1977.

BOB BERGLAND,
Secretary of Agriculture.

For § 2.57.

Dated: June 3, 1977.

M. RUPERT CUTLER,
Assistant Secretary for Conservation, Research and Education.

[FR Doc.77-18132 Filed 6-23-77;8:45 am]

CHAPTER II—FOOD AND NUTRITION SERVICE, DEPARTMENT OF AGRICULTURE

[Amdt No. 114]

PART 270—GENERAL INFORMATION AND DEFINITIONS

Food Stamp Program

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This amendment is to change the address of the FNS Mid-Atlantic Regional Office.

EFFECTIVE DATE: February 7, 1977.

FOR FURTHER INFORMATION CONTACT:

Grant Tolley, Chief, Program Development Branch, Food Stamp Division, 500 12th Street SW., Washington, D.C. 20250 (202-447-8325).

SUPPLEMENTARY INFORMATION: Effective February 7, 1977, the address of the Food and Nutrition Service Regional Office for the Mid-Atlantic Region changed. Therefore, effective that date, paragraph (b)(1) of Section 270.5 is revised to reflect this address change.

Because this amendment is nonsubstantive in nature, it is determined to be impracticable and unnecessary to follow the proposed rule making procedure. Therefore, paragraph (b)(1) of § 270.5 is amended to read as follows:

§ 270.5 Miscellaneous provisions.

* * * * *

(b) * * *

(1) For project areas in Delaware, District of Columbia, Maryland, New Jersey, New York, Pennsylvania, Puerto Rico, Virginia, the Virgin Islands, and West Virginia: Mid-Atlantic Regional Office, U.S. Department of Agriculture, Food and Nutrition Service, 1 Vahlsing Center, Routs 526, Robbinsville, New Jersey 08691.

The Food and Nutrition Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A-107.

(Catalog of Federal Domestic Assistance Program No. 10.551, Food Stamps.)

Dated: June 17, 1977.

CAROL TUCKER FOREMAN,
Assistant Secretary.

[FR Doc.77-17959 Filed 6-23-77;8:45 am]

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

[Lemon Reg. 98]

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 June 26–July 2, 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: June 26, 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 similar to last week. Average f.o.b. price was $6.55 per carton the week ended June 18, 9177, compared to $6.65 per carton the previous week. Track and rolling supplies at 240 cars were up 15 cars from last week.

(ii) Having considered the recommendation and information submitted by the committee, and other available information, the Secretary finds that the quantity of lemons which may be handled should be 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 June 21, 1977.

§ 910.398 Lemon Regulation 98.

* * * * *

(b) *Order.* (1) The quantity of lemons grown in California and Arizona which may be handled during the period June 26, 1977, through July 2, 1977, is established at 285,000 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: June 23, 1977.

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

[FR Doc.77-18407 Filed 6-23-77;11:47 am]

CHAPTER XVII—RURAL ELECTRIFICATION ADMINISTRATION, DEPARTMENT OF AGRICULTURE

PART 1701—PUBLIC INFORMATION

Electric Loan Policies and Application Procedures

AGENCY: Rural Electrification Administration, USDA.

ACTION: Rule.

SUMMARY: The substantive change in revised REA Bulletin 20–2, Electric Loan Policies, is to provide for the removal of limits on the amounts which can be approved in a single loan to electric distribution borrowers for their two-year construction requirements. At present, many REA loans are made to such borrowers in amounts which meet needs for only one year. The bulletin has also been brought up to date with respect to recent amendments in the Rural Electrification Act.

DATE: Effective date: June 13, 1977.

FOR FURTHER INFORMATION CONTACT:

Richard F. Richter, Assistant Administrator, Electric, Room 4056, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, telephone 202–447–6237.

SUPPLEMENTARY INFORMATION: Pursuant to the Rural Electrification Act, as amended (7 U.S.C. 901 et seq.), Appendix A to Part 1701, Title 7, is hereby amended to provide for the revision of REA Bulletin 20–2, Electric Loan Policies and Application Procedures.

Since the substantive change in the revision of REA Bulletin 20–2 complies with the requests of many REA electric distribution borrowers and benefits them by being more responsive to their financing needs, it is not considered necessary to invite comment prior to adoption. However, any comment on revised Bulletin 20–2 may be submitted to the REA contact named above.

NOTE.—REA has determined that this document does not involve a major action requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A–107.

Dated: June 13, 1977.

DAVID A. HAMIL,
Administrator.

[FR Doc.77-18047 Filed 6-23-77;8:45 am]

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

[7 CFR Parts 270, 275]

[AMENDMENT NO. 115]

PAYMENTS OF CERTAIN ADMINISTRATIVE COSTS OF STATE AGENCIES FOOD STAMP PROGRAMS

Definition of Project Areas

AGENCY: Food and Nutrition Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed amendment would revise the definition of a project area to clarify that Indian reservations, welfare districts, combinations of counties or partial counties can be designated as project areas for Food Stamp Program purposes.

DATE: Comments should be received on or before July 25, 1977.

ADDRESS: Comments should be submitted to: Nancy Snyder, Director, Food Stamp Division, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT:

Grant Tolley, Program Development Branch, Food Stamp Division, Food and Nutrition Service, U.S. Department of Agricutlure, Washington, D.C. 20250, 202-447-8325.

SUPPLEMENTARY INFORMATION: This amendment was generated in response to a specific request to designate the Indian Reservations in a certain State as food stamp project areas separate from the counties which overlap with the reservation boundaries. The current definition of a "project area" as a "political subdivision within a State * * *" appears to exclude Indian reservations from its scope. We believe it will be advantageous to the reservations, the States, and FNS to allow Indian reservations to be designated as project areas for Food Stamp Program purposes. In addition, we believe there may be other requests for technical redesignations of unique project areas as State administrative structures expand and change. Therefore, the proposed amendment revises the project area definition to clarify that Indian reservations, welfare districts, combinations of counties or partial counties can be designated as project areas for Food Stamp Program purposes. The proposed amendment is not intended to relieve States, in situations where welfare districts or combinations of counties are designated as a project area, from maintaining certification and issuance points in each county.

PART 270—GENERAL INFORMATION AND DEFINITIONS

1. It is proposed to amend § 270.2(pp) to read as follows:

§ 270.2 Definitions.

* * * * *

(pp) Project area means the geographic entity within a State approved by the Department for participation in the program and used by the State as the administrative unit for program operations. Upon State request and Departmental approval, a county, city, Indian reservation, welfare district, or any other entity with clearly defined geographic boundaries, or any combination of such entities, may be designated as a project area. In addition, with appropriate justification, States as a whole may be designated as single project areas.

* * * * *

PART 275—PAYMENTS OF CERTAIN ADMINISTRATIVE COSTS OF STATE AGENCIES FOOD PROGRAMS

2. Likewise, it is proposed to amend the third paragraph in § 275.10(b) to read as follows:

§ 275.10 Monitoring and reporting program performance.

* * * * *

(b) Definitions * * *

"Project area" means the geographic entity within a State approved by the Department for participation in the program and used by the State as the administrative unit for program operations. Upon State request and Departmental approval, a county, city, Indian reservation, welfare district, or any other entity with clearly defined geographic boundaries, or any combination of such entities, may be designated as a project area. In addition, with appropriate justification, States as a whole may be designated as single project areas. Also, for the review and reporting purposes of this section, either FNS or the State Agency with FNS approval may establish a different administrative unit as its project area.

(78 Stat. 703, as amended; 7 U.S.C. 2011-2026.)

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

(Catalog of Federal Domestic Assistance Programs No. 10.551, Food Stamps.)

Dated: June 17, 1977.

CAROL TUCKER FOREMAN,
Assistant Secretary.

[FR Doc.77-18131 Filed 6-23-77;8:45 am]

Agricultural Marketing Service

[7 CFR Part 924]

PRUNES GROWN IN WASHINGTON AND OREGON

Proposed Rulemaking Regarding Approval of Expenses and Rate of Assessment for 1977-78 Fiscal Period

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This notice invites written comments on proposed expenses of $19,750 and a rate of assessment of $0.60 per ton of prunes for the functioning of the Washington-Oregon Fresh Prune Marketing Committee for the 1977-78 fiscal year. The committee administers locally a Federal marketing order program regulating the handling of prunes grown in Washington, and Oregon. The regulation would enable the committee to collect assessments from first handlers on all assessable prunes handled and to use the resulting funds for its expenses.

DATES: Comments must be received on or before July 11, 1977. Proposed effective dates: April 1, 1977, through March 31, 1978.

ADDRESSES: Send two copies of comments to the Hearing Clerk, United States Department of Agriculture, Room 1077, South Building, Washington, D.C. 20250. Comments will be made available for public inspection at the office of the Hearing Clerk during regular business hours.

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: The proposals under consideration were submitted by the Washington-Oregon Fresh Prune Marketing Committee, established under the marketing agreement, as amended, and Order No. 924, as amended (7 CFR Part 924), regulating the handling of prunes grown in Washington, and Oregon, effective under the Agricultural Marketing Agreement

Act of 1937, as amended (7 U.S.C. 601–674), as the agency to administer the terms and provisions.

The proposals are as follows:

(1) Expenses that are reasonable and likely to be incurred by the Washington-Oregon Fresh Prune Marketing Committee, during the fiscal period April 1, 1977, through March 31, 1978, will amount to $19,750.

(2) The rate of assessment for the fiscal period, payable by each handler in accordance with § 924.41, is established at $0.60 per ton of prunes in containers or in bulk.

Terms used in th emarketing agreements, as amended, and order, as amended, shall when used herein, have the same meaning as is given to the respective term in the amended marketing agreement and order.

Dated: June 20, 1977.

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

[FR Doc.77-18048 Filed 6-23-77;8:45 am]

Commodity Credit Corporation

[7 CFR Part 1446]

1977 CROP PEANUT PRICE SUPPORT DIFFERENTIALS

Extension of Comment Period

AGENCY: Commodity Credit Corporation, Department of Agriculture.

ACTION: Extension of time for comment on proposed rule.

SUMMARY: The purpose of this notice is to extend the time allotted for comments in the original notice of proposed rulemaking.

DATE: Additional comments must be received on or before July 1. 1977, to be sure of receiving consideration.

ADDRESSES: Tobacco and Peanut Division, ASCS, USDA, P.O. Box 2415 Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT:

Dallas R. Smith (ASCS), 202–447–7405.

SUPPLEMENTARY INFORMATION: On May 17, a Notice of Proposed Rulemaking was published in the FEDERAL REGISTER (42 FR 25329), to advise that the Secretary of Agriculture proposes to make determinations and issue regulations concerning a loan and purchase program for the 1977 crop of peanuts, to schedule a public meeting to receive oral comments, and provide that any written comments, data, views and recommendations must be received on or before June 24, 1977, to be sure of receiving consideration. The public meeting was held on June 9, 1977. After reviewing concerns expressed to the Department by some segments of the industry involving conflicts with previously scheduled meetings and the close of the comment period, the comment period is being extended to assure all interested parties adequate opportunity to prepare written comments. Prior to making any determination, the Department will give consideration to comments, data, views and recommendations submitted in writing within the comment period, as extended, to the Director, Tobacco and Peanut Division. All written submissions made pursuant to this notice will be made available for inspection from 8:15 a.m. to 4:45 p.m. Monday through Friday, in Room 5746 South Building, 14th and Independence Avenue, SW., Washington, D.C. (7 CFR 1.27(b)).

Signed at Washington, D.C. on June 21, 1977.

KEISTER N. ADAMS,
Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc.77-18133 Filed 6-23-77;8:45 am]

SMALL BUSINESS ADMINISTRATION

[13 CFR Parts 116, 117]

LEAD-BASED PAINT

Notice of Proposed Rulemaking

AGENCY: Small Business Administration.

ACTION: Proposed rule.

SUMMARY: SBA presently has separate regulations for flood insurance protection, Part 116, and veterans, Part 117. The proposed regulation merely consolidates these two Parts as subpart A and B of a new Part 116. Subpart C contains a new regulation which describes the prohibition against the use of lead-based paint in all residential structures constructed or rehabilitated with SBA assistance in any form, as required by the Lead-Based Paint Poisoning Prevention Act.

DATE: Comments must be received by July 25, 1977.

ADDRESS: Comments on proposed subpart C should be submitted to: General Counsel, Small Business Administration, 1441 L Street, NW., Room 722, Washington, D.C. 20416, 202–653–6649.

FOR FURTHER INFORMATION CONTACT:

Alan N. Heibein, Attorney,
Office of General Counsel,
202–653–6649.

SUPPLEMENTARY INFORMATION: An increasing number of regulations imposed upon SBA lending activities, or national policies adopted by SBA, affect all program areas but do not merit a separate regulation. SBA therefore has decided to adopt a new part 116 which would contain various subparts which implement these program policies and regulations. Subparts A and B have been taken from the present regulations and placed in this new part 116 without material alteration. The old parts 116 and 117 will be deleted.

The provisions which are now in Part 117 will be transferred to new Part 116 and become Subpart B. No comments are being requested on this part of the NPRM because the only substantive changes that are being made are in the section numbers and the section titles, ie §§ 117.1, 117.2 and 117.3 will become §§ 116.10, 116.11 and 116.12 respectively.

Subpart C contains new regulations implementing the Lead-Based Paint Poisoning Prevention Act, Pub. L. 91–695 (42 U.S.C. Section 4801 et seq.), hereinafter referred to as the Act. The Act as passed in 1971 provided in Section 401 that HEW should take steps to prohibit the use of lead-based paint in residential structures constructed or rehabilitated by the Federal Government, or with Federal assistance in any form.

In 1976, the Act was extended and responsibility for prohibiting the use of lead-based paint in such residential structures was transferred to the Secretary of Housing and Urban Development (HUD). As a result, HUD issued new regulations, 24 CFR 35.60–.65, 42 FR 5042, January 27, 1977, detailing the responsibility of all Federal agencies under the Act. The regulations impose a requirement that all Federal agencies adopt a regulation implementing their responsibilities under the Act.

The HUD regulations contain definitions of the key terms "Lead-Based Paint," "residential structure," and "applicable surfaces," which define the scope of the Act and regulation. SBA has adopted the definitions verbatim.

The Act prohibits the use of lead-based paint in construction or rehabilitation of a residential structure where there is Federal assistance in any form. SBA has determined that all of its assistance programs except for Management Assistance are subject to the restrictions of the Act.

Finally, to insure compliance with the prohibition SBA has provided that any recipient of such assistance who improperly uses lead-based paint must remove the paint and repaint the affected surface at the recipient's own expense.

Since subparts A and B are merely a transfer of existing regulations which have already been subject to comment, they will only be published in final form.

Accordingly, pursuant to authority contained in 5 U.S.C. 301 and 15 U.S.C. 634(b)(6), notice is hereby given that the Small Business Administration proposes to amend Part 116 of Chapter I, Title 13 of the Code of Federal Regulations to read as follows:

Subpart A—Veterans

Sec.

116.1 Purpose and scope.
116.2 Definitions.
116.3 Special consideration criteria.

Subpart B—Flood Insurance Protection

116.10 Purpose and scope.
116.11 Requirements.
116.12 Related Regulations.

Subpart C—Lead-Based Paint

Sec.
116.20 Purpose and scope.
116.21 Definitions.
116.22 Prohibition.
116.23 Penalty.

Subpart A—Veterans

* * * * *

Subpart B—Flood Insurance Protection

* * * * *

Subpart C—Lead-Based Paint

§ 116.20 Purpose and scope.

This subpart implements the requirements of the Lead-Based Paint Poisoning Prevention Act, 42 U.S.C. 4801 et seq., and the regulations imposed by the Department of Housing and Urban Development, 24 CFR 35.60–.65, which has the responsibility of insuring compliance with the Act. All SBA programs of assistance except Management Assistance are subject to this subpart.

§ 116.21 Definitions.

(a) *Lead-based paint.* Lead-based paint means:

(1) Any paint containing more than five-tenths of 1 per centum lead by weight (calculated as lead metal) in the total non-volatile content of the paint or the equivalent measure of lead in the dried film of paint already applied or both; or

(2) With respect to paint which is manufactured after June 22, 1977, lead-based paint means any paint containing more than six one-hundredths of 1 per centum lead by weight (calculated as lead metal) in the total non-volatile content of the paint or the equivalent measure of lead in the dried film of paint already applied.

(b) *Residential structure.* Residential structure means any house, apartment or structure intended for human habitation, including any institutional structure where persons reside, such as an orphanage, boarding school, dormitory, day care center, or extended care facilities, college housing, hospitals, group practice facilities and community facilities.

(c) *Applicable surfaces.* Applicable surfaces means all interior surfaces, whether accessible or not, and those exterior surfaces such as stairs, decks, porches, railings, windows and doors which are readily accessible to children under 7 years of age.

§ 116.22 Prohibition.

All recipients of SBA assistance granted in connection with the construction or rehabilitation of a residential structure are prohibited from using lead-based paint on the applicable surfaces of such residential structure.

§ 116.23 Penalty.

In the event lead-based paint is improperly used, the recipient will be required to remove the paint and repaint the affected area at the recipient's expense.

(Catalog of Federal Domestic Assistance Programs:)

59.002 Economic Injury Disaster Loans
59.003 Economic Opportunity Loans
59.004 Lease Guarantees
59.006 Minority Business Development Procurement Assistance
59.008 Physical Disaster
59.009 Procurement Assistance
59.011 Small Business Investment Companies
59.012 Small Business Loans
59.013 State and Local Development Company Loans
59.016 Bond Guarantees for Surety Companies
59.020 Base Closing Economic Injury Loans

Dated: June 11, 1977.

A. VERNON WEAVER,
Administrator.

[FR Doc.77-18022 Filed 6-23-77;8:45 am]

FEDERAL TRADE COMMISSION

[16 CFR Part 13]

[File No. 772 3030]

PREMIER CLOTHING CO., INC., ET AL.

Consent Agreement With Analysis to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Provisional consent agreement.

SUMMARY: This consent order, among other things, requires a N.Y.C. clothing manufacturer and distributor to cease misbranding and misrepresenting the wool and constituent fiber content of its products. The firm is also required to advise affected customers that the clothing they purchased was misbranded.

DATE: Comments must be received on or before August 22, 1977.

ADDRESS: Comments should be directed to: Office of the Secretary, Federal Trade Commission, 6th and Pennsylvania Ave., NW., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT:

Richard A. Givens, Regional Director, New York Regional Office, 2243–EB Federal Building, 26 Federal Plaza, New York, N.Y. 10007, 212–264–1207.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the FTC Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist and an explanation thereof, having been filed with and provisionally accepted by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(14) of the Commission's Rules of Practice (16 CFR 4.9(b)(14)).

File No. .....

AGREEMENT CONTAINING CONSENT ORDER TO CEASE AND DESIST

In the matter of Premier Clothing Co., Inc., a corporation, and Sidney Kriegler, individually and as an officer of said corporation.

The Federal Trade Commission having initiated an investigation of certain acts and practices of Premier Clothing Co., Inc., a corporation, and Sidney Kriegler, individually and as an officer of said corporation, hereinafter sometimes referred to as proposed respondents, and it now appearing that proposed respondents are willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated;

It is hereby agreed by and between Premier Clothing Co., Inc., by its duly authorized officer, and Sidney Kriegler, individually and as an officer of said corporation, and counsel for the Federal Trade Commission that:

1. Proposed respondent, Premier Clothing Co., Inc., is a corporation organized, existing and doing business under and by virtue of the laws of the State of New York, with its office and principal place of business located at 120 Fifth Avenue, New York, New York.

Proposed respondent Sidney Kriegler is an officer of said corporation. He formulates, directs and controls the policies, acts and practices of said corporation, and his address is the same as that of said corporation.

(2) Proposed respondents admit all the jurisdictional facts set forth in the draft of the complaint here attached.

3. Proposed respondents waive: (a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

4. This agreement shall not become a part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission it, together with the draft of complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released; and such acceptance may be withdrawn by the Commission if comments or views submitted to the Commission disclose facts or considerations which indicate that the order contained in the agreement is inappropriate, improper or inadequate.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondents that the law has been violated as alleged in the draft of complaint here attached.

6. This agreement contemplates that if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondents, (1) issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Mailing of the complaint and decision containing the agreed to order to proposed respondents' address as stated in this

agreement shall constitute service. Proposed respondents waive any right they may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondents have read the proposed complaint and order contemplated hereby, and they understand that once the order has been issued, they will be required to file one or more compliance reports showing that they have fully complied with the order, and that they may be liable for a civil penalty in the amount provided by law for each violation of the order after it becomes final.

ORDER

It is ordered, That respondents Premier Clothing, Co., Inc., a corporation, its successors and assigns, and its officers, and Sidney Kriegler, individually and as an officer of said corporation, and respondents' representatives, agents, and employees, directly or through any corporation, subsidiary, division, or any other device, in connection with the introduction, or importing for introduction, or manufacture for introduction, into commerce, or the offering for sale, sale, transportation, distribution, delivery for shipment or shipment; in commerce, of wool products, as "commerce" and "wool product" are defined in the Wool Products Labeling Act of 1939, do forthwith cease and desist from misbranding such products by:

1. Falsely and deceptively stamping, tagging, labeling, or otherwise identifying such products.

2. Failing to securely affix to or place on, each such product a stamp, tag, label, or other means of identification showing in a clear and conspicuous manner each element of information required to be disclosed by Section 4(a)(2) of the Wool Products Labeling Act of 1939.

It is further ordered, That respondents Premier Clothing Co., Inc., a corporation, its successors and assigns, and its officers and Sidney Kriegler, individually and as an officer of said corporation, and respondents' representatives, agents, and employees, directly or through any corporate or other device, in connection with the importing, advertising, offering for sale, sale or distribution of men's and boys' coats in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, as amended, do forthwith cease and desist from misrepresenting the character or amount of constituent fibers contained in such products on invoices or shipping memoranda applicable thereto, or in any other manner.

It is further ordered, That respondents mail a copy of this order by registered mail to each of their customers that purchased the wool products which gave rise to this complaint.

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

It is further ordered, That the individual respondent named herein promptly notify the Commission of each change in business or employment status, which includes discontinuance of his present business or employment and each affiliation with a new business or employment, for ten (10) years following the effective date of this order. Such notice shall include respondent's current business address and a description of the business or employment in which he is engaged as well as a description of his duties and responsibilities. The expiration of the notice provision of this paragraph shall not affect any other obligations arising under this order.

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

PREMIER CLOTHING CO., INC., FILE NO. ----

ANALYSIS OF PROPOSED CONSENT ORDER TO AID PUBLIC COMMENT

The Federal Trade Commission has accepted an agreement to a proposed consent order from Premier Clothing Co., Inc., and Sidney Kriegler, and officer of the company.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by the public. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

Premier Clothing Co., Inc., is a New York corporation and is a manufacturer and distributor of clothing. Sidney Kriegler is the President of the corporation. He controls and is responsible for its acts and practices.

The complaint alleges that the corporation manufactured and distributed men's and boys' coats falsely represented to be composed of "100% cashmere," a woolen fiber, when, in fact, the coats were composed of a lesser percentage of cashmere and were composed, in substantial part, of other fibers not set forth on the labels.

The consent order in this matter prohibits Premier Clothing Co., Inc., and Sidney Kriegler, from misrepresenting the wool and other fiber content of their wool blend clothing and requires that they notify their customers that the clothing that they purchased was misbranded.

The order is generally designed to prevent deception as to the wool content of clothing and to protect the corporation's competitors from unfair competition.

The purpose of this analysis is to facilitate public comment on the proposed order and it is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

CAROL M. THOMAS,
Secretary.

[FR Doc.77-18018 Filed 6-23-77;8:45 am]

[16 CFR Part 444]

CREDIT PRACTICES

Final Notice Concerning Proposed Trade Regulation Rule

AGENCY: Federal Trade Commission.

ACTION: Final notice of proposed rulemaking.

SUMMARY: Based on an investigation of consumer credit practices, the Federal Trade Commission on April 11, 1975 proposed a trade regulation rule regarding consumer credit practices.

This final notice sets out the scheduled oral hearing dates, invites continued written comments, and designates disputed issues. It also gives prospective witnesses and other interested parties instructions concerning the filing of statements and other procedural requirements.

DATES: Hearings commence: Dallas, Texas, September 12, 1977; Chicago, Illinois, October 11, 1977; San Francisco, California, November 7, 1977; Washington, D.C., December 5, 1977. Oral statements or outlines and exhibits due for hearing at Dallas, Texas, by August 22, 1977, Chicago, Illinois, by September 16, 1977, San Francisco, California, by October 14, 1977, and Washington, D.C., by November 3, 1977. Written comments and available exhibits due by August 5, 1977. Notice of desire to cross-examine due by July 25, 1977.

ADDRESS: Send comments and notice of desire to cross-examine to Henry B. Cabell, Presiding Officer, Federal Trade Commission, Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT:

David Williams, 202-523-3596, Division of Special Projects, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580.

SUPPLEMENTAL INFORMATION: On April 11, 1975, the Commission published in the FEDERAL REGISTER (40 FR 16347) an initial notice of rulemaking which included its proposed trade regulation rule concerning Credit Practices, pursuant to the Federal Trade Commission Act, as amended, 15 U.S.C. 41 et seq., the provisions of Part 1, Subpart B of the Commission's Procedures and Rules of Practice (Rules of Practice), 16 CFR 1.7-1.20, and Section 553 of Subchapter II, Chapter 5, Title 5 of the U.S. Code (Administrative Procedure).

Under the same authority and more specifically under §1.12 of the Rules of Practice, the undersigned duly appointed Presiding Officer for this proceeding gives final notice of proposed rulemaking. The contents of the initial notice described above are incorporated herein by reference. The Commission staff has written a report which supports the proposed rule. The report has been placed in the public record and can be studied by interested persons in Room 130, Public

Reference Branch, Federal Trade Commission, Washington, D.C.

NOTICE TO INTERESTED PERSONS

SECTION A. WRITTEN COMMENTS

Please continue to send data, views or arguments of any issue of fact, law or policy that may have some bearing on the proposed rule. Your comments need not be limited to the designated issues set forth below in Section D. You may comment on any aspect of the proposed rule. Any earlier comments you may have sent have been placed in the public record and need not be sent again.

Send your comments to Henry B. Cabell, Presiding Officer, Federal Trade Commission, Washington, D.C. 20580, no later than August 5, 1977. Mark them "Credit Practices Comments" for prompt identification and consideration. If possible, send five copies.

SECTION B. PUBLIC HEARINGS: DATES AND PLACES

Public hearings on the proposed trade regulation rule will be held as follows:

1. Dallas, Texas. Hearing will start on September 12, 1977, at 9:30 a.m. in Suite 2665, 2001 Bryan Street, Dallas, Texas.

2. Chicago, Illinois. Hearing will start on October 11, 1977, at 9:30 a.m. in Room 349, John C. Kluczynski Federal Building, 230 South Dearborn Street, Chicago, Illinois.

3. San Francisco, California. Hearing will start on November 7, 1977, at 9:30 a.m. at the San Francisco Regional Office of the Federal Trade Commission, 450 Golden Gate Avenue, San Francisco, California.

4. Washington, D.C. Hearing will start on December 5, 1977, at 9:30 a.m. in Room 332, Federal Trade Commission Building, Pennsylvania Avenue at Sixth Street NW.

If more hearings are needed, the dates and places of those scheduled will be published later in the Federal Register.

SECTION C. INSTRUCTIONS FOR WITNESSES

1. *Advance notice.* If you want to testify at a hearing, please inform the Commission representative for that hearing location immediately. This will enable us to assist you in complying with the requirements set forth below. You may testify at only one hearing in this proceeding.

2. *Notification and filing requirements.* (a) If you want to testify at the Dallas hearing, please inform Ferdinand Luna, 214–749–3056, Dallas Regional Office, Federal Trade Commission, 2001 Bryan Tower, Suite 2665, Dallas, Texas 75201. You must notify Mr. Luna of your desire to testify and file with him your word-for-word statement no later than August 22, 1977.

(b) If you want to testify at the Chicago hearing, please inform Jeff Roberts, 312–353–5598, Chicago Regional Office, Federal Trade Commission, 55 East Monroe Street, Suite 1437, Chicago, Illinois 60603. You must notify Mr. Roberts of your desire to testify and file with him your word-for-word statement no later than September 16, 1977.

(c) If you want to testify at the San Francisco hearing, please inform Barry I. Miller, 415–556–1270, San Francisco Regional Office, Federal Trade Commission, 450 Golden Gate Avenue, San Francisco, California 94102. You must notify Mr. Miller of your desire to testify and file with him your word-for-word statement of testimony no later than October 14, 1977.

(d) If you want to testify at the Washington hearing, please inform David H. Williams, 202–523–3596, Division of Special Projects, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580. You must notify Mr. Williams of your desire to testify and file with him your word-for-word statement of testimony no later than November 3, 1977.

3. *Exceptions.* If you do not intend to deliver a prepared word-for-word statement at the hearing, you must file with the Commission representative at the location where you desire to testify a comprehensive outline of what you expect to say. Such an outline must list each fact, observation, opinion and conclusion you are going to discuss and recite the basis for each such observation, opinion and conclusion. The outline must be filed with the appropriate representative prior to the applicable deadline specified in paragraph 2. If the outline you file is not sufficiently detailed or factual, the Presiding Officer may require you to file a complete word-for-word statement before you testify.

4. *Use of exhibits.* Use of exhibits during oral testimony is encouraged, especially when they are to be used to help clarify technical or complex matters. If you plan to offer documents as exhibits, file them as soon as possible during the general comment period (see Section A) so they can be studied by other interested persons. If such documents are unavailable to you during this period, file them as soon as you can but not later than the deadlines in paragraph 2 for filing statements or outlines. Mark each of the documents with your name, and number them in sequence, e.g., Jones Exhibit 1. The Presiding Officer has the power to refuse to accept for the public record any hearing exhibits that are not furnished by the deadline.

5. *Expert witnesses.* If you are going to testify as an expert witness, you must attach to your statement or outline a curriculum vitae, biographical sketch, resume or summary of your professional background and a bibliography of your publications. It would be helpful if you would also include documentations for the opinions and conclusions you express by footnotes to your statements or in separate exhibits. If your testimony is based upon or chiefly concerned with one or two major scientific works, copies should be furnished. The remaining citations to other works can be accomplished by using footnotes in your statement referring to those works.

6. *Results of surveys and other research studies.* If in your testimony you will present the results of a survey or other research study, you must also present as an exhibit or exhibits in compliance with paragraph 4 above the following:

(a) A complete report of the survey or other research study and the information and documents listed in (b) through (e) if they are not included in that report.

(b) A description of the sampling procedures and selection process including the number of persons contacted, the number of interviews completed, and the number of persons who refused to participate in the survey.

(c) Copies of all completed questionnaires or interview reports used in conducting the survey or study if respondents were permitted to answer questions in words of their choice rather than to select an answer from one or more answers printed on the questionnaire or suggested by the interviewer.

(d) A description of the methodology used in conducting the survey or other research study including the selection of and instructions to interviewers, introductory remarks by interviewers to respondents and a sample questionnaire or other data collection instrument.

(e) A description of the statistical procedures used to analyze the data and all data tables which underlie the results reported.

Other interested parties may wish to examine the questionnaires, data collection forms, and any other underlying data not offered as exhibits and which serve as a basis for your testimony. This information along with punch cards or computer tapes which were used to conduct analyses should be made available (with appropriate explanatory data) upon request of the Presiding Officer. The Presiding Officer will then be in a position to permit their use by other interested parties or their counsel.

7. *Identification, number of copies, and inspection.* To assure prompt consideration, all materials filed by prospective witnesses pursuant to the instructions contained in paragraphs 2–6 of this section should be identified as "Credit Practices Statement" ("and Exhibits", if appropriate), and submitted in five copies when feasible and not burdensome.

Copies of all materials filed by witnesses will be made available for examination at each hearing location specified above for the submission of such materials.

8. *Reason for requirements.* The foregoing requirements are necessary to permit us to schedule the time for your appearance and that of other witnesses in an orderly manner. Other interested parties must have your expected testimony and supporting documents available for study before the hearing so they can decide whether to examine or cross-examine you or file contradictory statements (rebuttals). If you do not comply with all of the requirements, the Presiding Officer has the power to refuse to let

you testify.

9. *Content of testimony.* In your testimony you can discuss any questions of fact, law or policy concerning the proposed rule. You do not have to limit your testimony to the issues designated in Section D; but if it does bear on those issues, you may be examined and cross-examined by the Presiding Officer or other persons, and there may be rebuttals. Also, the Presiding Officer may question you directly or let others cross-examine you about other issues.

10. *Procedures and time limits.* These hearings will be informal and courtroom rules of evidence will not apply. You will not be put under oath unless the Presiding Officer so requires. Ordinarily you will have about twenty minutes to give your testimony. If you need more than twenty minutes, submit your request for extra time when you file your word-for-word statement of testimony or outline. The Presiding Officer may set other reasonable time limits and may also allow extra time for questioning. If you want to discuss more than can be presented in the time allotted to you, include all of the material in your word-for-word statement. Then you may summarize the statement in your testimony, and the entire written statement will be introduced into the record as an exhibit. The Presiding Officer further has the right to limit the number of witnesses to be heard if the orderly conduct of the proceeding so requires.

SECTION D. DESIGNATED ISSUES

Set forth below are the issues which the Presiding Officer has determined to designate under Section 1.13(d)(1) of the Rules of Practice as issues to be considered in accordance with Section 1.13(d) (5) and (6) of the Rules of Practice:

1. Are contracts used in consumer credit transactions printed on standardized forms prepared by or for creditors and presented to consumers on a "take it or leave it" basis? If so, what are the reasons for this practice, and to what extent is the practice utilized by creditors?

2. With respect to those terms of contracts used in consumer credit transactions and creditor practices that would be affected by the proposed rule, to what extent are consumers able to comparison shop for credit among creditors in a given locale?

3. To what extent do consumers and co-signers understand the meaning, legal effect and possible consequences of the provisions included in contracts used in consumer credit transactions?

4. With what frequency do contracts used by creditors in consumer credit transactions constitute or contain the provisions described in § 444.2(a) of the proposed rule?

5. To what extent does the availability or use by creditors of the practices and remedies, that would be proscribed or limited by the proposed rule, affect a creditor's decision to extend credit, reduce the risk of default, and increase the likelihood of the successful collection of a delinquent account?

6. To what extent does the use of the practices and remedies by creditors, that would be proscribed or limited by the proposed rule, result in lower credit costs to consumers, lower the costs incurred by creditors as a result of defaults, or affect the availability of credit, and creditor and consumer credit costs generally?

7. What are the nature and prevalence of the use or abuse of the creditor remedies and practices, that would be proscribed or limited by the proposed rule? How prevalent is the practice of failing to use such creditor remedies after a threat has been made to do so?

8. What are the nature and prevalence of consumer injuries or benefits resulting from the use of the creditor practices and remedies proscribed or limited by the proposed rule?

9. Do the creditor practices and remedies, that would be proscribed or limited by the proposed rule, prevent the assertion of valid or meritorious defenses by consumers? If so, with what frequency?

10. What are the nature and prevalence of consumer injuries or benefits resulting from the use of co-signers in consumer credit transactions?

11. What is "fair market retail value," and how can the "fair market retail value" of collateral be determined? With what frequency do creditors fail to sell collateral at as high a price as possible in the circumstances or fail to credit the proceeds of the sale to the debtor?

12. Is there a significant number of consumer defaults or delinquencies resulting from circumstances beyond or not entirely within the control of those consumers? Conversely, do a significant number of consumers assume debts without a serious and fixed intention to repay those debts in accordance with the terms of the applicable contract or do some consumers intentionally default even though they have the means to pay?

13. What have been the demonstrable effects of state laws that impose requirements or restrictions similar to one or more provisions of the proposed rule?

14. What will be the economic effect of the proposed rule upon small creditors and upon creditors generally?

Testimony with respect to the foregoing issues may entitle group representatives or other interested persons to conduct or have conducted such cross-examination as the Presiding Officer may determine to be appropriate and required for a full and true disclosure with respect to any issues so designated. In the alternative, the Presiding Officer may determine that full and true disclosure as to any issue may be achieved through rebuttal submissions or the presentation of additional written or oral statements.

The Presiding Officer may at any time on his own motion or pursuant to a written petition by an interested person add to or modify the designated issues listed above at any time. Such petitions will not be considered unless good cause is shown why such issue or modification was not proposed during the time specified in the initial notice. If such was proposed during the initial notice period and not accepted, good cause must be shown why it should now be designated.

SECTION E. REQUESTS FOR RIGHT TO CROSS-EXAMINE

If you want to examine or cross-examine witnesses on the designated issues, you must give written notification to the Presiding Officer by July 25, 1977. State your particular interest in and your position on each designated issue or, if you have no interest or position as to any issue, merely indicate, "No interest." Also furnish any explanation as to why you are requesting the right to take part in examination, cross-examination or to offer rebuttals. Send your request to Henry B. Cabell, Presiding Officer, Federal Trade Commission, Washington, D.C. 20580, by July 25, 1977, regardless of which hearing you want to take part in. Mark your notice "Credit Practices Notification" so that it can be easily identified and given prompt consideration.

If new issues are designated, you must promptly give the Presiding Officer an additional notice of interest and request for the right to cross-examination with respect to each such new issue in the same manner.

Before the hearings begin, the Presiding Officer will identify groups of persons with the same or similar interests in the proceeding. Such groups will be required to select a single representative for the purpose of examination, including cross-examination. If members of any group cannot agree on a representative, the Presiding Officer may select one.

If you are a member of such a group, you must make a good faith effort to agree on a representative. If you cannot agree and you have a position with respect to one or more of the designated issues that will not be adequately presented by the group representative, notify the Presiding Officer. He may allow you to conduct or have conducted examination of witnesses, including cross-examination, or to offer rebuttals.

Issued: June 24, 1977.

HENRY B. CABELL,
Presiding Officer.

[FR Doc.77-18017 Filed 6-23-77;8:45 am]

COMMODITY FUTURES TRADING COMMISSION

[17 CFR Part 1]

FUTURES COMMISSION MERCHANTS

Minimum Financial Requirements; Proposed Rulemaking

Correction

In FR Doc. 77-14685 appearing at page 27166 in the issue for Thursday, May 26, 1977, make the following changes:

1. In § 1.17(a)(1), middle column, page 27173, in the sixth line "$25,00" should

read "$25,000," and in the tenth line "$100,00" should read "$100,000."

2. In the sixth and seventh lines of § 1.17(h)(1)(v)(E), third column, page 27178, "paragraph (h)(2)(viii) of this section" should read "paragraph (h)(2)(vii) of this section."

3. In the second line of paragraph F of the "Appendix—CBT-CME Proposal," middle column, page 27182, "1.5 percent" should read "1. Five percent."

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR 193 and 561]

[FRL 751-5; FAP 6H5140/P8]

TOLERANCES FOR PESTICIDES IN FOOD AND ANIMAL FEEDS ADMINISTERED BY THE ENVIRONMENTAL PROTECTION AGENCY

Proposed Food and Feed Additive Tolerances for Glyphosate

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This proposal will permit the use of glyphosate in an experimental program. The program involves application of the herbicide to growing sugarcane. This amendment will permit the marketing of sugarcane molasses while further data on glyphosate is collected.

DATE: Comments must be received on or before July 25, 1977.

ADDRESS COMMENTS TO: Federal Register Section, Technical Services Division (WH-569), Office of Pesticide Programs, EPA, Rm. 401 East Tower, 401 M Street, SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Ms. Libby Zink, Registration Division (WH-567), Office of Pesticide Programs, EPA, 202-755-4851.

SUPPLEMENTARY INFORMATION: On August 20, 1976, the EPA published in the FEDERAL REGISTER (41 FR 35216) a notice that Monsanto Agricultural Products Co., 800 N. Linbergh Blvd., St. Louis MO 63116, had submitted a petition (FAP 6H5140). This petition proposed that 21 CFR 193 and 561, be amended by establishing food additive regulations permitting the use of the herbicide glyphosate [N-(phosphonomethyl)glycine] and its metabolite aminomethylphosphonic acid in a proposed experimental program involving application of the herbicide to growing sugarcane with a tolerance limitation of 1.0 part per million (ppm) for residues of the herbicide in sugarcane molasses.

Subsequently, the petitioner amended the petition by proposing that the tolerance be increased from 1 ppm to 2 ppm. Since sugarcane molasses is primarily an animal feed, human exposure will not be affected by this increase. The part of the molasses consumed by man will add very little to the already existing maximum theoretical exposure, i.e., less than 0.1 percent. Thus, the allowable daily intake (ADI) of 0.05 milligram/kilogram/day for man will not be exceeded by the proposed increase. The data submitted in the petition and all other relevant material have been evaluated, and it is concluded that the pesticide may be safely used in the prescribed manner when such use is in accordance with the label and labeling registered pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (86 Stat. 973, 89 Stat. 751; 7 U.S.C. 136(a) et seq.).

The scientific data considered in making this determination were that the metabolism of glyphosate in plants and animals is adequately understood, and there is an adequate analytical method for enforcement (gas chromatography with a phosphorus-specific flame photometric detector). The toxicological data reviewed included acute dog and rat feeding studies, a mouse carcinogenic study, rat reproduction tests, mouse mutagenicity results, rabbit teratogenic analysis, 2-year rat and dog feeding studies, as well as cholinesterase-inhibition and hen neurotoxicity studies. A no-effect level of 100 ppm has been determined. Permanent tolerances have been established for residues of glyphosate in or on grain crops at 0.1 ppm (negligible residue), forage grasses at 0.2 ppm (negligible residue), soybeans at 0.2 ppm (negligible residue), and soybean forage and hay at 0.4 ppm (40 CFR 180.364). Food and feed additive tolerances have also been established for residues of glyphosate in potable water at 0.1 ppm (21 CFR 193.235) and dried citrus pulp at 0.4 ppm (21 CFR 561.253). Temporary tolerances were also established (42 FR 24305) for glyphosate residues in or on sugarcane and the liver and kidney of cattle, goats, hogs, horses, poultry and sheep at 0.1 ppm.

Therefore, it is proposed that 21 CFR 193 and 561 be amended as set forth below.

Any person who has registered, or submitted an application for the registration of a pesticide under the Federal Insecticide, Fungicide, and Rodenticide Act which contains any of the ingredients listed herein may request, on or before July 25, 1977, that this rulemaking proposal be referred to an advisory committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Three copies of the comments should be submitted to facilitate the work of the Agency and of others interested in inspecting them. The comments must bear a notation indicating both the subject and the petition/document control number, "P6H5140/P8". All written comments filed in response to this notice of proposed rulemaking will be available for public inspection in the office of the FEDERAL REGISTER Section from 8:30 a.m. to 4 p.m. Monday through Friday.

Dated: June 15, 1977.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

(Sec. 409 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 348).)

1. It is proposed that Part 193, Subpart A, § 193.235 be amended by (1) redesignating and revising paragraph (b) as paragraph (c), (2) redesignating and revising paragraph (c) as paragraph (d), and (3) adding the new paragraph (b) as follows:

§ 193.235 Glyphosate.

* * * * *

(b) A tolerance of 2 parts per million is established for residues of the herbicide glyphosate (*N*-(phosphonomethyl) glycine and its metabolite aminomethylphosphonic acid in sugarcane molasses resulting from application of the herbicide in accordance with the provisions of an experimental use permit that expires June 15, 1978.

(c) Residues in potable water and sugarcane molasses not in excess of 0.1 part per million and 2 parts per million, respectively, resulting from the uses described in paragraphs (a) and (b) of this section remaining after expiration of the experimental programs will not be considered to be actionable if the pesticide is legally applied during the term of an in accordance with the provisions of the experimental use permits and food additive tolerances.

(d) Monsanto Co. shall immediately notify the Environmental Protection Agency of any findings from the experimental uses that have a bearing on safety. The firm shall also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the Environmental Protection Agency or the Food and Drug Administration.

2. It is propose that § 561.253 be revised by (1) redesignating paragraph (a)(1) as paragraph (a), (2) redesignating paragraph (a)(2) as paragraph (b), (3) deleting paragraphs (b)(1) and (b)(2), (4) redesignating and revising paragraph (c) as paragraph (e), and (5) adding new paragraphs (c) and (d) as follows:

§ 561.253 Glyphosate.

* * * * *

(c) A tolerance of 2 parts per million is established for residues of the herbicide glyphosate (*N*-(phosphonomethyl)glycine) and its metabolite aminomethylphosphonic acid in sugarcane molasses resulting from application of the herbicide in accordance with the provisions of an experimental use permit that expires June 15, 1978.

(d) Residues in dried citrus pulp not in excess of 0.4 part per million, soybean hulls not in excess of 20 parts per million, and sugarcane molases not in excess of

2 parts per million resulting from the uses described in paragraphs (a), (b), and (c) of this section remaining after expiration of the experimental programs will not be considered to be actionable if the pesticide is legally applied during the term of and in accordance with the provisions of the experimental use permits and feed additive tolerances.

(e) Monsanto Co. shall immediately notify the Environmental Protection Agency of any findings from the experimental uses that have a bearing on safety. The firm shall also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the Environmental Protection Agency or the Food and Drug Administration.

[FR Doc. 77-17981 Filed 6-23-77;8:45 am]

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[29 CFR Part 1910]

[Docket No. H-059 and H-060]

OCCUPATIONAL EXPOSURE TO BENZENE

Clarification of Scope of Hearing; Request for Information on Gasoline

AGENCY: The Occupational Safety and Health Administration, Department of Labor.

ACTION: Notice to clarify issues at informal benzene hearing; request for information on gasoline.

SUMMARY: This notice announces that the informal public hearing on occupational exposure to benzene, which will begin July 19, 1977, will not consider issues related to the storage, transportation, distribution, dispensing or sale of gasoline as a fuel subsequent to the discharge from bulk terminals, and announces that the final permanent standard on benzene will not cover these operations. In light of the time required to analyze pertinent data, and because of the complexity of these issues, they will be addressed in a future rulemaking proceeding on the marketing of gasoline.

DATES: The informal public hearing on benzene will be held on July 19, 1977. Information concerning gasoline distribution must be submitted on or before August 23, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. James Foster, Office of Public Affairs, OSHA, Third Street and Constitution Avenue NW., Room N3641, Washington, D.C. (202-523-8151).

SUPPLEMENTARY INFORMATION: On May 3, 1977, an Emergency Temporary Standard (ETS) for occupational exposure to benzene was published in the FEDERAL REGISTER (42 FR 22516) as 29 CFR 1910.1028. The basis for this ETS was clinical and epidemiological evidence that benzene causes leukemia in humans. Due to the short duration of the ETS (6 months) and the evidence from limited data available that benzene exposure during gasoline dispensing operations was generally below 1 ppm, OSHA determined that the exclusion of retail automotive service stations from the ETS was appropriate. Subsequently, as published in the May 24, 1977, FEDERAL REGISTER (42 FR 26429), this exclusion was expanded by exempting from the ETS the storage, transportation, distribution, dispensing, or sale of gasoline as a fuel subsequent to discharge of this gasoline from bulk terminals. This amendment was based on the availability of equipment required for compliance. OSHA determined that the potential demand for respirators and monitoring equipment by employers involved in the distribution of gasoline after it leaves bulk terminal facilities could not feasibly be met in a short time. On May 27, 1977, a proposed standard for the regulation of occupational exposure to benzene was published in the FEDERAL REGISTER (42 FR 27452). Like the ETS, the proposal exempts those activities related to the marketing of gasoline subsequent to its discharge from bulk terminals. In recognition of (1) the need to develop appropriate control equipment to minimize the loss of gasoline vapors containing benzene, and (2) the related statutory authorities of OSHA and the Environmental Protection Agency (EPA), and EPA's extensive background knowledge in the engineering control of these vapors, OSHA announced in the proposal that a joint Federal agency task force would be established with EPA and the National Institute for Occupational Safety and Health (NIOSH). The purpose of the task force is to coordinate regulatory efforts to reduce workers' and the public's exposure to the benzene released from gasoline in automotive service stations and from the transportation, storage, distribution, and sale of gasoline. In light of the inherently complex nature of these issues and the time requirements necessary to permit full development and evaluation of the evidence by the task force, OSHA believes these issues are more appropriately addressed in a separate rulemaking proceeding dealing exclusively with this subject. Accordingly, OSHA will exclude from the scope of the informal hearings beginning July 19, 1977, and from the final permanent standard regulating occupational exposure to benzene, those activities related to the storage, transportation, distribution, dispensing, and sale of gasoline as a fuel subsequent to its discharge from bulk terminals.

At the conclusion of the task force's deliberations, OSHA will examine and assess the various regulatory actions necessary to protect workers who are exposed to benzene as a result of the storage, transportation, distribution, dispensing or sale of gasoline.

REQUEST FOR INFORMATION ON GASOLINE DISTRIBUTION

In order to assist in the subsequent development of a proposal for this industrial segment, OSHA is requesting that interested persons submit written data, views and arguments concerning the following major issues at this time:

1. Exposure data. OSHA requests detailed information on employee exposure to benzene including the following:

(a) Description of work activities or operations involved and associated measured levels of worker exposure.

(b) Number of workers involved in each activity or operation.

(c) Vapor control equipment in use, if any.

(d) Analytical and sampling methods utilized.

(e) Correlations between benzene exposure and other parameters, such as temperature, volume and rate of gasoline transfer, benzene content, etc.

(f) Ambient levels of benzene.

2. Technological feasibility of controls to reduce gasoline vapor emissions containing benzene. (a) Comparison of various emission control systems as to: (1) Effectiveness; (2) reliability; (3) safety.

(b) Reduction in the benzene content of gasolines.

3. Economic impact. OSHA requests information as to compliance costs and the potential economic implications for various segments of the gasoline distribution industry. This information should include the effects on other variables, such as employment, prices, productivity, market structure, exports and imports, and the consumption of energy and critical materails. Also, information is requested on anticipated benefits such as a reduction in worker's compensation costs, lost time, pain and suffering to employee and his family, and savings in medical costs.

4. The environmental impact of regulating benzene exposure at these worksites.

5. Appropriate monitoring, medical surveillance and other provisions to supplement engineering controls capable of reducing worker exposure to the lowest feasible level.

6. The desirability of a "vertical" standard for retail gasoline dispensing facilities and other industry segments with respect to benzene exposure and other workplaces hazards.

Interested persons are invited to submit comments on or before August 23, 1977, concerning all issues relating to a standard for regulating benzene exposure in the storage, transportation, distribution, dispensing, or sale of gasoline as a fuel subsequent to the discharge from bulk terminals. Written data, views, and arguments must be submitted in quadruplicate to the Docket Officer, Docket No. H-060, OSHA Technical Data Center, Room S6212, U.S. Department of Labor, 3rd Street and Constitution Avenue NW., Washington, D.C. 20210.

The data, views, and arguments that are submitted will be available for public inspection and copying at the above address. All timely written submissions received will be made part of the record of this proceeding.

Procedures for participation in the informal public hearing on benzene scheduled for July 19, 1977, are outlined in the FEDERAL REGISTER for May 27, 1977 (42 FR 27452).

This document was prepared under the direction of Eula Bingham, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 3rd Street and Constitution Avenue NW., Washington, D.C. 20210.

(Secs. 6, 8, 84 Stat. 1593, 1599 (29 U.S.C. 655, 657); 29 CFR Part 1911; Secretary of Labor's Order No. 8-76 (41 FR 25059).)

Signed at Washington, D.C., this 21st day of June 1977.

EULA BINGHAM,
Assistant Secretary of Labor.

[FR Doc.77-18065 Filed 6-21-77;3:12 pm]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 60]

[FRL 747-5]

STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

Grain Elevators

AGENCY: Environmental Protection Agency.

ACTION: Suspension of proposal.

SUMMARY: Proposed air pollution standards for new and modified grain elevators are being suspended until further notice because EPA is reexamining the standards in light of significant public comments and pending Clean Air Act amendments. The effect of this suspension is to exempt current grain elevator construction and modification projects from the standards. Only those facilities commencing construction or modification on or after the date the proposal is reinstated by FEDERAL REGISTER notice will be affected by the standards.

DATES: The suspension is effective June 24, 1977.

FOR FURTHER INFORMATION CONTACT:

Don R. Goodwin, EPA, Research Triangle Park, N.C. 27711, Phone 919-688-8146, ext. 271.

SUPPLEMENTARY INFORMATION: On January 13, 1977 (42 FR 2842), the Environmental Protection Agency proposed standards of performance under Section 111 of the Clean Air Act for certain types of new, modified, and reconstructed grain elevators. EPA is today suspending this proposal until further notice.

A great deal of controversy has been generated by this proposal, which is due in part to some basic misunderstandings of EPA's intent. EPA has recognized that some criticisms may be valid, however, and the Agency is now reconsidering certain issues—particularly the scope of coverage. In addition, amendments to the Clean Air Act passed by the House of Representatives on May 26 (H.R. 6161) would, if enacted into law, require further changes to the proposal.

Under Section 111(a)(2) of the Clean Air Act, facilities covered by a new source performance standard are legally bound to comply if they commence construction on or after the date of the standard's proposal. In this case, a substantial time has already passed since the proposal, EPA's reexamination is still far from complete, and additional uncertainties have been created by the pending Clean Air Act amendments. Under these circumstances, EPA believes that leaving the proposal in effect would unfairly create major legal uncertainties for those who need to construct or modify grain elevators at the present time. Accordingly, the proposal is being suspended effective immediately.

EPA will give notice in the FEDERAL REGISTER when it decides to reinstate the proposal. Only those facilities commencing construction or modification on or after the date of such reinstatement would therefore be affected.

Dated: June 17, 1977.

DOUGLAS COSTLE,
Administrator.

[FR Doc.77-17982 Filed 6-23-77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Secretary

[41 CFR Part 3-4]

SPECIAL TYPES AND METHODS OF PROCUREMENT

Negotiated Procurement Under the Buy Indian Act

Correction

In FR Doc. 77-16578 appearing at page 29872 in the issue for Friday, June 10, 1977, this document was inadvertently placed in the rules section of the FEDERAL REGISTER. It should have been put in the proposed rules section. It is a proposed rulemaking document.

[45 CFR Part 85]

IMPLEMENTATION OF EXECUTIVE ORDER 11914, NONDISCRIMINATION WITH RESPECT TO THE HANDICAPPED IN FEDERALLY ASSISTED PROGRAMS

Coordination of Federal Agency Enforcement of Section 504 of the Rehabilitation Act of 1973

AGENCY: Department of Health, Education, and Welfare.

ACTION: Proposed rule.

SUMMARY: This proposed rule implements Executive Order 11914, "Nondiscrimination With Respect to the Handicapped in Federally Assisted Programs," under which the Department of Health, Education, and Welfare is required to coordinate governmentwide enforcement of section 504 of the Rehabilitation Act of 1973, as amended. In particular, this proposal sets forth enforcement procedures, standards for determining which persons are handicapped, and guidelines for determining what practices are discriminatory. These procedures, standards, and guidelines are to be followed by each federal agency that provides federal financial assistance in issuing regulations implementing section 504.

DATES: Comments are invited from other Federal agencies and the public. They must be received on or before July 25, 1977. Comments (preferably in triplicate) should be sent to Box 2602, Office for Civil Rights, Department of Health, Education, and Welfare, Washington, D.C. 20013. Written comments may be inspected by the public in Room 5400, 330 Independence Avenue, SW., Washington, D.C. 20201.

FOR FURTHER INFORMATION CONTACT:

Anne Beckman, Office for Civil Rights, Department of Health, Education, and Welfare, 330 Independence Avenue, SW., Washington, D.C. 20201, 202-245-1821.

SUPPLEMENTARY INFORMATION:

BACKGROUND

As part of the Rehabilitation Act of 1973 (Pub. L. 93-112), Congress enacted section 504, which provides that "no otherwise qualified handicapped individual in the United States * * * shall, solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance." The definition of "handicapped individual" applicable to section 504 is contained in section 111(a) of the Rehabilitation Act Amendments of 1974 (Pub. L. 93-516).

On April 28, 1976, the President issued Executive Order 11914 (41 FR 17871) to provide for consistent governmentwide enforcement of section 504; the executive order is reprinted at Appendix A to this proposed rule. The order directs the Secretary of Health, Education, and Welfare to coordinate the implementation of section 504 by all federal departments and agencies that extend financial assistance to any program or activity. Specifically, section 1 directs the Secretary to establish standards for determining who are handicapped individuals and guidelines for determining what are discriminatory practices under section 504 and to assist other agencies as necessary to assure the coordinated and consistent implementation of section 504. Sections 2 and 3 also contemplate that this Department will establish procedures to guide other federal departments and agencies in implementing section 504.

In addition to setting forth the responsibilities of this Department, the executive order directs other agencies to issue regulations consistent with HEW standards and procedures, to furnish the Secretary with reports and information upon request, and to cooperate with this Department in their implementation of section 504.

Finally, the executive order, in section 3, contains general procedures and sanctions for securing compliance with section 504 and, in section 5, requires the consistent implementation of all of title V of the Rehabilitation Act of 1973 as well as the Architectural Barriers Act of 1968 (Pub. L. 90-480).

On May 4, 1977, this Department issued its final regulation implementing

section 504 as to recipients of financial assistance from HEW. The Secretary noted in the preamble to that regulation (42 FR at 22677), as he had in proposing the regulation, that the standards and guidelines pursuant to the executive order would be based on Subparts A, B, and C of the HEW section 504 regulation.

The purpose of this proposed rule is to carry out the Department's responsibilities under the executive order by specifying procedures for the promulgation and enforcement of section 504 regulations by all agencies providing financial assistance, standards for determining who are handicapped individuals, and guidelines for determining what practices are discriminatory under section 504. The Department will also, on a continuing basis, fulfill its responsibilities under the executive order to assist and consult with other agencies in their implementation of section 504 and to monitor compliance with the executive order.

SUMMARY OF PROPOSED RULE

Subpart A of the proposed regulation sets forth general uniform procedures for the enforcement of section 504. Section 85.4 contains procedures for the promulgation of agency regulations. In accordance with section 2 of the executive order, such regulations are required to be consistent with the standards and guidelines contained in this proposed regulation. Agencies are invited to examine Subparts A, B, and C of the HEW section 504 regulation to determine whether their regulations should include any of the more detailed provisions to be found there. In addition, each agency should examine the programs and activities to which it provides assistance to determine whether detailed requirements concerning any such program or activity should be included in its regulations, similar to those contained in Subparts D, E, and F of the HEW section 504 regulations.

Section 85.4(b) sets forth a schedule for issuing agency regulations. Comment is invited as to whether the time periods provided are adequate. The Secretary believes that the provision for review of each agency's draft final regulation by the Director of the HEW Office for Civil Rights before it is finally issued is an effective and appropriate method of promoting consistency of regulation under section 504 throughout the government.

Section 85.5, which contains the basic elements for a compliance and enforcement system, is not intended to be exhaustive. For example, agencies may wish to consider requirements that recipients conduct self-evaluations or establish grievance procedures, as is required by §§ 84.6(c) and 84.7 of the HEW section 504 regulations. Moreover, in many cases, agencies may find it appropriate in incorporate their title VI enforcement procedures, as does the HEW section 504 regulation (§ 84.61). The Secretary invites comment on whether the final executive order regulation should require adherence to title VI procedures in order to promote consisteint governmentwide civil rights enforcement.

Section 85.6 contains provisions concerning interagency cooperation. In this regard agencies may find it useful to extend existing title VI delegations to section 504.

Section 85.7 is designed to ensure the consistent and coordinated implementation of sections 502, 503, and 504 of the Rehabilitation Act. Comment is solicited as to whether its provisions are the most effective and appropriate means of meeting the Department's responsibilities in this regard.

Subpart B contains the standards for determining who are "handicapped persons" and "qualified handicapped persons" within the meaning of section 504. Except for the addition noted below, the definition of handicapped person (§ 85.31) is identical to the one contained in § 84.3(j) of HEW's section 504 regulation. Further discussion of its provisions may be found in paragraph 3 of Appendix A of that regulation (42 FR 22685–6). A final sentence has been added to the definition listing, for illustrative purposes, some of the diseases and impairments that are included in the term "physical or mental impairment."

It should be noted that drug addiction and alcoholism are included in that list. The question of section 504's application to drug addicts and alcoholics was a difficult one on which the Secretary of HEW sought the advice of the Attorney General. In an opinion dated April 12, 1977, the Attorney General concluded that drug addiction and alcoholism are physical or mental impairments and are thus handicaps for the purpose of section 504 if they result in a substantial limitation to a "major life activity."

A detailed analysis of the implications of the inclusion of drug addicts and alcoholics within the scope of section 504 is set forth in paragraph 4 of Appendix A of the HEW regulation (42 FR at 22686). It should be emphasized that the fact that drug addiction and alcoholism may be handicaps does not mean that the behavioral manifestations of these conditions must be ignored in determining whether a person is qualified for services or employment. The statute applies only to qualified handicapped persons.

The definition of qualified handicapped person in § 85.32 has been adapted from § 84.3(k) of the HEW section 504 regulation. Other agencies may wish to supplement its provisions with additional guidance concerning qualifications for specific programs, as was done in §§ 84.3(k) (2) and (3) of the HEW section 504 regulation.

Subpart C, setting forth guidelines for determining discriminatory practices, is divided into three parts: General, based on § 84.4 of the HEW section 504 regulation; employment, based on Subpart B of the HEW section 504 regulation, and program accessibility, based on Subpart C of the HEW section 504 regulation. A more detailed discussion of these subparts than is contained below may be found in Appendix A of the HEW regulation.

The general prohibitions against discrimination on the basis of handicap set forth in § 85.51 incorporate basic principles that the Department determined, in developing its own regulation, to be inherent in section 504. First, section 504, like other nondiscrimination statutes, prohibits not only those practices that are overtly discriminatory, but also those that have the effect of discriminating. And it is equal opportunity, not merely equal treatment, that is essential to the elimination of discrimination on the basis of handicap. Thus, in some situations, identical treatment of handicapped and nonhandicapped persons is not only insufficient but is itself discriminatory. On the other hand, separate or different treatment can be permitted only where necessary to ensure equal opportunity and truly effective benefits and services. Federally assisted programs and activities must thus be provided in the most integrated setting appropriate to the needs of participating handicapped persons.

Subpart C also contains the basic requirements for the elimination of discrimination on the basis of handicap in employment. It should be augmented, where possible, with provisions appropriate to the programs assisted by each agency. Specifically, § 85.53 could be supplemented, as is the corresponding § 84.12 of the HEW section 504 regulation, with examples of actions constituting reasonable accommodation and with factors to be considered in determining undue hardship; and § 85.54, with provisions adapted from the more specific requirements of the parallel § 84.13 of the HEW section 504 regulation.

Although § 85.55, like § 84.14 of the HEW section 504 regulation, generally bans preemployment medical exams and inquiries concerning handicap, certain qualifications to this general prohibition, found in §84.14 and cross-referenced in § 85.55, should be noted. First, while employers may not, prior to employment, inquire about the existence of a specific handicap (for example, epilepsy), they may ask about the applicant's ability to perform duties necessary to the job in question. Second, they may make voluntary inquiries as to handicap if they are subject to remedial or affirmative action obligations or if they are undertaking voluntary action to increase their employment of handicapped persons. Third, they may condition an offer of employment on the successful completion of a medical examination: *Provided*, That the examination follows the requirements of § 84.14(c) and that no offer is withdrawn on the basis of medical conditions that are not job-related.

Sections 85.56–85.58 of Subpart C concern "program accessibility," a term that summarizes the concept of prohibiting the exclusion of handicapped persons from programs by virtue of architectural barriers to such facilities as buildings, vehicles, and walks, while not requiring that existing facilities be completely barrier-free. Although new facilities are

to be designed and constructed so as to be physically accessible to handicapped persons, structural modifications of existing facilities need be undertaken only where other methods are inadequate to assure that a program is available to handicapped persons. The Department recognizes that the implementation of the concept of program accessibility will necessarily vary from agency to agency, but believes that the principles contained in §§ 85.56–58 are applicable generally and are essential to the effective and consistent implementation of section 504.

Agencies are urged to delineate in their regulations illustrative types of actions that they will permit their recipients to use as alternatives to structural changes to existing facilities. (See § 84.22(b) of the HEW section 504 regulation.) Agencies may also wish to consider supplementing this section with other details from § 84.22, such as the requirements concerning transition plans and notice.

The Secretary believes it important to issue this regulation in final form as soon as possible. Moreover, federal agencies as well as the public have had a prior opportunity—in the context of HEW's section 504 regulation—to comment on the basic provisions of the proposed standards and guidelines. Accordingly, no extensions of the 30-day period for comment on this proposed regulation will be granted.

In consideration of the foregoing, it is hereby proposed to add Part 85 to Title 45 of the Code of Federal Regulations to read as set forth below.

Dated: June 17, 1977.

JOSEPH A. CALIFANO, Jr.,
Secretary, Department of Health, Education, and Welfare.

PART 85—IMPLEMENTATION OF EXECUTIVE ORDER 11914

Subpart A—Federal Agency Responsibilities

Sec.
85.1 Purpose.
85.2 Application.
85.3 Definitions.
85.4 Agency regulations.
85.5 Enforcement.
85.6 Interagency cooperation and delegations.
85.7 Coordination with sections 502 and 503.
85.8–30 [Reserved]

Subpart B—Standards for Determining Who Are Handicapped Persons

85.31 Handicapped person.
85.32 Qualified handicapped person.
85.33–50 [Reserved]

Subpart C—Guidelines for Determining Discriminatory Practices

GENERAL

85.51 General prohibitions against discrimination.

EMPLOYMENT

85.52 General prohibitions against employment discrimination.
85.53 Reasonable accommodation.
85.54 Employment criteria.
85.55 Preemployment inquiries.

PROGRAM ACCESSIBILITY

85.56 General requirement concerning program accessibility.
85.57 Existing facilities.
85.58 New construction.
85.59–99 [Reserved]

Appendix A—Executive Order 11914

AUTHORITY: Executive Order 11914, 41 FR 17871; sec. 504, Rehabilitation Act of 1973, Pub. L. 93–112, 87 Stat. 394 (29 U.S.C. 794); sec. 111(a), Rehabilitation Act Amendments of 1974, Pub. L. 93–516, 88 Stat. 1619 (29 U.S.C. 706).

Subpart A—Federal Agency Responsibilities

§ 85.1 Purpose.

The purpose of this part is to implement Executive Order 11914, which requires the Department of Health, Education, and Welfare to coordinate the implementation of section 504 of the Rehabilitation Act of 1973.

§ 85.2 Application.

This part applies to each federal department and agency that provides federal financial assistance.

§ 85.3 Definitions.

As used in this regulation, the term:

(a) "Executive order" means Executive Order 119.14, titled "Nondiscrimination with respect to the Handicapped in Federally Assisted Programs," issued on April 28, 1976.

(b) "Section 504" means section 504 of the Rehabilitation Act of 1973, Pub. L. 93–112, as amended by the Rehabilitation Act Amendments of 1974, Pub. L. 93–516, 29 U.S.C. 794.

(c) "Agency" means a federal department or agency that is empowered to extend financial assistance.

(d) "Recipient" means any state or its political subdivitions, any instrumentality of a state or its political subdivision, any public or private agency, institution, organization, or other entity, or any person to which federal financial assistance is extended directly or through another recipient, including any successor, assignee, or transferee of a recipient, but excluding the ultimate beneficiary of the assistance.

(e) "Federal financial assistance" means any grant, loan, contract (other than a procurement contract or a contract of insurance or guaranty), or any other arrangement by which the agency provides or otherwise makes available assistance in the form of:

(1) Funds;

(2) Services of federal personnel; or

(3) Real and personal property or any interest in or use of such property, including:

(i) Transfers or leases of such property for less than fair market value or for reduced consideration; and

(ii) Proceeds from a subsequent transfer or lease of such property if the federal share of its fair market value is not returned to the federal government.

(f) "Facility" means all or any portion of buildings, structures, equipment, roads, walks, parking lots, or other real or personal property or interest in such property.

§ 85.4 Issuance of agency regulations.

(a) Each agency shall issue, after notice and opportunity for comment, a regulation to implement section 504 with respect to the programs and activities to which it provides assistance. The regulation shall be consistent with this part.

(b) Each agency shall issue a notice of proposed rulemaking no later than 60 days after the effective date of this part. Each agency shall issue a final regulation no later than 135 days after the end of the period for comment on its proposed regulation: *Provided*, That the agency shall submit its proposed final regulation to the Director of the Office for Civil Rights, HEW, for review at least 45 days before it is to be issued.

(c) Each such agency regulation shall (1) define appropriate terms, consistent with the definitions set forth in § 85.3 and with the standards for determining who are handicapped persons set forth in Subpart B of this part; and (2) prohibit discriminatory practices against qualified handicapped persons in employment and in the provision of services, consistent with the guidelines set forth in Subpart C of this part. The regulation shall include, where appropriate, specific provisions adapted to the particular programs and activities receiving financial assistance from the agency.

§ 85.5 Enforcement.

Each agency shall establish a system for the enforcement of section 504 and its implementing regulation with respect to the programs and activities to which it provides assistance. The system shall include procedures for (a) assurances of compliance by recipients; (b) processing and resolving complaints alleging violations of section 504; and (c) in accordance with section 3 of the executive order, securing voluntary compliance and terminating federal financial assistance if voluntary compliance cannot be secured. Each agency regulation shall also include requirements that recipients notify employees and beneficiaries of their rights under section 504 and consult with handicapped persons in achieving compliance with section 504.

§ 85.6 Interagency cooperation.

(a) Where each of a substantial number of recipients is receiving assistance for similar or related purposes from two or more agencies or where two or more agencies cooperate in administering assistance for a given class of recipients, the agencies shall (1) coordinate compliance with section 504 and (2) designate one of the agencies as the primary agency for section 504 compliance purposes.

(b) Any agency conducting a compliance review or investigating a complaint of an alleged section 504 violation shall notify any other affected agency upon discovery of its jurisdiction and shall inform it of the findings made. Reviews or investigations may be made on a joint basis.

§ 85.7 Coordination with sections 502 and 503.

(a) Agencies shall consult with the Architectural and Transportation Barriers Compliance Board in developing requirements for the accessibility of new facilities and alterations, as required in § 85.5, and in enforcing such requirements with respect to facilities that are subject to section 502 of the Rehabilitation Act of 1973, as amended, as well as to section 504.

(b) Agencies shall consult and coordinate with the Department of Labor in enforcing requirements concerning employment discrimination with respect to recipients that are also federal contractors subject to section 503 of the Rehabilitation Act of 1973, as amended.

§§ 85.8–85.30 [Reserved]

Subpart B—Standards for Determining who are Handicapped Persons

§ 85.31 Handicapped person.

(a) "Handicapped person" means any person who has a physical or mental impairment that substantially limits one or more major life activities, has a record of such an impairment, or is regarded as having such an impairment.

(b) As used in paragraph (a) of this section the phrase:

(1) "Physical or mental impairment" means (i) any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: Neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-uninary; hemic and lymphatic; skin; and endocrine; or (ii) any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term "physical or mental impairment" includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech, and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, and drug addiction and alcoholism.

(2) "Major life activities" means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

(3) "Has a record of such an impairment" means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

(4) "Is regarded as having an impairment" means (i) has a physical or mental impairment that does not substantially limit major life activities but is treated by a recipient as constituting such a limitation; (ii) has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairment; or (iii) has none of the impairments defined in paragraph (b)(1) of this section but is treated by a recipient as having such an impairment.

§ 84.32 Qualified handicapped person.

"Qualified handicapped person" means (a) with respect to employment, a handicapped persons who, with reasonable accommodation, can perform the essential functions of the job in question; and (b) with respect to services, a handicapped person who meets the essential eligibility requirements for the receipt of such services.

§§ 85.33—85.50 [Reserved]

Subpart C—Guidelines for Determining Discriminatory Practices

General

§ 85.51 General prohibitions against discrimination.

(a) No qualified handicapped person, shall, on the basis of handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity that receives or benefits from federal financial assistance.

(b)(1) A recipient, in providing any aid, benefit, or service, may not, directly or through contractual, licensing, or other arrangements on the basis of handicap:

(i) Deny a qualified handicapped person the opportunity to participate in or benefit from the aid, benefit, or service;

(ii) Afford a qualified handicapped person an opportunity to participate in or benefit from the aid, benefit, or service that is not equal to that afforded others;

(iii) Provide a qualified handicapped person with an aid, benefit, or service that is not as effective in affording equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as that provided to others;

(iv) Provide different or separate aid, benefits, or services to handicapped persons or to any class of handicapped persons unless such action is necessary to provide qualified handicapped persons with aid, benefits, or services that are as effective as those provided to others;

(v) Aid or perpetuate discrimination against a qualified handicapped person by providing significant assistance to an agency, organization, or person that discriminates on the basis of handicap in providing any aid, benefit, or service to beneficiaries of the recipient's program;

(vi) Deny a qualified handicapped person the opportunity to participate as a member of planning or advisory boards; or

(vii) Otherwise limit a qualified handicapped person in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving the aid, benefit, or service.

(2) A recipient may not deny a qualified handicapped person the opportunity to participate in programs or activities that are not separate or different, despite the existence of permissibly separate or different programs or activities.

(3) A recipient may not, directly or through contractual or other arrangements, utilize criteria or methods of administration (i) that have the effect of subjecting qualified handicapped persons to discrimination on the basis of handicap, (ii) that have the purpose or effect of defeating or substantially impairing accomplishment of the objectives of the recipient's program with respect to handicapped persons, or (iii) that perpetuate the discrimination of another recipient if both recipients are subject to common administrative control or are agencies of the same state.

(4) A recipient may not, in determining the site or location of a facility, make selections (i) that have the effect of excluding handicapped persons from, denying them the benefits of, or otherwise subjecting them to discrimination under any program or activity that receives or benefits from federal financial assistance or (ii) that have the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the program or activity with respect to handicapped persons.

(c) The exclusion of nonhandicapped persons from the benefits of a program limited by federal statute or executive order to handicapped persons or the exclusion of a specific class of handicapped persons from a program limited by federal statute or executive order to a different class of handicapped persons is not prohibited by this part.

(d) Recipients shall administer programs and activities in the most integrated setting appropriate to the needs of qualified handicapped persons.

(e) Recipients shall take appropriate steps to ensure that communications with their applicants, employees, and beneficiaries are available to persons with impaired vision and hearing.

Employment

§ 85.52 General prohibitions against employment discrimination.

(a) No qualified handicapped person shall, on the basis of handicap, be subjected to discrimination in employment under any program or activity that receives or benefits from federal financial assistance.

(b) The prohibition against discrimination in employment applies to the following activities:

(1) Recruitment, advertising, and the the processing of applications for employment;

(2) Hiring, upgrading, promotion, award of tenure, demotion, transfer, layoff, termination, right of return from layoff, and rehiring;

(3) Rates of pay or any other form of compensation and changes in compensation;

(4) Job assignments, job classifications, organizational structures, position descriptions, lines of progression, and seniority lists;

(5) Leaves of absence, sick leave, or any other leave;

(6) Fringe benefits available by virtue of employment, whether or not administered by the recipient;

(7) Selection and financial support for training, including apprenticeship, professional meetings, conferences, and other related activities, and selection for leaves of absence to pursue training;

(8) Employer sponsored activities, including social or recreational programs; and

(9) Any other term, condition, or privilege of employment.

(c) A recipient may not participate in a contractual or other relationship that has the effect of subjecting qualified handicapped applicants or employees to discrimination prohibited by this subpart. The relationships referred to in this paragraph include relationships with employment and referral agencies, with labor unions, with organizations providing or administering fringe benefits to employees of the recipient, and with organizations providing training and apprenticeship programs.

§ 85.53 Reasonable accommodation.

A recipient shall make reasonable accommodation to the known physical or mental limitations of an otherwise qualified handicapped applicant or employee unless the recipient can demonstrate that the accommodation would impose an undue hardship on the operation of its program.

§ 85.54 Employment criteria.

A recipient may not use nonjob-related employment tests or criteria that discriminate against handicapped persons and shall ensure that employment tests are adapted for use by persons who have handicaps that impair sensory, manual, or speaking skills.

§ 85.55 Preemployment inquiries.

A recipient may not conduct a preemployment medical examination or make a preemployment inquiry as to whether an applicant is a handicapped person or as to the nature or severity of a handicap except under the circumstances described in 45 CFR 84.14.

PROGRAM ACCESSIBILITY

§ 85.56 General requirement concerning program accessibility.

No qualified handicapped person shall, because a recipient's facilities are inaccessible to or unusable by handicapped persons, be denied the benefits of, be excluded from participation in, or otherwise be subjected to discriimnation under any program or activity that receives or benefits from federal financial assist ance.

§ 85.57 Existing facilities.

A recipient shall operate each program or activity so that the program or activity, when viewed in its entirety, is readily accessible to and usable by handicapped persons. Where structural changes are necessary to make programs or activities in existing facilities accessible, such changes shall be made as soon as practicable, but in no event later than three years after the effective date of the regulation.

§ 85.58 New construction.

New facilities shall be designed and constructed to be readily accessible to and usable by handicapped persons. Alterations to existing facilities shall, to the maximum extent feasible, be designed and constructed to be readily accessible to and usable by handicapped persons.

§§ 85.59—85.99 [Reserved]

APPENDIX A

NONDISCRIMINATION WITH RESPECT TO THE HANDICAPPED IN FEDERALLY ASSISTED PROGRAMS

Executive Order 11914, April 28, 1976

By virtue of the authority vested in me by the Constitution and statutes of the United States of America, including section 301 of title 3 of the United States Code, and as President of the United States, and in order to provide for consistent implementation within the Federal Government of section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), it is hereby ordered as follows:

SECTION 1. The Secretary of Health, Education, and Welfare shall coordinate the implementation of section 504 of the Rehabilitation Act of 1973, as amended, hereinafter referred to as section 504, by all Federal departments and agencies empowered to extend Federal financial assistance to any program or activity. The Secretary shall establish standards for determining who are handicapped individuals and guidelines for determining what are discriminatory practices, within the meaning of section 504. The Secretary shall assist Federal departments and agencies to coordinate their programs and activities and shall consult with such departments and agencies, as necessary, so that consistent policies, practices, and procedures are adopted with respect to the enforcement of section 504.

SEC. 2. In order to implement the provisions of section 504, each Federal department and agency empowered to provide Federal financial assistance shall issue rules, regulations, and directives, consistent with the standards and procedures established by the Secretary of Health, Education, and Welfare.

SEC. 3. (a) Whenever the appropriate department or agency determines, upon all the information available to it, that any recipient of, or applicant for, Federal financial assistance is in noncompliance with the requirements adopted pursuant to this order, steps to secure voluntary compliance shall be carried out in accordance with standards and procedures established pursuant to this order.

(b) If voluntary compliance cannot be secured by informal means, compliance with section 504 may be effected by the suspension or termination of, or refusal to award or continue, Federal financial assistance or by other appropriate means authorized by law, in accordance with standards and procedures established pursuant to this order.

(c) No such suspension or termination of, or refusal to award or continue, Federal financial assistance shall become effective unless there has been an express finding, after opportunity for a hearing, of a failure by the recipient of, or applicant for, Federal financial assistance to comply with the requirements adopted pursuant to this order; however, such suspension or termination of, or refusal to award or continue, Federal financial assistance shall be limited in its effect to the particular program or activity or part thereof with respect to which there has been such a finding of noncompliance.

SEC. 4. Each Federal department and agency shall fufnish the Secretary of Health, Education, and Welfare such reports and information as the Secretary requests and shall cooperate with the Secretary in the implementation of section 504.

SEC. 5. The Secretary of Health, Education, and Welfare may adopt rules and regulations and issue orders which he deems are necessary to carry out his responsibilities under this order. The Secretary shall ensure that such rules, regulations, and orders are not inconsistent with, or duplicative of, other Federal Government policies relating to the handicapped, including those policies adopted in accordance with sections 501, 502, and 503 of the Rehabilitation Act of 1973, as amended, or the Architectural Barriers Act of 1968 (42 U.S.C. 4151 *et seq.*).

GERALD R. FORD

The White House,
April 28, 1976.

[FR Doc.77-17898 Filed 6-22-77;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 0]

[Docket No. 21271; FCC 77-375]

SPANISH LANGUAGE FOR THE RADIOTELEPHONE THIRD CLASS OPERATOR PERMIT AND BROADCAST ENDORSEMENT

Permission of the Administration of Written Examinations

AGENCY: Federal Communications Commission.

ACTION: Proposed rulemaking.

SUMMARY: The Commission has received numerous requests for a Spanish-language examination for the Broadcast Endorsement which, when placed on the Radiotelephone Third Class Operator Permit, authorizes the operation of most AM and FM broadcast stations. The proposed rule amendment would permit the administration of this examination to persons who are bilingual in Spanish and English but who attest to a superior knowledge of Spanish. The intended effect of the amendment is to encourage Spanish-speaking citizens to seek employment in the broadcasting field.

DATES: Comments must be received on or before July 18, 1977 and reply comments on or before July 28, 1977.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Vernon P. Wilson, Field Operations Bureau, 202-632-7240.

SUPPLEMENTARY INFORMATION:

Adopted: June 1, 1977.

Released: June 16, 1977.

In the matter of amendment of Part 0 of the Commission's rules to permit the administration of written examinations in the Spanish language for the Radiotelephone Third Class Operator Permit and Broadcast Endorsement.

1. Notice of Proposed Rulemaking is hereby given in the above-captioned matter. The Commission has received numerous requests from Spanish-speaking persons that its Radiotelephone Third Class Operator Permit and Broadcast Endorsement examinations be made available, upon request, in the Spanish language. Section 13.22 of the Rules requires that applicants for all classes of commercial radio operator licenses have "the ability to transmit and receive spoken messages in English" and § 13.23 requires that "the written examination shall be in English except when waived in accordance with authority specified in § 0.314."

2. Section 0.314(p) of the Rules currently delegates authority to the Engineer in Charge at each field office only "to act upon requests for a waiver of the English language provisions of §§ 13.22 and 13.23 of this chapter, in the case of Spanish-speaking applicants in and around Puerto Rico and Miami, Florida, and to issue licenses bearing appropriate restrictions to those applicants found qualified." The purpose of this delegation of authority was to alleviate a situation which existed in Puerto Rico and the Caribbean area. As a result of the Commission's Rules under Part III of Title III, of the Communications Act, which requires radiotelephone equipment to be installed on certain passenger boats and the operators thereof to hold Radiotelephone Third Class Operator Permits, a condition became apparent in the vicinity of Puerto Rico among small boat operators (particularly charter fishing boats) where Spanish-speaking persons could not meet the English language requirement for examination. Such persons were, however, capable of passing the examination in their own language and operating their vessels safely in accordance with the Commission's Rules. Permits issued as a result of these examinations bear the following restrictive endorsement:

Valid only for ship stations on board vessels in the vicinity of Puerto Rico.

3. It now appears there is a demand for examinations for the third class, broadcast endorsed, permit to be made available in the Spanish language not only in Puerto Rico but at various locations throughout the United States. In that the basic third class permit authorizes the holder to operate ship stations and, with the endorsement certain classes of Broadcast stations, several problems are raised. Regulation 4 of the 1973 Great Lakes agreement specifies that as a condition for obtaining a commercial operator certificate the applicant must have the ability to receive correctly and send correctly using the English language. Section 26.07 of the U.S. Coast Guard regulations states that persons maintaining the bridge to bridge listening watch must speak in English. More importantly, § 73.933 of the Rules governing the operation of the Emergency Broadcast System (EBS) requires that the Emergency Action Notification Message be broadcast in English. Stations which broadcast primarily in a language other than English may broadcast in such foreign language following the broadcast in English. In view of the foregoing, the Commission is precluded from issuing unrestricted third class permits to persons who have a complete lack of knowledge of the English language.

4. However, there would appear to be sufficient justification to allow written examinations in Spanish to those individuals who are bilingual in Spanish and English but who attest to a superior knowledge of Spanish. The proposed revision of § 0.314(p) of the Rules would allow this procedure at any of our field examination points and would permit the issuance of a nonrestrictive license to those who qualify. For individuals in Puerto Rico who are fluent only in Spanish and seek only a license to operate on board ships, the previous examination procedure (without the requirement to attest to fluency in English) would still apply and a license restricting their activity to the Puerto Rican area would continue to be issued to qualified applicants.[1]

5. Authority for the adoption of the proposed amendment and the request for comments is contained in Sections 4(i) and 303(l)(1) of the Communications Act of 1934, as amended.

6. Pursuant to the applicable procedures set forth in § 1.415 of the Commission's Rules, interested persons may file comments on or before July 18, 1977, and reply comments on or before July 28, 1977. All relevant and timely comments and reply comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision in this proceeding, the Commission may also take into account specific information before it, in addition to the comments invited by this Notice.

7. In accordance with the provisions of § 1.419 of the Rules, an original and 5 copies of all comments, reply comments, pleadings, briefs, and other documents shall be furnished the Commission. In an effort to obtain the widest possible response in this proceeding, informal comments (without extra copies) will be accepted. These informal comments should specifically reference this proceeding. Responses will be available for public inspection during regular business hours in the Commission's Public Reference Room located at its headquarters at 1919 M Street NW., Washington, D.C.

FEDERAL COMMUNICATIONS COMMISSION,

VINCENT J. MULLINS,
Secretary.

1. It is proposed to revise § 0.314(p) to read as follows:

§ 0.314 Additional authority delegated.

* * * * *

(p) To act upon requests for a waiver of the English language provisions of §§ 13.22 and 13.23 of this chapter in the case of Spanish-speaking applicants in and around Puerto Rico for the examination for the Radiotelephone Third Class Operator Permit; to issue licenses bearing appropriate restrictions to those applicants found qualified; and to act upon requests for a waiver of the English language provision of § 13.23 of this chapter in the case of applicants who are bilingual in Spanish and English but who attest to being more fluent in the Spanish language for the examination for the Radiotelephone Third Class Operator Permit and the Broadcast Endorsement.

* * * * *

[FOR Doc.77-18128 Filed 6-23-77;8:45 am]

[1] The proposed revision deletes reference to Miami, Florida as the only other location where a permit for ship use in the area of Puerto Rico could be obtained. This deletion is required to permit nationwide implementation of the new Spanish language third class, broadcasting, examination. As a practical matter our Miami office has never been requested to conduct a Spanish examination for the third class shipboard permit which is restricted to use only in the area of Puerto Rico.

[47 CFR Part 68]

[Docket No. 19528; FCC 77-395]

INTERSTATE AND FOREIGN MESSAGE TOLL TELEPHONE SERVICE (MTS) AND WIDE AREA TELEPHONE SERVICE (WATS)

New and Revised Classes

AGENCY: Federal Communications Commission.

ACTION: Supplemental notice of proposed rulemaking.

SUMMARY: This notice analyzes issues surrounding connection and installation of FCC-registered key telephone and Private Branch Exchange (PBX) telephone equipment to the nationwide telephone network and solicits comments. Part 68 of the FCC's rules presently allows for registration and connection of this equipment, but proposals before the Commission indicate that revised rules will permit greater flexibility. The intent is to amend Part 68 to allow for new options for registration, connection and installation of key telephone and PBX equipment.

DATES: Comments must be received on or before June 30, 1977, and reply comments must be received on or before July 30, 1977.

ADDRESSES: Send comments to: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Michael S. Slomin, Policy and Rules Division, Common Carrier Bureau, Federal Communications Commission (202-632-9342).

SUPPLEMENTARY INFORMATION:

SUPPLEMENTAL NOTICE OF PROPOSED RULEMAKING

Adopted: June 8, 1977.

Released: June 20, 1977.

In the matter of proposals for New or Revised Classes of Interstate and Foreign Message Toll Telephone Service (MTS) and Wide Area Telephone Service (WATS), Docket No. 19528.

1. In a companion Memorandum Opinion and Order which we have adopted today, we have ruled on many of the issues which are pending before us in Docket No. 19528, primarily in the form of petitions for reconsideration and comments thereupon. As will be discussed in further detail herein, however, certain issues related to registration of Private Branch Exchange (PBX) and key telephone systems still remain, and these issues are addressed in this supplemental notice of proposed rulemaking.

2. In our Second Report and Order in Docket No. 19528 (Second Report), 58 F.C.C. 2d 736 (1976), we extended the FCC's telephone equipment registration program to apply to PBX and key telephone systems. Under the program, the Commission evaluates terminal equipment designs and test results to deter mine whether the equipment, under foreseeable mechanical and electrical stress and over its service life, will conform to parametric limitations contained in Subpart D of Part 68 of the FCC's Rules, violations of which, in the Commission's judgment, have a possibility of interfering with network performance ("harm"). In the Second Report, we noted that PBX and key telephone systems typically today consist of common equipment (centrally-located equipment shared by the system) and station equipment (remotely-located equipment, usually telephone instruments, which is connected to the common equipment), with intrasystem wiring between them. We recognized that the long wiring runs which typically connect station and common equipment in PBX and key telephone systems, if improperly planned and installed, can nullify the network protection provided by the equipment at the ends of these wiring runs unless specific protective circuitry protects against wiring aberrations. See 58 F.C.C. 2d at 744–46.

3. In the absence of concrete proposals which would assure that wiring is properly performed in specific installations, we adopted the same approach which the telephone companies themselves had adopted in the post-Carterfone period—a requirement that protective circuitry be interposed between any system wiring and the point of connection to the telephone network. At the same time, we invited proposals for assuring proper installation of system wiring, in recognition that such protective circuitry would be unnecessary where the wiring is properly performed. See 58 F.C.C. 2d at 746, n. 12.

4. Petitions for reconsideration of our Second Report were filed which addressed, inter alia, the problems posed by system wiring, by American Telephone and Telegraph Company (AT&T), GTE Service Corporation (GTE), and International Telephone and Telegraph Corporation (ITT). Oppositions thereto were filed by AT&T, Computer and Business Equipment Manufacturers Association (CBEMA), GTE, International Business Machines Corporation (IBM), ITT, and North American Telephone Association (NATA). Replies were filed by AT&T and GTE. These petitions and comments addressed a variety of policy and technical issues. The policy issues were ruled upon in an Order released on October 18, 1976, 61 F.C.C. 2d 396 (1976), and many of the technical issues are addressed in the companion order which we are adopting today. However, as will be discussed, we left reconsideration of the technical standards and requirements to be applied to PBX and key telephone systems pendant, in view of the uncertainty surrounding various proposals for dealing with the problems posed by system wiring.

5. In our October, 1976 order, we noted that GTE had proposed an alternative to our tentatively-adopted requirement for interposed protective circuitry (see para. 3, supra.), which had been opposed by AT&T, and that GTE had subsequently refined its proposal in "comments in support of petition for reconsideration."[1] AT&T also opposed GTE's refinement, but it promised to submit its own alternative to the tentative requirements of the Second Report which would, according to AT&T, reduce the costs of compliance. In view of this commitment by AT&T, we declined to rule prematurely in our October order on the highly interactive technical issues which were before us, pending the submission of additional comments and proposals, 61 F.C.C. 2d at 402–04. In response to a letter of the Chief, Common Carrier Bureau, which requested the status of AT&T's efforts to arrive at the promised alternative proposal, AT&T filed on February 1, 1977, "supplemental comments in opposition to petitions for reconsideration." These comments included a proposed structure for dealing with the problems posed by system wiring as well as a draft circuit design to demonstrate the feasibility of AT&T's approach.

6. In this notice, we shall analyze the issues concerning PBX and key telephone system registration. Our analysis is not confined solely to the two proposals which have been placed before us—AT&T's and GTE's—because in our view the fundamental issues which underlie registration of these systems have not been adequately explored.

[1] The Chief, Common Carrier Bureau accepted these comments under delegated authority, by Order released August 27, 1976, and gave interested parties an opportunity to comment thereupon.

A. ACTION WHICH, IF IMPROPERLY PERFORMED, CAN NULLIFY THE NETWORK PROTECTION ACCORDED BY THE COMMISSION'S REGISTRATION OF EQUIPMENT UNDER PART 68 OF THE FCC'S RULES

7. Two fundamental issues remain concerning the registration and connection of PBX and key telephone systems. These are the problems posed by system wiring, and specification of means of connecting such systems to the telephone network. Underlying any analysis of these issues, however, is consideration of action which, if improperly performed can upset the Commission's determination that equipment conforms to the parametric limitations of Subpart D of Part 68 of the rules.

8. Our basic approach to telephone equipment registration has been, as was discussed in para. 2 above, to have the FCC determine, on the basis of submissions by applicants, whether or not particular equipment designs will be harmless (not violate the technical standards contained in our rules). However, certain actions subsequent to the manufacture of registered equipment have the potential of nullifying the network protection accorded by FCC registration if improperly performed. The three forseeable actions which have this potential are installation, repair and modification of registered equipment. Part 68 presently controls these actions, and assures that network protection is not compromised, either by making the action failsafe or by making the registrant responsible for its proper performance. Thus, repairs may only be performed by the registrant or an agent thereof,[2] and minor design modifications require a notice filing with the Commission while major modifications (modifications which change the information previously furnished the Commission on an application) require a revised application and FCC approval. In either case, the modification may only be performed by the registrant, or by another entity who will independently accept responsibility for conformance of the modified equipment with the standards of Part 68.[3]

9. Installation of equipment has been made fail-safe by adoption of the same technique which the telephone companies (and, for that matter, electric power companies) have been using for many years to allow customer-installation of equipment. Our rules require that registered equipment be connected to the telephone network through the use of standard plugs, which may be inserted by the customer into telephone company-installed standard jacks. Proper installation of the jacks is presumably assured because only the telephone companies' trained craftspersons, and not untrained

[2] Telephone companies are not required to receive formal agency authority from the registrant, 59 F.C.C. 2d 83, 86 (1976).

[3] Thus, equipment refurbishers who are not, themselves, agents of the registrant, are required to register their work product. 59 F.C.C. 83, 86–87, n. 7 (1976).

subscribers, are permitted to install them. Similarly, untrained telephone subscribers are permitted to replace and install replaceable components in registered equipment (e.g. fuses, lamps, and plug-in protective circuitry) if the applicant demonstrates to us that improper performance of such replacement will not affect compliance with our rules. See 56 F.C.C. 2d at 612.

10. These controls, however, pose certain practical difficulties in the environment of PBX and key telephone systems. First, these systems are typically formed of common equipment and station equipment connected by relatively long wiring runs, which wiring is uniquely configured and installed for each system installation. Second, these systems are often, to varying degrees, customized to the customer's unique requirements, and in such cases the common equipment and station equipment may require modification or reconfiguration to meet the customer's needs.[1] Such modifications are not necessarily major, and often involve only replacement of printed circuit cards with others and/or replacement of jumper wires, but improper performance of such modification might conceivably negate the network protection built into the equipment itself.

11. Under the present structure of Part 68, actions which have the potential of nullifying the protection built into the equipment are also limited depending upon who performs them. Telephone companies may perform such acts at their own facilities (e.g., modification, repair and assembly of systems from components as part of the process which creates registered equipment and at customer premises (e.g., installation of wiring, installation of standard jacks). Registrants and their agents, other than telephone companies, may perform such acts at their own facilities as part of the process which creates registered equipment, but they may not perform such acts at the premises where equipment is to be installed unless protective circuitry is interposed between the point where such action is performed and the telephone network connections. The protective circuitry would, by definition, insulate and protect the telephone network from any potential adverse effects.

12. System wiring is one act which might negate the effectiveness of network protection built into a given equipment design; means of connection of registered equipment to the telephone network, unless limited (as is presently the case) to fail-safe means such as standard jacks and plugs, is another (infra., paras. 18–27). The problem before the Commission is to assure that any such action will in fact be performed in such a manner that the entire system—equipment, wiring, and means of connection to the telephone network—complies with the parametric limitations of Part 68 at the point of connection of the terminal equipment to the telephone network.

13. To deal with potential aberrations in the installation of wiring or in the connection of systems to the telephone network, the Commission has, as a matter of judgment, made these operations fail-safe for equipment which will tend to be connected by the untrained (e.g., telephone instruments). Parties in this proceeding, other than the carriers, asset that complex PBX and key telephone systems of necessity are not installed by the untrained; rather, they are installed by these parties' trained personnel. These non-telephone company parties further claim that their personnel are in fact competent and trained, and must be in order that such complex equipment can be sold.

14. We have recognized the telephone network's vulnerability to installation and wiring aberrations, but recognition of this vulnerability does not mandate a conclusion that the aberrations are likely to occur equally for all equipment types. As we noted in our October, 1976 Order in partial reconsideration of the Second Report, 61 F.C.C. 2d 396 at 403:

> * * * the telephone companies do not have a monopoly on adequately-trained installation personnel. Installation personnel employed by the telephone companies' competitors are often trained by the same manufacturers who train the telephone companies' installers in the installation of equipment which is sold to both. Such non-telephone company installers have access to the same wire and cable suppliers as do the telephone companies, and in fact often use the same installation techniques as the telephone companies do for efficiency.

In their comments, both GTE and AT&T have addressed certain aspects of the problems posed by these potential aberrations, but they have done so within the context of system wiring, or of means of connection, separately. Both GTE and AT&T have proposed instiutional safeguards against those acts which could lead to longitudinal imbalance—generally, inadvertent connection of wiring with earth ground (limitations upon which are contained in § 68.310 of the rules)—and they have proposed forms of acceptance testing, to be performed at the completion of an installation, to determine whether or not the wiring is connected wtih earth ground and could cause imbalance. When GTE and AT&T part company, conceptually, is over those wiring aberrations which could cause hazardous voltage if improperly performed. GTE proposed institutional safeguards against such aberrations as well—attestation by the installer that the wiring conforms to certain standards—while AT&T seeks retention of interposed protective circuitry, a hardware safeguard. With regard to means of connection of registered PBX and key telephone systems to the telephone network, both GTE and AT&T seek continuation of the fail-safe approach which has been adopted for connection of other terminal equipment—standard plugs and jacks. With this background, we now address the specific proposals which are before us.

15. *System wiring.* GTE's specific proposal for dealing with system wiring is that we adopt a means of determining which installation personnel are competent to perform action associated with wiring, and that we adopt standards to which such wiring, performed by these competent installers, must conform. In essence, GTE would define as competent:

> An individual with twelve months of on-the-job experience in telecommunications who had received training by the manufacturer, or a qualified training agent, on the specific system to be installed.

Such a presumed-competent individual would be required to attest in writing that each specific installation:

> Was performed in accordance with the pertinent sections of the National Electrical Code (or such local standards as are adopted in substitution therefor or in addition thereto); and
>
> Was performed such that the longitudinal balance requirements of Part 68 are met, as measured for each possible combination of telephone trunk (or line) connections with station equipment, measured with appropriate equipment at the point of direct connection with the telephone network.

GTE's proposal is limited to those classes of equipment which do not already inherently incorporate protective circuitry to protect against improper wiring (most key telephone systems and some PBX equipment) and, in addition, is conditioned upon our adoption of fail-safe means of connecting such equipment to the network (e.g., plugs and jacks). Thus, GTE proposes meeting our concerns that hazardous voltages and line imbalance could potentially result from improper installation of wiring by adopting the National Electrical Code's wiring standards to prevent hazardous voltages, and by using acceptance testing to determine whether or not there will be line imbalance.

16. AT&T's proposal is that hardware protection be retained to protect against hazardous voltages, and that acceptance testing be used to determine whether or not there will be line imbalance, for those systems which do not already inherently incorporate protection against both conditions. Specifically, AT&T has proposed that a limited-purpose protective circuit be interposed between each telephone trunk or line connection, and any system wiring, and that this circuit only limit excessive voltages. A preliminary design of such a circuit was submitted to indicate its feasibility, and AT&T has estimated the installed costs of this design at about $20 to $25 per line if integrated into the common equipment.[2] AT&T's proposed acceptance testing for longitudinal imbalance is less complex than GTE's proposal, and involves a call origi-

[1] For example, designation of a particular button on a key telephone instrument as an intercommunication line often involves mechanical and electrical modification to the instrument, and to the common equipment.

[2] Appendix A, infra, reproduces the circuit design submitted by AT&T.

nation, per-line, to the central office from each station, confirmation by listening that dial tone has been received, that dial tone has been broken by the dialing of a digit, and listening to assure that there is not excessive noise on the line (which would be caused by imbalance).

17. In addition, AT&T's proposal requires that there be dc continuity between the telephone network connections and system station equipment to allow detection from the central office of connections with earth ground which might cause imbalance, but which do not cause audible noise on the connection which would be apparent during these acceptance tests. As was the case of GTE's proposal, AT&T also has coupled its proposal with the use of fail-safe means of connection.

18. *Means of connection.* Wiring has otherwise been addressed, informally, within the context of arriving at suitable means of connecting registered key telephone and PBX systems to the telephone network. Basically, this extra-system wiring cannot be protected against by any form of protective circuitry precisely because, of necessity, it is always connected on the telephone network side of the protective circuitry. Unless the telephone companies are willing themselves to install their wiring to the customer's protective circuitry, which they have indicated they are not willing to do, there always will be some length of wire between the customer's equipment and the point of connection to the telephone network.

19. In our Second Report, we indicated that we would convene informal meetings between members of the affected public (primarily, telephone companies and equipment manufacturers) to discuss means of connection to be used to connect registered key telephone and PBX systems to the telephone network.[6] At our informal meetings on May 13 and May 14, 1976, the telephone companies took the position that since the Commission had separated issues raised by intra-system wiring (wiring between the common equipment and station equipment) from issues raised by extra-system wiring (wiring between the common equipment and the telephone network) they would not discuss wiring issues as a unified topic of discussion, particularly in view of the pendency of filed petitions for reconsideration which addressed, inter alia, intra-system wiring.

20. There was substantial disagreement between the telephone company and non-telephone company participants. The telephone companies sought a continuation of the fail-safe philosophy which had already been adopted for connection of telephone instruments, data and ancillary equipment—fail-safe plug and jack connection, with the jacks installed by the local telephone company. The non-telephone company participants claimed that their personnel were as competent as telephone company personnel and that they should be permitted to use the same techniques as are currently employed by many telephone companies for installation of similar equipment, techniques which are not inherently fail-safe. When the participants found that they could not agree over the basic ground rules for connection of PBX and key telephone systems to the telephone network, in order that some useful result could be obtained they assumed arguendo that the fail-safe philosophy already in the rules would apply to these systems, and agreed to implementations thereof, while the non-telephone company participants reserved the right to contend formally before the Commission whether or not such fail-safe means would be required.

21. Under the assumption that action which could potentially negate the network protection built into the equipment would be limited, it was agreed that where "close proximity cabling" (defined below) is used to connect the PBX or key telephone system to the telephone network, certain plugs and telephone company-installed jacks could be used to effectuate the connection. The telephone companies agreed to bring the telephone connections into "close proximity" to the registered equipment or protective circuitry. Connectorized cabling would then be required between the equipment and the interface to the telephone network, and field installation of the connectors would not be permitted; instead, prior registration of the cable/connector combinations would be required. Thus, action during installation would be fail-safe, and not involve acts which, if improperly performed by the installer, could cause the parametric limitations of Part 68 to be exceeded. In recognition that this proposal would not allow for activities which are customary in PBX and key telephone installations (e.g., moves, rearrangements, connection, and disconnection of station equipment) it was also agreed that registered adapters which themselves are relatively fail-safe could also be used as part of the wiring path between the system and the telephone network. Such adapters would be required to contain internal jack and plug means for cross-connection and the like (pluggable patch panels).

22. "Close proximity cabling" was defined functionally as follows:

(a) Registered cable-connector combinations with pre-installed connectors;

(b) Installed in a visible manner (not in conduit);

(c) Fastened with non-conductive fasteners (for mechanical support) or laid in smooth-surface troughs.

23. In order for this limited proposal to operate, the telephone companies had to commit themselves to bringing the telephone connections into close proximity with the terminal equipment. There was discussion as to the meaning of this requirement and several proposed definitions were rejected as too limiting (e.g. "location specified by the customer", "in the same room", "in the same location as the telephone companies would use for installation of their own equipment", etc.). The consensus result was that a location would be chosen for interface of the terminal equipment with the telephone network which would allow the constraints on "close proximity cabling" (para. 22, *supra.*) to operate.[7]

24. The non-telephone company participants pointed out that under various local electrical and fire codes, when they install a PBX switchboard in a lobby they are required to place system wiring cables in conduit (a form of pipe which encloses electrical wiring) and that therefore, because space is limited in the switchboards, the proposal would not accommodate such installations. It was estimated that such lobby installations represented about 2 percent of all installations, and the carriers indicated their willingness to work out special procedures to accommodate such a small proportion of PBX installations. No such procedures have been proposed to date.

25. The non-telephone company participants, as was discussed previously, reserved the right to contend formally before us their desire to use the same wiring and connection techniques which the telephone companies are today using for their own key telephone and PBX installations. In fact, these non-telephone company participants asserted that they are presently using these techniques, although since their connections and wiring to date have been performed behind protective circuitry (telephone company-provided "connecting arrangements") this action has not had a significant potential for harm.

26. These telephone company techniques have included a mix of pre-fabricated connectorized cables (using wire which has either been manufactured or purchased to specifications on quality) and hard-wiring of the wire to connection blocks. It was indicated at the meeting that the current predominant form of connection block is a so-called "punch-down" block, with metallic tines into which wires may be inserted using an appropriate tool. The telephone companies claimed that this operation is not fail-safe, as it requires training in the use of the tool, and training of the per-

[6] Such informal procedures, followed by formal rulemaking in Docket No. 20774, had expeditiously been used to arrive at suitable standard plugs and jacks for the connection of telephone instruments, ancillary and data equipment.

[7] Appendix B, infra., lists the entities who attended these meetings and Appendix C reports the agreed-upon specific means of connection of registered PBX and key telephone systems. AT&T subsequently submitted a proposed definition of "on-site wiring" which contains, inter alia, a somewhat different version of the constraints on "close proximity cabling" which were arrived at at the meetings. This too is reproduced in Appendix C and is available for comment herein. While adoption of the proposed connectors of Appendix C is a possible outcome of this proceeding, adoption of hard-wired ("punch-down") terminal blocks, either with or without some form of per-line or per-trunk disconnect mechanism (e.g. removable metallic links or clips) is also a possible outcome in view of our analysis of discretionary action and solicitation of comments thereupon.

sonnel to assure that the proper wire is connected with the proper tine; preassembled connectorized cabling makes both such forms of training unnecessary. In addition, the telephone companies have used connectors which are field-installable, thereby permitting their wires to be cut to the appropriate length, and fished through narrow ducts or conduit (which would not allow a bulky connector to pass through its interior).

27. Our informal meetings also assumed, for the purposes of discussion, that the telephone companies themselves would have to use whatever means of connection were adopted.[8] There was some discussion as to whether adoption, by the telephone companies, of the fully connectorized means of connection of PBX and key telephone systems to the network, as proposed in the meeting, would increase their costs of equipment installation, as compared to their present practices of using a mix of hard-wiring and connectorized systems. While the views expressed at the meetings were somewhat speculative, there was general agreement that economies resulting from the more automated fully-connectorized technique would tend to balance any increased costs of using that technique, and that potentially the cost of installation would be reduced in the long run.

DISCUSSION

28. At this juncture, we are faced with several options in addressing extra-system and intra-system wiring, and means of connection of PBX and key telephone systems. First, there are problems related to action which, if improperly performed, can negate the effectiveness of network protection provided by registered equipment or protective circuitry. Second, there are problems related to customization and assembly of systems from sets of standard components which are uniquely assembled and configured for each unique installation. Third, there are problems related to a choice between institutional safeguards (GTE's approach) and hardware safeguards (AT&T's approach) to assuring conformance to the limitations of the rules.

29. PBX and key telephone systems will not, ordinarily, be installed by the uninformed lay public. They will tend to be installed either by the equipment manufacturer, a supplier who configures together subassemblies of the same or different manufacturers, or by service entitities specializing in such installations. Thus, the absolute fail-safe, mistake-proof philosophy of installation of telephone instruments, data and ancillary equipment, which we have adopted in the past for such equipment to be installed by the untrained, does not necessarily apply to PBX and key telephone installations. Some degree of discretionary action would appear to be warranted. On the other hand, the risk of exposure to violations of the technical requirements of Part 68, if these installations in fact are not properly performed, is greater for PBX and key telephone systems than other equipment; physically long runs of wire are involved, with greater opportunities of contacting power wiring and earth ground than with discrete items of terminal equipment such as telephone instruments (which normally have relatively short wires in full sight which are not embedded in walls and ducts).

30. The standards of the National Electrical Code, if followed in every installation, will tend to prevent the occurrence of hazardous voltages, but would be largely ineffective with regard to possible line imbalance due to crosses of the wiring with earth ground. Specifically, the Code provides, in section 800–3 thereof, that communications wiring must be physically separated from electrical power wiring, which would make crosses with such sources of hazardous voltages virtually impossible. The problem with adopting these standards is two-fold: (1) How do we assure that in every installation the standards will be followed; and (2) what force, if any, would the National Electrical Code have in the many jurisdictions which have not adopted it? An answer to the second question might be that we could adopt, as part of our rules, the applicable provision of the National Electrical Code and thereby make it effective nationally for telephone terminal equipment installation, wholly independent of the existing enforcement mechanisms for the Code.

31. This would still leave the first question pendant, however. GTE proposes attestation by the installer that each installation conforms to the standard, which process might well provide adequate assurances, particularly in view of the customer's substantial interest in properly performing business telephone services such as are provided in PBX and key telephone systems. Improperly performed installation which would violate the limitations of Part 68 has a high probability of rendering the equipment inoperative. AT&T, however, takes the position that attestation is not enough, that some form of inspection would be required[9], although it does not offer to perform such inspections.[10] AT&T's alternative proposal, of using a limited-purpose protective circuit (for hazardous voltages only) would moot considering the questions raised by GTE's proposals, as such a circuit would make it unnecessary for us to specify installation standards for system wiring except for the wiring between the circuitry and the telephone network. This extra-system wiring poses a simpler set of concerns as it need not consist of long runs, nor be located in close proximity to power wiring.

32. In considering the issues and proposals before us, relating to system wiring and means of connection of PBX and key telephone systems to the telephone network, we note that there may not have been adequate exploration of all possibilities for assuring adequate network protection with minimal governmental interference with efficient equipment design and installation techniques. Proposals before us concerning extra-system wiring are inconsistent with proposals before us concerning intra-system wiring, although the potential aberrations from improper wiring remain the same regardless of which type of wiring is involved (unless protective circuitry is interposed before such wiring).

33. We note that AT&T's proposed definition of "on-site wiring", for example, would allow for the installation of wiring terminated in spade lugs to be placed under terminal screws at the premises. This proposal relates to the extra-system wiring, to which no protection is accorded by protective circuitry, and if improperly performed (e.g. by placement of the lugs under the wrong screws, or by positioning the lugs so that they short against other screws or against one another) this installation could nullify the network protection accorded by equipment registration. Thus, AT&T's own proposal would allow for this form of discretionary action. On the other hand, if connectors are used for such wiring, field installation of the connectors using somewhat more fail-safe wire insertion tools is not permitted under AT&T's proposal, on the theory that mistakes in the installation of the connector could potentially lead to "harm". Finally, AT&T would only allow for intra-system wiring behind protective circuitry which would assure that this wiring, regardless of how it is performed, is fail-safe.

34. GTE's proposal requires different treatment of extra-system wiring and intra-system wiring. The intra-system wiring, which typically involves longer wiring runs and more wires than the extra-system wiring, is controlled under GTE's proposal through installer qualification and attestation. Yet, the extra-system wiring, which is more visible and presents far fewer problems, would be required to be rigidly limited by the FCC's rules, essentially to the constraints contained in our informal meeting's proposed definition of "close proximity cabling."

35. Moreover, we are informed that it is fairly widespread practice for telephone companies to contract out the installation of telephone wiring to others. While it could be argued that a telephone

[8] This was not a foregone conclusion at that time; that issue was then on appeal to the United States Court of Appeals, Fourth Circuit. The Court of Appeals has now sustained our inclusion of telephone company equipment within the registration program although pending a decision by the United States Supreme Court, the program presently remains stayed pendente lite as to telephone company equipment.

[9] The National Electrical Code is largely intended to govern installation of electrical power wiring and apparatus, although it also contains provisions related to communication wiring. It is today enforced, depending upon the jurisdiction involved, by licensure of electricians, by inspection by authorities, or by combinations thereof.

[10] The Rochester Telephone Company in Rochester, New York, has for several years allowed customer-provided PBX and key telephone equipment to be connected without "connecting arrangements". That telephone company itself performs inspection of the customer's system wiring.

company's contractor is operating under the telephone company's (presumably) informed control and possible inspection, the inescapable fact is that others than telephone company employees have been deemed by the telephone companies themselves to be competent to install and place wiring. This pattern also indicates that it has not been an insurmountable problem for other than telephone company installers to learn a set of wiring standards, and to conform their wiring to such standards.

B. Proposed Rules Relating to PBX and Key Telephone System Installation and Connection

36. In view of the foregoing discussion, we are soliciting comments on a variety of possible approaches to assuring adequate network protection, while retaining flexibility in equipment design and without imposing unnecessary burdens. We are asking that the fundamental issues relating to possible negation of the network protection built into the equipment be addressed, in the real-world environment of PBX and key telephone system installation, as well as the more specific issues relating to FCC rule changes and means of connection to the network.

37. We ask that comments not be limited solely to the GTE and AT&T proposals, as these proposals are not the only means available for assuring network protection. For example, both AT&T and GTE have proposed (different) acceptance tests to assure that no longitudinal imbalance results as a consequence of wiring installation; perhaps some form of acceptance testing (e.g. high-voltage pulse testing, or breakdown testing) could also be used to assure adequate insulation of telephone and power wiring. Alternatively, wiring could be required to be run in pipes (conduit) devoted exclusively to communications wiring. If that were the case, it would become virtually impossible for such wiring to contact hazardous voltages, and therefore hazardous voltage concerns would be vitiated. If such wiring were even further constrained, by requiring such pipes to be metallic and connected with earth ground, no possibility of exposure of the telephone network to hazardous voltages would remain.

38. Inspection could be used to assure proper wiring as well. A competent inspector could be required to examine, and if necessary to test, wiring installations to determine adequate insulation of the telephone wiring from power wiring; acceptance testing could be used, as currently proposed by both GTE and AT&T, to determine adequate longitudinal balance either as part of the inspection process or outside this process. Or, overall balance could be measured from the telephone company central office. That this possibility is not merely speculative is demonstrated by the fact that one telephone company, Rochester Telephone, has for several years used inspection to asusre adequate installation of non-telephone company premises wiring, without incident.

39. Other mixtures of discretionary action with constraints imposed by our rules are also possible when wiring and means of connection are considered together as part of the broader issues. For example, the constraints over extra-system wiring contained in AT&T's proposal no longer may be required (e.g. fail-safe installation techniques, standard plug/jack interface) if we adopt suitable controls over intra-system wiring which are applicable to extra-system wiring as well.

40. With regard to hardware protection, as currently proposed by AT&T (and by GTE for equipment which inherently incorporates this protection as part of its design), the draft circuit design submitted by AT&T to demonstrate feasibility may not be the most economic approach to achieving hazardous voltage limitation. This approach uses electromechanical technology (relays) which is not amendable to the cost reductions evidenced over the past decade in semiconductor technology. Other entities, other engineering expertise and other design approaches may well produce an alternative means of achieving the same degree of protection at a far lower cost than AT&T's estimated $20 per-circuit. A change in the cost of acheiving such protection might well tip the balance in our ultimate decision as to which approach to adopt.

41. In sum, therefore, we conclude that additional consideration of these matters is necessary. We specifically wish comments to address:

(a) What should be the form and extent of any discretionary action allowed in the installation of PBX and key telephone systems, and the configuration of PBX and key telephone systems from sets of registered components and subassemblies thereof?

(b) How, if at all, is the class of persons who are to be deemed competent to perform such action to be defined?

(c) What constraints shall be placed upon extra-system wiring (wiring between the system and the telephone network) and intra-system wiring (wiring between system components) through technical standards to be incorporated in Part 68 of the FCC's rules, consistent with levels of discretionary action which are to be allowed?

(d) If the present (tentative) approach of the registration program to PBX and key telephone system registration (interposition of protective circuitry between the telephone network and intra-system wiring) is to be continued, either without modification, modified as proposed by AT&T (hazardous voltage protection only) or as an alternative option to whatever rules are adopted herein, are there designs or design constraints which can reduce the cost of such circuitry below the levels which AT&T has advanced: $30 to $40 per-circuit if the tentative requirement of protection against both hazardous voltages and imbalance is retained; $20 to $25 per-circuit for AT&T's initial design of a circuit intended to protect solely against hazardous voltages?

(e) In view of the possible definition of a class of persons deemed competent to perform acts which potentially could negate the network protection built into registered PBX and key telephone equipment if improperly performed, and the possible allowance of levels of such action herein, what means shall be specified in Part 68 of the FCC's rules for connection of PBX and key telephone systems to the telephone network?

(f) Should inspection by qualified inspectors be used to assure proper installation of wiring? How is the class of "qualified" inspectors to be defined?

(g) Are telephone company employees qualified to perform inspection, and if so should telephone companies be required to conduct inspection of PBX and key telephone installations by non-affiliated suppliers or installers? Under what terms and conditions should the telephone companies be required to do so?

(h) Are the authorities who normally enforce the National Electrical Code (local inspectors or licensed electricians) qualified to perform inspection of PBX and key telephone installations? Could the Commission appropriately adopt rules which condition the right to connect registered PBX and key telephone systems to the telephone network upon satisfactory completion of such local inspection?

(i) If telephone companies are to remain as the only entities qualified to install wiring unless electrically located behind interposed protective circuitry, to what extent shall the telephone companies be required to install wiring that connects registered components of PBX and key telephone systems? On what basis will the customer be able to use such telephone company-installed wiring? Who shall be required to furnish and/or own the wiring itself?

(j) In view of the possible continuation of our tentative requirement for interposed protective circuitry, or of our possible adoption of AT&T's proposal for limited-purpose interposed protective circuitry or a variant thereof, what procedures shall be adopted to allow for the installation of "grandfathered" PBX and key telephone equipment which does not already inherently contain such interposed protective circuitry?

(k) In view of the foregoing, what specific rules should be adopted in Part 68 of the FCC's rules and regulations, 47 CFR 68.1 et seq., to deal with the issues of discretionary action regarding installation and/or configuration of PBX and key telephone systems?

42. Appendix C hereto reports the means of connection which were advanced at our informal meetings regarding means of connecting PBX and key telephone systems to the telephone network, under the assumption that a fail-safe plug/jack means would be adopted. While adoption of such means is a possible outcome of this proceeding, in view of our revisitation of installation of such systems herein, adoption of hard-wired

("punch-down") terminal blocks is also a possible result should rules be adopted which assure that the discretionary action involved in performing such connections is properly performed. Hardwired means could be used either with some form of disconnect mechanism (e.g. removeable metallic links or switches) to allow for immediate disconnection by a subscriber, consistent with the requirements of Section 68.104, or such a disconnect mechanism may prove to be unnecessary if we conclude that any such work will be performed by trained individuals.

C. Environmental Simulation Requirements for "Large" Equipment

43. In the companion Memorandum Opinion and Order which we are adopting today, we discuss various parties' contentions that the vibration, and temperature/humidity environmental simulation requirements of the present rules may become burdensome as applied to physically large equipment, such as some BPX and key telephone equipment. Physically large vibration test equipment and environmental test chambers would be required to test conformance to the present requirements of § 68.302(a)-(b). Our paramount concern, of course, remains protection of the telephone network, and we believe that the present requirements of the rules are in fact representative of environmental stress which foreseeably might occur to "large" equipment as well as to small equipment. Nevertheless, these parties assert that intallation procedures and acceptance testing which is, of necessity, associated with installation of such large equipment will weed out any units that might have failed as a consequence of stresses occasioned during shipment and installation, and that therefore the requirements of § 68.302(a)-(b) are unnecessary.

44. In an attempt, if at all possible, to avoid unnecessary burden to applicants, we are requesting comments on the following issues to resolve this matter:

(a) At what physical dimensions for "large" equipment (e.g. weight, width/depth, girth, volume, etc.) does it become excessively burdensome to require demonstration of conformance to § 68.302 (a)-(b)?

(b) In view of the packaging, shipment and installation techniques associated with such "large" equipment, will conformance to § 68.302(c) provide the requisite assurance of conformance of the equipment to the standards of Subpart D of Part 68 (other than § 68.302), over time and over subsequent production? What other requirements in addition thereto would be necessary?

(c) How, if at all, shall the Commission assure that such packaging, shipment and installation techniques as are described in response to the previous issue in fact will be employed for all installations of "large" equipment?

(d) In view of the foregoing, what specific rules or rule changes should be adopted in Part 68 of the FCC's rules and regulations, 47 CFR 68.1 et seq.?

45. Accordingly, and for the reasons heretofore stated: *It is ordered*, That interested parties may file comments on the issues delineated in paras. 41 and 44 herein prior to July 30, 1977, and may file reply comments prior to August 30, 1977.[11] In accordance with the provisions of § 1.419 of the Commission's Rules and regulations, 47 CFR 1.419, an original and 5 copies of all statements, briefs or comments shall be filed with the Federal Communications Commission, Washington, D.C. 20554, and all such comments will be available for public inspection in the Docket Reference Room at the Commission's Washington, D.C. offices.

46. *It is further ordered*, That pursuant to 47 U.S.C. 153(i), 154(j), 201-05, 215, 218, 220, 313, 403, 309(e)-(h) and 412, and 5 U.S.C. 553, notice is hereby given of proposed rule changes in Part 68 of the Commission's Rules and Regulations, 47 CFR 68.1 et seq., in accordance with the discussion and delineation of issues herein.

47. *It is further ordered*, That pursuant to 47 U.S.C. 151, 154(i), 154(j), 201-05, 215, 218, 220, 313, 403, 309(e)-(h) and 412, and 5 U.S.C. 553, Docket No. 19528 is hereby reopened, and that this proceeding is subject to further order by the Commission.

Federal Communications Commission,[12]
Vincent J. Mullins,
Secretary.

Appendix A

("Draft")

Description of Hazardous Voltage Protective Circuitry [1]

(See Figure 1 Attached for Circuit Diagram)

The *L* relay contains a pair of bifilar windings so that under normal equipment operation (ringing, busy, or hold state), the two magnetic flux fields of the *L* relay cancel each other and the relay does not operate. When any of the hazardous conditions of 68.306(d) occur, the currents through the two *L* windings are not balanced and the *L* relay operates. Consider the fault condition consisting of an ac voltage impressed on *CR* with *CT* open. During positive half cycles, current flows to ground through the *L* contact, CR_1, C_1, T_1 and T_2 windings, CR_2, and the network (R_1, R_2, and C_2). During negative half cycles, current flows from ground through the network (R_1, R_2, and C_2), CR_3, C_1, T_1, and T_2 windings, CR_4, and the *L* contact to *CR*. The four diodes referred to above serve as a full wave bridge to derive a dc voltage to operate the T_1 and T_2 windings. The capacitor C_1 serves as a storage element to hold the *T* relays operated during the zero crossings of the hazardous voltage. The

[11] The Commission recognizes that industry-wide cooperative activity, such as that presently underway in committees sponsored by the Electronic Industries Association and the Institute of Electrical and Electronics Engineers, may lead to technical contributions which can aid in resolving the issues herein, and we encourage this activity and submissions by such organizations.

[12] Commissioner Hooks concurring in the result; Commissioner Quello absent.

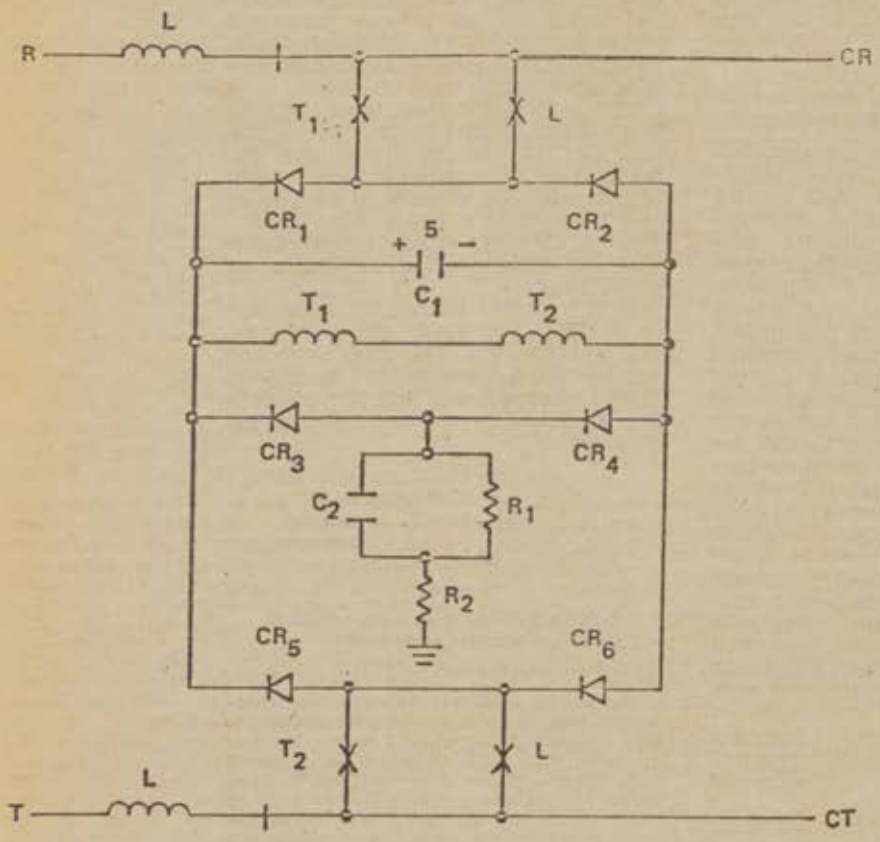
[1] Submitted by AT&T with its February 1, 1977 "Supplemental Comments In Opposition to Petitions for Reconsideration."

function of the network (R_1, R_2, and C_1) is to hold the T relays operated during the range of 17 to 60 Hz to limit the voltage impressed on the T relay windings. When the voltage on C_1 has risen sufficiently, the T relays operate. This causes the T_1 and T_2 transfer contacts to open the paths from CR and CT through the L windings and instead provide paths for CR and CT to their respective diode bridges. With current through the L relay windings terminated, the L contacts release and the path for the hazardous voltage condition considered above is through the T_2 contact.

Appendix A
Page 2

ILLUSTRATIVE DESIGN OF HAZARDOUS VOLTAGE PROTECTIVE CIRCUITRY

(PATENT PENDING)



L - Two winding relay (bifilar) with 2 make contacts

DC resistance of windings: Approximately 41 ohms in each winding

Minimum operate current: Approximately 26 milliamperes rms/winding

FIGURE 1

APPENDIX B

ENTITIES ATTENDING THE COMMISSION'S INFORMAL MEETINGS CONCERNING MEANS OF CONNECTION OF PBX AND KEY TELEPHONE SYSTEMS, MAY 13–14, 1976

Telephone Companies

American Telephone & Telegraph Co.
General Telephone & Electronics Corp. (GTE)
Mid-Continent Telephone Co.
United Telecommunications, Inc.
Rochester Telephone Co.

Equipment Manufacturers

Automatic Electric Co.
Stromberg-Carlson Co.
L. M. Ericsson Co.
Action Communications System
Bunker-Ramo Corp. (Amphenol Division)
RCA, Inc.
ITT, Terryphone
ITT Telecommunications
Central Telephone Co.
Reliable Electric Co.
Executone, Inc.
3M Company
International Business Machines (IBM)
TRW, Inc.
TIE Communications
N. E. C. Telephones
Iwatsu America, Inc.
Burndy Corp.
Rolm Corp.
Amp, Inc.
T/R
Wescom
IPC
RCAS Co.
OKI Electronics of America
Collins Radio
Communications Control Corp.
Melco Labs.
National Communications Services

Government Agencies

Federal Communications Commission
Rural Electrification Administration
Canadian Department of Communications (observer)

Trade Associations

North American Telephone Association (NATA)
Electronic Industries Association (EIA)

APPENDIX C

1. *Means of connection agreed upon.*—a. Multiple-mounted arrangements of current-6-position "modular" jacks for T/R connections (see §§ 68.500(a) and 68.500(b) of the Commission's Rules).

b. 50-position "ribbon" connectors, male and female (see §§ 68.500(e) and 68.500(f) of the Commission's rules).

2. *Discussion.*—Under option "a" above, rearrangement and individual line (or trunk) disconnection is possible because each line (or trunk) is terminated on its own plug/jack combination. Under option "b" above, rearrangement and individual line disconnection is not possible unless a pluggable patch-panel adapter is interposed between the terminal equipment and network connectors.

Such an adapter was intended to be accommodated within the confines of the proposal to adopt option "b" above, if registered either as part of the connecting cable/connector combination leading from the telephone network to the terminal equipment, or as an integrated part of the terminal equipment itself.

3. *Additional means offered, but not agreed upon.*—The North American Telephone Association, a trade association of non-telephone company equipment manufacturers and suppliers, recommended that 25-pair, "punch-down" connecting blocks, be adopted as the interface to the telephone network. In the alternative, NATA recommended:

a. A modified 25-pair "punch-down" connecting block, modified to include a security cover, removeable clips to allow single line (or trunk) disconnection, and a side-mounted "ribbon" connector to implement option "b" above. The telephone company would perform the "punch-down" wiring operations on its connecting block, but it would allow non-telephone company personnel to remove the clips if necessary. Thus, the actual interface would remain a telephone company installed "ribbon" connector as in option "b" above, but without one of its limitations.

b. A conventional, unmodified, 25-pair "punch-down" connecting block, wherever local telephone company policy permits.

c. A conventional, 25-pair "punch-down" connecting block, requiring wire jumpers for continuity between the telephone network connections and terminal equipment con-

nections, to be installed by the installer of the terminal equipment.

4. *Adapters.* A definition of an adapter which might be interpositioned between otherwise mating "ribbon" connectors, to allow additional flexibility, was offered. The limitations of this definition were:

a. compatibility with the standard connectors;

b. construction so as to minimize the probability of physical damage in its normal working environment;

c. design to preclude the possibility of intentional or accidental transportation of tip and ring within a pair, splitting of pairs, an open conductor within a pair, shorts, or crosses to other conductors or earth ground;

d. exposed working surfaces of the adapter so designed that, with any protective cover removed, and with internal jumpers either installed or removed, probing of the working surface with a conductive sphere of one inch in diameter shall not result in contact with any line conductor; and

e. design to allow multiple-ganging of adapters in such a manner as to facilitate cross-connection between adapters without running any jumpers outside the parimeter of the ganged adapters.

5. *Bell Proposal.* As revised in its July 2, 1976 Reply to Oppositions to its Petition for Reconsideration of our Second Report and Order in Docket No. 19528, AT&T proposed the following definition of "on-site wiring", which would be the wiring connecting the registered terminal equipment or protective circuitry with the telephone network for a PBX or key telephone system installation:

On-Site Wiring. Any wiring required on the terminal equipment side of the interface for the assembly, installation or rearrangement of equipment on a user's premises, including but not limited to the connection of units of a multiple unit installation and the adaptation of a unit(s) to execute factory options. All such installations or rearrangements of wiring and equipment constitute "on-site wiring" except the following:

(1) Performed by the User:

(a) The connection together of units of equipment by means of factory assembled plug and/or jack-ended cords of no more than 25 feet in length that are provided as part of the registered equipment, or

(b) The performance of routine maintenance in accordance with instructions contained in the Grantee's instruction manual.

(2) Performed by the Grantee or the trained, authorized agent of the Grantee:

(a) The connection of factory assembled connectorized or spade-tipped wiring harnesses or connectorized or spade-tipped cords of no more than 25 feet in length (or any practical length: *Provided*, That they are jacketed with at least .030 inches of polyvinyl chloride or equivalent) to other connectors or terminal fields for spade-tip leads, provided that:

(i) The wiring harness or cord is provided as part of the registered equipment,

(ii) Only signals used for network control signaling and supervision described in § 68.306(a) or voltages from nonhazardous sources described in § 68.306(b)(4) appear at any time on any of the terminals of the connecting fields or on any of the leads in the wiring harness or cord, and

(iii) The terminal field is so constructed and located as to preclude inadvertent contact of 60 Hertz commercial AC power with any of the terminals,

(b) The insertion or exchange of plug-in circuit modules that are factory assembled and provided as part of the registered equipment,

(c) The installation of "equipment-change" kits which are factory assembled and provided as part of the registered equipment, or

(d) The performance of changes in equipment after compliance with the notice requirements of § 68.214.

[FR Doc.77-17871 Filed 6-23-77;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[49 CFR Parts 258, 260]

FINANCIAL ASSISTANCE UNDER TITLE V OF THE RAILROAD REVITALIZATION AND REGULATORY REFORM ACT OF 1976

Disclosure of Information Submitted in Applications

AGENCY: Federal Railroad Administration, DOT.

ACTION: Proposed rule.

SUMMARY: This notice proposes the withholding from mandatory disclosure of certain categories of information contained in applications submitted for financial assistance under title V of the Railroad Revitalization and Regulatory Reform Act of 1976 (Pub. L. 94-210), as amended ("4-R Act"). Many applicants have requested that the same categories of information required to be submitted in the applications be held in confidence, and these categories of information appear to be the type of information which may be exempted from mandatory public disclosure, and which might cause securities laws complications if disclosed. The intended effect of this policy is to treat certain categories of information as confidential upon the filing of an application.

DATE: Comments must be received by July 14, 1977. Requests for extensions of the comment period will not be considered.

ADDRESS: Comments should be addressed to Office of Chief Counsel, Federal Railroad Administration, 400 Seventh Street SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT:

Principal attorney: Sander M. Bieber, Office of Chief Counsel, 202-426-8220. Principal program person: Stanley J. Prymas, Office of National Freight Assistance Program, 202-426-4950.

SUPPLEMENTARY INFORMATION: Title V of the 4-R Act established two financial assistance programs: the section 505 preference share program and the section 511 guarantee of obligations program. Applicants are required to submit applications for financial assistance in accordance with regulations codified in Part 258 (section 505) and Part 260 (section 511) of Title 49, Code of Federal Regulations. Several applicants have requested that certain information submitted in an application not be released by the Federal Railroad Administrator ("Administrator") upon request from a member of the public made under the Freedom of Information Act ("FOIA"). In many cases, it is the same category of information in each application that the applicants have sought confidential treatment for.

The Administrator believes that certain categories of information should be treated as confidential because the release of such information from any title V application would, in every case, cause substantial harm to the competitive position of the applicant, or be a trade secret of the applicant. Forecasted financial data submitted in an application, if released, might also create securities laws complications. The Administrator believes that such categories of information all fall under Exemption 4 of the FOIA, 5 U.S.C. 552(b)(4).

Accordingly, the Administrator proposes to withhold from mandatory disclosure under the FOIA the following categories of information required to be included in title V applications for financial assistance (listed by section of Title 49, Code of Federal Regulations):

258.9(c) and 260.9(c). Any financial statements containing periodic data not previously filed with the Interstate Commerce Commission ("Commission").

258.9(d) and 260.9(d). Any financial statements containing periodic data not previously filed with the Commission, and any financial statements for forecasted months.

258.9(e) and 260.9(e). All information submitted under these sections.

258.9(f) and 260.9(f). Any financial statements containing periodic data not previously filed with the Commission, and any financial statements for forecasted months.

258.9(g) and 260.9(g). All information submitted under these sections.

258.7(a)(10) (i), (ii), (iii), (iv), (v), (vi). Statements concerning current and projected traffic base, operating plans, system-wide plans to maintain equipment and right-of-way, rationalization plan, facilities that could be consolidated, and impact of financial assistance on financial forecasts.

Economic Impact Statement: The Federal Railroad Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, OMB Circular A-107, and DOT Order 2050.4 (1976).

Compliance with Departmental Regulatory Reform. In conformance with the Secretary's regulatory policies, 41 FR 16200 (1976), FRA Notice 1100.1 (1976), the impact of this proposed rule has been analyzed and has been determined to be so minimal that the proposal does not warrant an evaluation.

(Sec. 505 and Sec. 511, Railroad Revitalization and Regulatory Reform Act of 1976 (Pub. L. 94-210), as amended.)

Dated: June 17, 1977.

BRUCE M. FLOHR,
Deputy Administrator.

[FR Doc.77-18032 Filed 6-23-77;8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADMINISTRATOR, EMERGENCY NATURAL GAS ACT OF 1977

[Docket No. E77-123]

EL PASO NATURAL GAS CO.

Emergency Order Pursuant to Section 6 of Pub. L. 95-2

On June 17, 1977, El Paso Natural Gas Company, (El Paso) 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 make certain emergency purchases of natural gas from Diamond Shamrock Corporation (Diamond). El Paso also requests permission to have this gas transported. For the reasons set forth below, I authorize the purchase and transportation requested.

By agreement dated June 16, 1977, El Paso agreed to purchase 10,000 Mcfd of natural gas from Diamond's McKee Gasoline Plant, Moore County, Texas. Said agreement will begin as soon as practicable as an emergency purchase and will terminate on July 31, 1977.

El Paso will purchase these supplies at a price of $2.25 per MMBtu, inclusive of all state and local taxes and other adjustments. I find the price to be fair and equitable in accordance with Order No. 2.

El Paso advises that arrangements have been made for the transportation of the subject gas. Natural Gas Pipeline Company of America (Natural) will receive the subject gas at the point of interconnection between Natural's facilities and Diamond's McKee Gasoline Plant for El Paso's account. Natural will transport or by displacement deliver thermal equivalent amounts at existing points of interconnection between El Paso's and Natural's respective pipeline facilities located in Reeves and Ward Counties, Texas. Natural will charge El Paso a handling fee of one cent for each Mcf of gas redelivered, plus 0.4 percent of the thermal equivalent for gas required for compression fuel in its pipeline system. Since the parties have agreed upon a transportation charge, I find no basis for prescribing other charges.

El Paso shall submit weekly reports as required by Order No. 4.

Pursuant to Section 6(a) of the Act I hereby authorize Diamond to sell El Paso natural gas from the McKee Gasoline Plant, Moore County, Texas, on the terms and conditions set forth in El Paso's filing in this proceeding. Pursuant to Section 6(c)(1) of the Act, I hereby authorize and order Natural to transport gas for El Paso.

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 El Paso, Diamond, and Natural. 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.

[FR Doc.77-18000 Filed 6-23-77;8:45 am]

DEPARTMENT OF AGRICULTURE

[Marketing Agreement 146]

PEANUTS; 1977 CROP

Incoming and Outgoing Quality Regulations and Indemnification

Pursuant to the provisions of sections 5, 31, 32, 34, and 36 of the marketing agreement regulating the quality of domestically produced peanuts heretofore entered into between the Secretary of Agriculture and various handlers of peanuts (30 FR 9402) and upon recommendation of the Peanut Administrative Committee established pursuant to such agreement and other information it is hereby found that the appended "Incoming Quality Regulation—1977 Crop Peanuts," "Outgoing Quality Regulation—1977 Crop Peanuts" and the "Terms and Conditions of Indemnification—1977 Crop Peanuts," which modify or are in addition to the provisions of section 5, 31, 32, and 36 of said agreement will tend to effectuate the objectives of the Agricultural Marketing Agreement Act of 1937, as amended, and of such agreement and should be issued.

The Peanut Administrative Committee has recommended that the appended "Incoming Quality Regulation—1977 Crop Peanuts," "Outgoing Quality Regulation—1977 Crop Peanuts" and the "Terms and Conditions of Indemnification—1977 Crop Peanuts," be issued to implement and effectuate the provisions of the aforementioned sections of the marketing agreement. The 1977 peanut crop year begins July 1 and procedures and regulations for operations under the agreement should be established thereby affording handlers maximum time to plan their operations accordingly. The handlers of peanuts who will be affected hereby have signed the marketing agreement authorizing the issuance hereof, they are represented on the Committee which has prepared and recommended these quality regulations and terms and conditions of indemnification for approval.

Upon consideration of the Committee recommendation and other available information the appended "Incoming Quality Regulation—1977 Crop Peanuts," "Outgoing Quality Regulation—1977 Crop Peanuts," and the "Terms and Conditions of Indemnification—1977 Crop Peanuts" are hereby approved.

Dated: June 17, 1977.

CHARLES R. BRADER,
Deputy Director,
Fruit and Vegetable Division.

INCOMING QUALITY REGULATION—1977 CROP PEANUTS

The following modify section 5 of the peanut marketing agreement and modify or are in addition to the restrictions of section 31 on handler receipts or acquisitions of 1977 crop peanuts:

(a) *Modification of section 5, paragraphs (b), (c), and (d).* Paragraphs (b), (c), and (d) of section 5 of the peanut marketing agreement are modified as to 1977 crop farmers stock peanuts to read respectively as follows:

(b) *Segregation 1.* "Segregation 1 peanuts" means farmers stock peanuts with not more than 2 percent damaged kernels nor more than 1 percent concealed damage caused by rancidity, mold or decay and which are free from visible *Aspergillus flavus.*

(c) *Segregation 2.* "Segregation 2 peanuts" means farmers stock peanuts with more than 2 percent damaged kernels or more than 1 percent concealed damage caused by rancidity, mold or decay and which are free from visible *Aspergillus flavus.*

(d) *Segregation 3.* "Segregation 3 peanuts" means farmers stock peanuts with visible *Aspergillus flavus.*

(b) *Moisture.* Except as provided under paragraph (e) Seed peanuts, no handler shall receive or acquire peanuts containing more than 10 percent moisture: *Provided,* That peanuts of a higher moisture content may be received and dried to not more than 10 percent moisture prior to storing or milling. On farmers' stock, such moisture determinations shall be rounded to the nearest whole number; on shelled peanuts, the determinations shall be carried to the hundredths place and shall not be rounded to the nearest whole number.

(c) *Damage.* For the purpose of determining damage, other than concealed damage, on farmers stock peanuts, all percentage determinations shall be rounded to the nearest whole number.

(d) *Loose shelled kernels.* Handlers may separate from the loose shelled kernels received with farmers stock peanuts, those sizes of kernels which ride

screens with the following slot openings: Runner, 15/64 x 3/4 inch; Spanish and Valencia, 15/64 x 3/4 inch; Virginia, 15/64 x 1 inch. If so separated, those loose shelled kernels which do not ride such screens, shall be removed from the farmers stock peanuts and shall be held separate and apart from other peanuts and disposed of for inedible use as provided in paragraph (g) of the Outgoing Quality Regulation. If the kernels which ride the prescribed screen are not separated, the entire amount of loose shelled kernels shall be removed from farmers stock peanuts and shall be so held and so delivered or disposed of. The loose shelled kernels which ride the screens may be included with shelled peanuts prepared by the handler for inspection and sale for human consumption. For the purpose of this regulation, the term "loose shelled kernels" means peanut kernels or portions of kernels completely free of their hulls and found in deliveries of farmers stock peanuts.

(e) *Seed peanuts.* A handler may acquire and deliver for seed purposes farmers stock peanuts which meet the requirements of Segregation 1 peanuts. If the seed peanuts are produced under the auspices of a State agency which regulates or controls the production of seed peanuts, they may contain up to 3 percent damaged kernels and have visible *Aspergillus flavus*, and, in addition, the following moisture content, as applicable:

(1) For seed peanuts produced in the Southeastern and Virginia-Carolina areas, they may contain up to 11 percent moisture except Virginia type peanuts which are not stacked at harvest time may contain up to 12 percent moisture; and (2) for seed peanuts produced in the Southwestern area, they may contain up to 10 percent moisture.

However, any such seed peanuts with visible *Aspergellus flavus* shall be stored and shelled separate from other peanuts, and any residual not used for seed shall not be used or disposed of for human consumption unless it is determined to be wholesome by chemical assay for aflatoxin. A handler whose operations may include custom seed shelling, may receive, custom shell, and deliver for seed purposes farmers stock peanuts and such peanuts shall be exempt from the Incoming Quality Regulation requirements and therefore shall not be required to be inspected and certified as meeting the Incoming Quality Regulation requirements and the handler shall report to the Committee as requested the weight of each lot of farmers stock peanuts received on such basis on a form furnished by the Committee. However, handlers who acquire seed peanut residuals from their custom shelling of uninspected (farmers stock) seed peanuts, or from another sheller or producer who has or has not signed the marketing agreement shall hold and/or mill such residuals separate and apart from other receipts or acquisitions of the handler and such residuals which meet Outgoing Quality Regulation requirements may be disposed of by sale to human consumption outlets and any portion not meeting such requirements shall be disposed or by sale as peanuts failing to meet human consumption requirements pursuant to paragraph (i) of the Outgoing Quality Regulation.

(f) *Oilstock.* Handlers may acquire for disposition to domestic crushing or export, to countries other than Canada and Mexico, farmers stock peanuts of a lower quality than Segregation 1 or grades or sizes of shelled peanuts or cleaned inshell peanuts which fail to meet the requirements for human consumption. The provision of section 31 of the marketing agreement restricting acquisitions of such peanuts to handlers who are crushers is hereby modified to authorize all handlers to act as accumulators and acquire, from other handlers or non-handlers, Segregation 2 or 3 farmers stock peanuts. Handlers may also acquire from other handlers shelled or fragmented peanuts originating from Segregation 2 or 3 farmers stock, or the entire mill production of shelled or fragmented peanuts from Segregation 1 farmers stock, or lots of shelled peanuts, originating from Segregation 1 peanuts and which have been positive lot identified as specified in paragraph (d) of the Outgoing Quality Regulation, which failed to meet the requirements for human consumption pursuant to paragraph (a) of the Outgoing Quality Regulation: *Provided*, That all such acquisitions are held separate from Segregation 1 peanuts acquired for milling or from edible grades of shelled or milled peanuts. Handlers may commingle the Segregation 2 and 3 peanuts or keep them separate and apart as provided in paragraph (j) of the Outgoing Quality Regulation. Further disposition or commingling of such peanuts shall be only as provided in paragraph (1) of the Outgoing Quality Regulation. Handlers who acquire farmers stock peanuts of a lower quality than Segregation 1 or grades or sizes of shelled peanuts or cleaned inshell peanuts which fail to meet the requirements for human consumption shall report such acquisitions as prescribed by the Committee. To be eligible to receive or acquire Segregation 2 or 3 farmers stock peanuts and shelled or "fragmented" peanuts originating therefrom, a handler shall pay to the Area Association a fee for the purpose of covering cost of supervision of the disposition of such peanuts.

(g) *Segregation 3 control.* To assure the removal from edible outlets of any lot of peanuts determined by Federal or Federal-State Inspection Service to be Segregation 3, each handler shall inform each employee, country buyer, commission buyer or like person through whom he receives peanuts, of the need to receive and withhold all lots of Segregation 3 peanuts from milling for edible use. If any lot of Segregation 3 farmers stock peanuts is not withheld but returned to the producer, the handler shall cause the Inspection Service to forward immediately a copy of the inspection certificate on the lot to the designated office of the handler and a copy to the Committee which shall be used only for information purposes.

(h) *Warehouse storage facilities.* Handlers shall report to the Committee, on a form furnished by the Committee, all storage facilities or contract storage facilities which they will use to store acquisitions of 1977 crop Segregation 1 farmers stock peanuts and all such storage facilities must be reported prior to storing of any such handler acquisitions. All such storage facilities shall have reasonable and safe access to allow for inspection of the facility and its contents. All such storage facilities must be of sound construction, in good repair, built and equipped so as to provide suitable storage and sufficient safeguards to prevent moisture condensation and provide adequate protection for farmers stock peanuts. All breaks or openings in the walls, floors or roofs of the facilities shall have been repaired so as to keep out moisture. Elevator pits and well must be kept dry and free of moisture at all times. Insect control procedures must be carried out in such a manner as to prevent undesirable moisture in the storage facilities. The Committee may make periodic inspections of storage facilities and farmers stock peanuts stored in such facilities to determine if handlers are adhering to these requirements.

(i) *Shelled peanuts.* Handlers may acquire from other handlers, for remilling and subsequent disposition to human consumption outlets, shelled peanuts (which originated from "Segregation 1 peanuts") that fail to meet the requirements specified for human consumption in paragraph (a) of the Outgoing Quality Regulation. Any lot of such peanuts must be accompanied by a valid inspection certificate for grade factors, an aflatoxin assay certificate and must be positive lot identified. Transactions made in this manner shall be reported to the Committee by both the buyer and seller on a form provided by the Committee. Peanuts acquired pursuant to this paragraph shall be held and milled seperate and apart from other receipts or acquisitions of the receiving handler and further disposition shall be regulated by paragaph (h)(1) of the Outgoing Quality Regulation.

Outgoing Quality Regulation—1977 Crop Peanuts

The following modify or are in addition to the peanut marketing agreement restrictions of section 32 on handler disposition of 1977 crop peanuts:

(a) *Shelled peanuts.* No handler shall ship or otherwise dispose of shelled peanuts for human consumption unless appropriate samples for pretesting have been drawn in accordance with paragraph (c) of this regulation, or which if of a category not eligible for indemnification are not certified "negative" as to aflatoxin, or which contain more than (1) a total of 1.50 percent unshelled peanuts and damaged kernels; (2) a total of 3.00 percent unshelled peanuts and damaged kernels and minor defects; (3)

9.00 percent moisture in the Southeastern and Southwestern areas, or 10.00 percent moisture in the Virginia-Carolina area; or (4) 0.10 percent foreign material in peanuts "with splits" and peanuts of U.S. grade, other than U.S. splits, or 0.20 percent foreign material in U.S. splits and other edible quality peanuts not of U.S. grade. The lot size of such peanuts in bulk or bags shall not exceed 200,000 pounds. Fall through in such peanuts shall not exceed 4 percent except that in peanuts other than "No. Two Virginia" fall through consisting of either split and broken kernels or whole kernels shall not exceed 3 percent and fall through of whole kernels in Runners or Virginias "with splits" shall not exceed 3 percent or 2 percent on Spanish "with Splits." The term "fall through" as used herein, shall mean sound split and broken kernels and whole kernels which pass through specified screens. Screens used for determining fall through in peanuts covered by this paragraph (a) shall be as follows:

Type	Screen openings	
	Split and broken kernels	Whole kernels
Runners	17/64 in round	11/64 x 3/4 in slot.
Spanish and Valencia	15/64 in round	13/64 x 3/4 in slot.
Virginia, except No. 2 Virginia.	17/64 in round	11/64 x 1 in slot.
No. 2 Virginia	17/64 in round only for split, broken and whole kernels.	

("No. Two Virginia" means Virginia type peanuts that meet requirements of U.S. No. 2 Virginia grade peanuts except for tolerances for: (1) Damage or unshelled peanuts and minor defects; and (2) sound peanuts and portions of peanuts which pass through the prescribed screen. Such tolerances shall be the same as those listed heretofore in this paragraph. Runners, Spanish or Virginia "with splits" means shelled peanuts which do not contain more than (a) 15 percent splits, (b) for Spanish 2.00 percent whole kernels which will pass through 13/64 x 3/4 slot screen; for Runners 3.00 percent whole kernels which will pass through 13/64 x 3/4 inch slot screen; and for Virginias 3.00 percent whole kernels which will pass through a 15/64 x 1 inch slot screen, and (c) otherwise meet specification of U.S. No. 1 grade).

(b) *Cleaned inshell peanuts.* No handler shall ship or otherwise dispose of cleaned inshell peanuts for human consumption: (1) With more than 1.00 percent kernels with mold present unless a sample of such peanuts, drawn by an inspector of the Federal or Federal-State Inspection Service, was analyzed chemically by laboratories approved by the Committee or by a U.S. Department of Agriculture laboratory (hereinafter referred to as "USDA laboratory") and found to be wholesome relative to aflatoxin; (2) with more than 2.00 percent peanuts with damaged kernels; (3) with more than 10.00 percent moisture; or (4) with more than 0.50 percent foreign material. The lot size of such peanuts in bags or bulk shall not exceed 200,000 pounds.

(c) *Pretesting shelled peanuts.* Each handler shall cause appropriate samples of each lot of edible quality shelled peanuts to be drawn by an inspector of the Federal or Federal-State Inspection Service. The gross amount of peanuts drawn shall be large enough to provide for a grade analysis, for a grading check-sample, and for three 48-pound samples for aflatoxin assay. The three 48-pound samples shall be designated by the Federal or Federal-State Inspection Service as "Sample No. 1", "Sample No. 2", and "Sample No. 3" and each sample shall be placed in a suitable container and "positive lot identified" by means acceptable to the Inspection Service and the Committee. Sample No. 1 may be prepared for immediate testing or Sample No. 1, Sample No. 2, and Sample No. 3 may be returned to the handler for testing at a later date. However, before shipment of the lot to the buyer (receiver), the handler shall cause Sample No. 1 to be ground by the Federal or Federal-State Inspection Service or a USDA or designated laboratory in a "subsampling mill" approved by the Committee. The resultant ground subsample from Sample No. 1 shall be of a size specified by the Committee and be designated as "Subsample 1–AB" and at the handler's or buyer's option, a second subsample may also be extracted from Sample No. 1. It shall be designated as "Subsample 1–CD". Subsample 1–CD may be sent as requested by the handler or buyer, for aflatoxin assay, to a laboratory listed on the most recent Committee list of approved laboratories that can provide analyses results on such samples in 36 hours. Subsample 1–AB shall be analyzed only in USDA or designated laboratories. Both Subsamples 1–AB and 1–CD shall be accompanied by a notice of sampling signed by the inspector containing, at least, identifying information as to the handler (shipper), the buyer (receiver) if known, and the positive lot identification of the shelled peanuts. A copy of such notice covering each lot shall be sent to the Committee office.

The samples designated as Sample No. 2 and Sample No. 3 shall be held as aflatoxin check-samples by the Inspection Service or the handler and shall not be included in the shipment to the buyer until the analyses results from Sample No. 1 are known. Upon call from the USDA or designated laboratory or the Committee, the handler shall cause Sample No. 2 to be ground by the Inspection Service in a "subsampling mill." The resultant ground subsample from Sample No. 2 shall be of the size specified by the Committee and it shall be designated as "Subsample 2–AB." Upon call from the USDA or designated laboratory or the Committee, the handler shall cause Sample No. 3 to be ground by the Inspection Service in a "subsampling mill." The resultant ground subsample from Sample No. 3 shall be of the size specified by the Committee and it shall be designated as "Subsample 3–AB." Subsample 2–AB and Subsample 3–AB shall be analyzed only in USDA or designated laboratories and each shall be accompanied by a notice of sampling. A copy of each such notice shall be sent to the Committee office and the cost of delivery of Subsamples 2–AB and 3–AB to the laboratory and the cost of assay on them shall be at the Committee's expense.

All costs involved in sampling and testing Subsample 1–CD shall be for the account of the buyer of the lot and at his expense. The cost of assay on Subsample 1–AB and a portion of the cost (specified by the Committee) of drawing the three 48-pound samples, grinding of Sample No. 1 and preparation and delivery of Subsample 1–AB to the laboratory shall be for the account of the buyer. However, if the handler elects to pay for these costs, he shall charge the buyer the amount specified by the Committee when he invoices the peanuts and, if more than one buyer, on a pro rata basis. Any remaining costs of drawing the three 48-pound samples, grinding of Sample No. 1 and preparation and delivery of Subsample 1–AB shall be for the account of the handler and shall be shown on the grade analysis certificate covering the lot. When any of the samples have been lost, misplaced, or spoiled and replacement samples are needed, the entire cost of drawing the replacement samples shall be for the account of the handler.

The results of each assay shall be reported to the buyer listed on the notice of sampling and, if the handler desires, to the handler. If a buyer is not listed on the notice of sampling, the results of the assay shall be reported to the handler who shall promptly cause notice to be given to the buyer, of the contents thereof, and such handler shall not be required to furnish additional samples for assay.

(d) *Identification.* Each lot of shelled or cleaned inshell peanuts shipped or otherwise disposed of for human consumption shall be identified by positive lot identification procedures. For the purpose of this regulation, "positive lot identification" of a lot of shelled or inshell peanuts is a means of relating the inspection certificate to the lot covered so that there can be no doubt that the peanuts delivered are the same ones described on the inspection certificate. Such procedure on bagged peanuts shall consist of attaching a lot numbered tag bearing the official stamp of the Federal or Federal-State Inspection Service to each filled bag in the lot. The tag shall be sewed (machine sewed if shelled peanuts) into the closure of the bag except that in plastic bags the tag shall be inserted prior to sealing so that the official stamp is visible. Any peanuts moved in bulk or bulk bins shall have their lot identity maintained by sealing the conveyance and if in other containers by other means acceptable to the Federal or Federal-State Inspection Service and to the Committee. All lots of shelled or cleaned inshell peanuts shall be handled, stored, and shipped under positive lot identification procedures.

(e) *Reinspection.* Whenever the Committee has reason to believe that peanuts may have been damaged or deteriorated while in storage the Committee may reject the then effective inspection certificate and may require the owner of the peanuts to have a reinspection to establish whether or not such peanuts may be disposed of for human consumption.

(f) *Inter-plant transfer.* Any handler may transfer peanuts from one plant owned by him to another of his plants or to commercial storage, without having such peanuts positive lot identified and certified as meeting quality requirements, but such transfer shall be only to points within the same production area and ownership shall have been retained by the handler. Upon any transferred peanuts being disposed of for human consumption, they shall meet all the requirements applicable to such peanuts.

(g) *Loose shelled kernels, fall through and pickouts.* (1) Loose shelled kernels which do not ride screens with the following slot openings: Runner—$^{16}/_{64}$ x $^{3}/_{4}$ inch; Spanish and Valencia —$^{15}/_{64}$ x $^{3}/_{4}$ inch, Virginia—$^{15}/_{64}$ x 1 inch, and fall through and pickouts; shall be disposed of only by sale as domestic oil stock, by crushing or as specified in paragraph (g)(3) hereinafter. For the purpose of this regulation: the term "non-edible quality peanuts" described in this paragraph means loose shelled kernels, fall through, and pickouts; the term "loose shelled kernels" means peanuts kernels or portions of kernels completely free of their hulls, either as found in deliveries of farmers stock peanuts or those which fail to ride the screens (U.S. No. 1 screens) in removing whole kernels; the term "fall through" has the same meaning as in paragraph (a) of this regulation; and the term "pickouts" means those peanuts removed at the picking table, by electronic equipment, or otherwise during the milling process.

(2) All loose shelled kernels, fall through, and pickouts shall be kept separate and apart from other milled peanuts that are to be shipped into edible channels. Each such category of non-edible quality peanuts shall be bagged separately in suitable new or clean, sound, used bags or placed in bulk containers acceptable to the Committee, except that loose shelled kernels and fall through may be commingled in the same lot. Such peanuts shall be identified by positive lot identification procedures set forth in paragraph (d) but using a red tag, and such peanuts shall be inspected by the Federal or Federal-State Inspection Service and a certification made on each lot as to moisture and foreign material content. Such lot size, whether in bags or bulk, shall not exceed 200,000 pounds.

(3) In addition to disposition outlets specified in paragraph (g)(1), fall through that has been sampled and determined negative as to aflatoxin content may be disposed of for use as wildlife feed or bait for rodents in labeled containers approved by the Committee. Each category of non-edible quality peanuts described in paragraph (g)(1) and identified as prescribed in paragraph (g)(2) may be exported in bulk or bags to countries other than Mexico or Canada pursuant to the provisions prescribed for such disposition in paragraph (l)(1) or (l)(2) of this regulation or they may be moved to another handler for such disposition. Such peanuts may be disposed of to domestic crushing as "unrestricted" if they are certified negative as to aflatoxin content and may be commingled at the crusher with any other category of peanuts detemined by paragraph (l)(1) of this regulation to be eligible for such "unrestricted" crushing. Non-edible quality peanuts described in paragraph (g)(1) which have not been certified negative as to aflatoxin are not eligible for "unrestricted" crushing but may be disposed of to domestic crushing as "restricted" and may be commingled at the crusher with any other category of peanuts described in paragraph (l)(2). Such non-edible quality peanuts may be disposed of to domestic crushing or export without supervision by the Area Association if they are held separate and apart from peanuts on which supervision is required. However, if non-edible quality peanuts described in paragraph (g)(1) are exported or crushed in commingle with peanuts on which supervision is required, the handler shall cause the Area Association to supervise the commingling and fragmenting for disposition to export and the commingling and domestic crushing on all categories of peanuts included in such commingling. All movement and disposition of such inedible quality peanuts shall be reported by the handler as prescribed by the committee.

Meal produced from peanuts which were disposed of to crushing as "restricted" shall be used or disposed of as fertilizer or other non-feed use. To prevent use of restricted meal for feed, handlers shall either denature it or restrict its sale to licensed or registered U.S. fertilizer manufacturers or firms engaged in exporting who will export such meal for non-feed use or sell it to the aforesaid fertilizer manufacturers. However, loose shelled kernels, fall through and pickouts and meal from such peanuts, in specifically identified lots not exceeding 200,000 pounds may be sampled by Federal or Federal-State Inspection Service or by the Area Association if authorized by the Committee, and tested for aflatoxin by laboratories approved by the Committee or by a USDA laboratory, at handler's or crusher's expense, and if such meet Committee standards, the meal may be disposed of for feed use.

(4) Notwithstanding any other provisions of this regulation or of the Incoming Quality Regulation applicable to 1977 crop peanuts, a handler may transfer non-edible quality peanuts described in paragraph (g)(1) to another plant within his own organization or transfer or sell such peanuts to a crusher for crushing. Sales or transfer of restricted peanuts to domestic crushers who are not handlers under the agreement shall be made only on the condition that they agree to comply with the terms of this paragraph (g) and all other applicable requirements of this regulation, including the reporting requirements.

(h) *Peanuts failing quality requirements.* (1) Handlers may sell to other handlers, for further handling, shelled peanuts (which originated from Segregation 1 peanuts) that fail to meet the requirements for disposition to human consumption outlets heretofore specified in paragraph (a). Lots of peanuts disposed of in this manner must be accompanied by a valid grade inspection certificate, an aflatoxin assay certificate and must be positive lot identified. Transactions made in this manner shall be reported to the Committee by both the seller and buyer on a form provided by the Committee. Any such peanuts acquired by handlers pursuant to paragraph (i) of the Incoming Quality Regulation shall be held and milled separate and apart from other receipts or acquisitions of the receiving handler and further disposition shall be regulated by the requirements specified heretofore or pursuant to paragraph (h)(3) hereinafter.

(2) Handlers may blanch or cause to have blanched positive identified shelled peanuts (which originated from Segregation 1 peanuts) that fail to meet the requirements of paragraph (a) of this regulation because of excessive damage, minor defects, moisture, or foreign material or are positive as to aflatoxin. Handlers who move such peanuts to a blancher shall report, to the Committee on a form furnished by the Committee, movement of each such lot and the title shall be retained by the handler until the peanuts are blanched and certified by an inspector of the Federal or Federal-State Inspection Service as meeting the requirements for disposal into human consumption outlets. To be eligible for disposal into human consumption outlets, such peanuts after blanching, must meet specifications for unshelled peanuts, damaged kernels, minor defects, moisture, and foreign material as listed in paragraph (a) of this regulation and be accompanied by an aflatoxin certificate determined to be negative by the Committee. Blanching under the provisions of this paragraph shall be performed only by those firms who agree to procedures acceptable to the Committee and who are approved by the Committee to do such blanching.

(3) Handlers may dispose of positive identified shelled peanuts (which originated from "Segregation 1 peanuts") which fail to meet the requirements of paragraph (a) of the Outgoing Quality Regulation: (a) to domestic crushing, (b) to export to countries other than Canada and Mexico, provided they meet fragmented requirements, (c) to crushers who are not handlers but are approved by the Committee, or (d) to other handlers for crushing or fragmenting exportation. Each lot of such peanuts shall have been positive lot identified as

prescribed in paragraph (d). Handlers may dispose of such peanuts as "unrestricted": *Provided*, That each lot has been sampled and assayed for aflatoxin as specified in paragraph (c) and determined to be negative as to aflatoxin by the Committee. Handlers who have acquired any such unrestricted peanuts from another handler or from their own operations may commingle such peanuts with those from their own operations at the crusher, or during the fragmenting operation or after fragmenting for further disposition as "unrestricted" pursuant to the provisions of paragraph (l)(1) of this regulation. Lots of peanuts covered by the provisions of this paragraph (h)(3), which have not been assayed for aflatoxin content or which have been assayed and determined to be unwholesome as to aflatoxin by the Committee, are not eligible for disposition as "unrestricted." Therefore, the disposition of such peanuts to export or domestic crushing shall be as "restricted." However, handlers who have acquired such restricted peanuts from another handler may commingle such peanuts with those from his own operations at the crusher, or during the fragmenting operation, or after fragmenting for further disposition as restricted pursuant to the provisions of paragraph (l)(2). Peanuts regulated by this paragraph (h)(3) may be disposed of to domestic crushing or export without supervision by the Area Association if they are held separate and apart from peanuts on which supervision is required. However, if any such peanuts are commingled with peanuts on which supervision is required, the handler shall cause the Area Association to supervise the commingling and fragmenting for disposition to export and the commingling and domestic crushing on all categories of peanuts included in such commingling. All movement and disposition of peanuts covered by the provisions of this paragraph shall be reported by the handler as prescribed by the Committee.

(i) *Residuals from seed peanuts.* Handlers who receive and custom shell for seed purposes farmers stock peanuts (which have not been inspected and certified as meeting the Incoming Quality Regulation) shall hold and mill peanuts acquired as residuals from such operations separate and apart from peanuts acquired as Segregation 1 farmers stock. Likewise, any such residuals received or acquired from a handler or nonhandler, shall be held and milled separate and apart in the same manner. Residuals that meet requirements of the Outgoing Quality Regulation may be disposed of by sale to human consumption outlets or to another handler and any portion in positive identified lots not meeting such requirements: (1) May be handled and disposed of pursuant to the provisions of paragraph (h) of this regulation, or; (2) shall be disposed of to domestic crushing or export pursuant to the provisions of paragraph (g).

(j) *Segregation 2 and 3 farmers stock disposition.* (1) Handlers who have acquired Segregation 2 and 3 farmers stock peanuts pursuant to paragraph (f) of the Incoming Quality Regulation may commingle such peanuts or keep them separate and apart. The Segregation 3 farmers stock peanuts or commingled Segregation 2 and 3 farmers stock peanuts may be moved or disposed of in bags or bulk: (a) to other handlers for shelling, fragmenting, or crushing, or (b) to crushers who are not handlers but are approved by the Committee. Handlers may shell such peanuts and move or dispose of the shelled peanuts in bulk or bags: (a) To other handlers for fragmenting or crushing, or (b) to crushers who are not handlers but are approved by the Committee and further disposition shall be as provided hereinafter in paragraph (l)(2) for "restricted" export to countries other than Canada and Mexico, or for "restricted" domestic crushing. Prior to exportation, the shelled peanuts shall be certified by a Federal or Federal-State Inspection Service as meeting the requirements specified for "fragmented" peanuts in paragraph (l)(1) and shall be assayed for aflatoxin by a USDA laboratory or a laboratory approved by the Committee. The aflotoxin results shall be shown on the handler's "in-land" bill of lading and the invoice covering the shipment. Shelling, fragmenting, and crushing of Segregation 3 peanuts or commingled Segregation 2 and 3 peanuts shall be done only under the supervision of the Area Associations and any such peanuts may be commingled with other categories of shelled peanuts for disposition to export or domestic crushing. However, if such further commingling occurs, the handler shall cause the Area Association to supervise the further commingling and fragmenting for disposition to export or the further commingling and domestic crushing. All movement and disposition of Segregation 3 peanuts or commingled Segregation 2 and 3 peanuts and shelled or fragmented peanuts originating therefrom shall be reported by the handler as prescribed by the Committee.

(2) Handlers who have acquired Segregation 2 farmers stock peanuts pursuant to paragraph (f) of the Incoming Quality Regulation and held them separate and apart from Segregation 3 peanuts may commingle the Segregation 2 farmers stock with Segregation 1 farmers stock for disposition to domestic crushing or export as inedibles. The Segregation 2 farmers stock peanuts or commingled Segregation 1 and 2 farmers stock peanuts may be moved or disposed of in bulk or bags: (a) To other handlers for shelling, fragmenting, or crushing, or (b) to crushers who are not handlers but are approved by the Committee. Handlers may shell the Segregation 2 or commingled Segregation 1 and 2 peanuts and move or dispose of the shelled peanuts: (a) To another handler for fragmenting or crushing; or (b) to crushers who are not handlers but are approved by the Committee and further disposition shall be as provided in paragraph (l)(1) of this regulation. Prior to exportation the shelled peanuts shall be certified by a Federal or Federal-State Inspection Service as meeting the requirements specified for fragmented peanuts also in paragraph (l)(1). If the shelled peanuts from Segregation 2 peanuts or comminged Segregation 1 and 2 peanuts are held separate and apart from Segregation 3 peanuts and any restricted categories of shelled peanuts, no aflatoxin assay shall be required. Shelling, fragmenting, and crushing of Segregation 2 peanuts or commingled Segregation 1 and 2 peanuts shall be done only under the supervision of the Area Association. The shelled peanuts from Segregation 2 peanuts or commingled Segregation 1 and 2 peanuts may be further commingled with other categories of shelled peanuts for disposition to export or domestic crushing. However, if such further commingling occurs, the handler shall cause the Area Association to supervise the further commingling and fragmenting. All movement and disposition of Segregation 2 peanuts or commingled Segregation 1 and 2 peanuts and shelled or fragmented peanuts originating therefrom shall be reported by the handler as prescribed by the Committee.

(k) *Segregation 1 farmers stock disposition.* (1) In addition to milling (shelling, cleaning, etc.) Segregation 1 farmers stock peanuts for disposition to human consumption or seed outlets, handlers may dispose of Segregation 1 farmers stock peanuts to export or to other handlers for such disposition. All such dispositions to export shall be reported by the handler as requested by the Committee.

(2) In addition to the disposition outlets specified in paragraph (k)(1), handlers may dispose of Segregation 1 farmers stock peanuts in bags or bulk to other handlers for shelling, fragmenting, or crushing. Such peanuts may also be disposed of to crushers who are not handlers but are approved by the Committee. Handlers may commingle Segregation 1 farmers stock peanuts with Segregation 2 farmers stock peanuts or keep them separate and apart, and may shell such peanuts and move or dispose of the shelled peanuts in bulk or bags to other handlers for fragmenting or crushing. Such peanuts may also be disposed of to crushers who are not handlers but are approved by the Committee. However, the shelling, fragmenting and disposition of such Segregation 1 farmers stock peanuts shall be done only under the supervision of the Committee and the Area Association and all peanuts handled under the provisions of this paragraph (k)(2), for disposition to export or domestic crushing, shall be milled and disposed of pursuant to paragraph (j)(2) in lieu of the provisions specified in paragraphs (a), (b), (c), (d), (g), (h), and (i) of this regulation. The movement and disposition of all peanuts handled under the provisions of this paragraph (k)(2), shall be reported by the handler as prescribed by the Committee.

(l) *Handling, commingling, and disposition of shelled peanuts not meeting*

quality requirements for human consumption. (1) The following categories of shelled peanuts may be disposed of to domestic crushing or to export as "unrestricted":

(a) The entire mill production of shelled peanuts from Segregation 1 farmers stock; pursuant to paragraph (k)(2).

(b) The entire mill production of shelled peanuts from Segregation 2; or commingled Segregation 1 and 2 farmers stock pursuant to paragraph (j)(2).

(c) Positive Lot Identified lots of shelled "peanuts failing quality requirements" determined negative as to aflatoxin pursuant to paragraph (h)(3).

(d) Positive Lot Identified lots of loose shelled kernels, fall through, or pickouts determined negative as to aflatoxin pursuant to paragraphs (g) (1), (2), and (3).

(e) Positive Lot Identified lots of loose shelled kernels and fall through, commingled and determined negative as to aflatoxin pursuant to paragraphs (g) (2) and (3).

(f) Positive Lot Identified lots of seed peanut residuals determined negative as to aflatoxin pursuant to paragraph (i). Handlers who acquire from other handlers or from their own operations any of the categories of shelled peanuts described heretofore in this paragraph may commingle such peanuts whole fragmenting them or after they have been fragmented: (1) With any other category of peanuts described in this paragraph, and (2) with any category of "unrestricted" shelled peanuts acquired from CCC and determined by CCC to be eligible for such commingling for disposition to export to countries other than Canada and Mexico. However, such peanuts, prior to exportation, shall be certified as meeting fragmented requirements. For the purpose of this regulation, the term "fragmented" means that not more than 20 percent of the peanuts shall be whole kernels that ride the following screens, by type: Spanish $^{15}/_{64}$ x $^{3}/_{4}$ inch slot; Runner $^{16}/_{64}$ x $^{3}/_{4}$ inch slot; and Virginia $^{15}/_{64}$ x 1 inch slot. Handlers who acquire from other handlers or from their own operations any of the categories of shelled peanuts described heretofore in this paragraph may commingle such peanuts at the crusher: (1) With any other category of peanuts described in this paragraph, and (2) with any category of unrestricted shelled peanuts acquired from CCC and determined by CCC to be eligible for such commingling and the resultant meal may be disposed of without restriction. To be eligible for such unrestricted dispositions (crushing or export), such peanuts, before commingling and after commingling, shall be kept separate and apart from all "restricted" peanuts. Shelling, fragmenting, and crushing of Segregation 2 peanuts or commingled Segregation 1 and 2 peanuts shall be done only under the supervision of the Area Association and if any shelled peanuts originating therefrom are commingled with any of the other categories of shelled peanuts described heretofore in this paragraph, the handler shall cause the Area Association to supervise the commingling and fragmenting and the commingling and crushing on all categories of peanuts included in such commingling. All movement and disposition of the categories of peanuts described heretofore in this paragraph shall be reported by the handler as prescribed by the Committee.

(2) The following categories of shelled peanuts may be disposed of to domestic crushing or to export as "restricted":

(a) The entire mill production of shelled peanuts from Segregation 1 farmers stock pursuant to paragraph (k)(2) of the Outgoing Quality Regulation.

(b) The entire mill production of shelled peanuts from Segregation 2 or commingled Segregation 1 and 2 farmers stock pursuant to paragraph (j)(2).

(c) The entire mill production of shelled peanuts from Segregation 3 or commingled Segregation 2 and 3 farmers stock pursuant to paragraph (j)(1).

(d) Positive Lot Identified lots of shelled "peanuts failing quality requirements" pursuant to paragraph h(3).

(e) Positive Lot Identified lots of loose shelled kernels, fall through, or pickouts pursuant to paragraphs (g) (1), (2), and (3).

(f) Positive Lot Identified lots of loose shelled kernels and fall through commingled pursuant to paragraphs (g) (2) and (3).

(g) Positive Lot Identified lots of seed peanut residuals pursuant to paragraph (i).

(h) PAC indemnified peanuts.

Handlers who acquire, from other handlers or from their own operations, any of the categories of shelled peanuts described heretofore in this paragraph (1)(2) may commingle such peanuts while fragmenting them or after they have been fragmented with any other category of peanuts described in this paragraph and with any category of shelled peanuts acquired from CCC and determined by CCC to be eligible for such commingling with disposition to export to countries other than Canada and Mexico as "restricted". Prior to such exportation, the peanuts shall be certified as meeting the fragmented requirements and shall be assayed for aflatoxin by a USDA laboratory or a laboratory approved by the Committee. The aflatoxin results shall be shown on the handler's "in-land" bill of lading and on his invoice covering the shipment. Handlers who acquire, from other handlers or from their own operations, any of the categories of shelled peanuts described heretofore in this paragraph may commingle such peanuts at the crusher with any other category of peanuts described in this paragraph (1)(2) and with any category of shelled peanuts acquired from CCC and determined by CCC to be eligible for such commingling for "restricted" domestic crushing. Meal produced from peanuts disposed of to crushing as "restricted" shall be used or disposed of as fertilized or other nonfeed use, pursuant to the provisions of paragraph (g)(3). Shelling, fragmenting, and crushing of Segregation 2 peanuts, Sereation 3 peanuts and the entire mill production of Segregation 1 peanuts handled pursuant to paragraph (k), and PAC indemnified peanuts shall be done only under supervision of the Area Association and if any of such categories of peanuts are commingled with any of the other categories of shelled peanuts described heretofore in this paragraph, the handler shall cause the Area Association to supervise the commingling and fragmenting on all categories of peanuts included in such commingling. All movement and disposition of the categories of peanuts described heretofore in this paragraph shall be reported by the handler as prescribed by the Committee.

TERMS AND CONDITIONS OF INDEMNIFICATION—1977 CROP PEANUTS

For the purpose of paying indemnities on a uniform basis pursuant to section 36 of the peanut marketing agreement effective July 12, 1965, each handler shall promptly notify or arrange for the buyer to notify the Manager, Peanut Administrative Committee, of any lot of cleaned inshell or shelled peanuts, milled to the outgoing quality requirements and into one of the categories listed in the final paragraph of these terms and conditions, on which the handler has withheld shipment or storage or the buyer, including the user division of an handler, has withheld usage due to a finding as to aflatoxin content as shown by the results of chemical assay. To be eligible for indemnification, such a lot of peanuts shall have been inspected and certified as meeting the quality requirements of the agreement, shall have met all other applicable regulations issued pursuant thereto, including the pretesting requirements in (a) and (c) of the "Outgoing Quality Regulation—1977 Crop Peanuts", and the lot identification shall have been maintained. If the Committee concludes, based on assays to date or further assays, that the lot is so high in aflatoxin that it should be handled pursuant to these Terms and Conditions and such is concurred in by the Agricultural Marketing Service, the lot shall be accepted for indemnification. If the lot is covered by a sales contract, the lot may be rejected to the handler.

In an effort to make such eligible peanuts suitable for human consumption, and to minimize indemnification costs, the Committee and the Agricultural Marketing Service shall, prior to disposition for crushing cause all suitable lots to be remilled or custom blanched or both.

"Custom blanching" means the process which involves blanching peanuts, and the subsequent removal of damaged peanuts for the purpose of eliminating aflatoxin from the lot. The process may be applied to either an original lot or the new lot which results from remilling. Custom blanching shall be performed only by those firms determined by the Committee to have the capability to remove the aflatoxin and who agree to

such terms, conditions and rates of payment as the Committee may find to be acceptable.

If the Committee and the Agricultural Marketing Service concludes that such lot is not suitable for remilling or custom blanching, the lot shall be declared to crushing and shall be disposed of by delivery to the Committee at such point as it may designate. The indemnification payment for peanuts in such a lot shall be the indemnification value of the peanuts, as hereinafter provided, plus actual costs of any necessary storage. Transportation expenses (excluding demurrage) from the handler's plant or storage to the point within the Continental United States or Canada where the rejection occurred and from such point to a delivery point specified by the Committee shall be included in the indemnification payment if the lot is found by the Committee to be unwholesome as to aflatoxin after such lot has been certified negative as to aflatoxin prior to being shipped or otherwise disposed of for human consumption by the handler pursuant to requirements of the "Outgoing Quality Regulation—1977 Crop Peanuts". Payment shall be made to the handler as soon as practicable after delivery of the peanuts to the Committee. The salvage value for peanuts declared for crushing shall be paid to, and retained by, the Committee to offset indemnification expenses.

If it is concluded that the lot should be remilled or custom blanched, expenses shall be paid by the Committee on those lots which, on the basis of the inspection ocurring prior to shipment, contained not more than 1 percent damaged kernels other than minor defects. Lots with damage in excess of 1 percent on such inspection shall be remilled without reimbursement from the Committee for milling, freight, or temporary storage and handling but otherwise shall be indemnifiable the same as lots with not more than 1 percent damage.

The indemnification value of peanuts delivered to the Committee for indemnification shall be as listed in the final paragraph of these terms and conditions.

The indemnification payment on peanuts declared for remilling, and which contain not more than 1 percent damaged kernels other than minor defects, shall be the indemnification value referable to the weights of peanuts lost in the remilling process and not cleared for human consumption, plus temporary storage, except as hereinafter restricted, plus an allowance for remilling of one cent per pound on the original weight, less 1½ percent of the indemnification value multiplied by the original weight. However, the 1½ percent deduction shall not apply to peanuts whose appropriate samples for pretesting, drawn and assayed in accordance with paragraph (c) of the "Outgoing Quality Regulation—1977 Crop Peanuts", were determined to be not indemnifiable as to aflatoxin. Transportation expenses (excluding demurrage) from the handler's plant or storage to the point within the Continental United States or Canada where the rejection occurred and from such point to a delivery point specified by the Committee shall be included in the indemnification payment if the lot is found by the Committee to be unwholesome as to aflatoxin after such lot had been certified negative as to aflatoxin prior to being shipped or otherwise disposed of for human consumption by the handler pursuant to requirement of the "Outgoing Quality Regulation—1977 Crop Peanuts". On lots on which the remilling is not successful in making the lot wholesome as to aflatoxin and such lots of peanuts are declared for custom blanching after remilling, the indemnification payment shall be the blanching cost, plus any temporary storage, the transportation costs from origin (whether handler or buyer premises) to point of blanching and on unsold lots from point of blanching to handler's premises and the indemnification value of the weight of reject peanuts removed from the lot. On lots which are custom blanched without remilling, the indemnification payment shall be determined in the same manner but it shall be reduced by 1½ percent of the indemnification value multiplied by the original weight. However, the 1½ percent deduction shall not apply to peanuts whose appropriate samples for pretesting, drawn and assayed in accordance with paragraph (c) of the "Outgoing Quality Regulation—1977 Crop Peanuts", were determined to be not indemnifiable as to aflatoxin. Moreover, no indemnication payments shall be paid on any lot of peanuts where the Committee determines that the custom blanched peanuts from such a lot which has been sold at a price lower than the indemnification value on the original red skin lot at the time the indemnification claim was field wtih the Committee.

Claims for indemnification on 1977 crop peanuts may be filed by any handler sustaining a loss as result of a buyer withholding from human consumption a portion or all the product made from a lot of peanuts which has been determined to be unwholesome due to aflatoxin. The Committee shall pay, to the extent of the raw peanut equivalent value of the peanuts used in the product so withheld, such claims as it determines to be valid.

Payment shall be made to the handler claiming indemnification or receiving the rejected lot as soon as practicable after receipt by the Committee of such evidence of remilling or custom blanching and clearance of the lot for human consumption as the Committee may require and the delivery of the peanuts not cleared for human consumption to the delivery point designated by the Committee. If a suitable reduction in the aflatoxin content is not achieved on any lot which is remilled or custom blanched or both, the Committee shall declare the entire lot for indemnification. However, the Committee shall refuse to pay indemnification on any lot(s) where it has reason to believe that the rejection of the peanuts arises from failure of the handler to use reasonable measures to receive and withhold from milling for edible use those Segregation 3 peanuts tendered to him either directly by a producer or by a country buyer, commission buyer or other like person. Furthermore, any misrepresentation by a handler in reporting acquisition, composition or disposition of any lot or lots of peanuts by such handler shall cause indemnification payments with respect to any such claim filed with the Committee by the handler on 1977 crop peanuts to be withheld unless the Committee finds that such action was inadvertent.

Remilling may occur on the premises of any handler signatory to the marketing agreement or at such other plant as the Committee may determine. However, if the Committee orders remilling of a lot which has been found to contain aflatoxin prior to shipment from the locality of original milling, the Committee shall not pay freight costs should the handler move said lot to another locality for remilling.

Notice of claims for indemnification on peanuts of the 1977 crop shall be filed with the Committee no later than November 1, 1978.

Each handler shall include, directly or by reference, in his sales contract the following provisions:

Should buyer find peanuts subject to indemnification under this contract to be so high in aflatoxin as to provide possible cause for rejection, he shall promptly notify the seller and the Manager, Peanut Administrative Committee, Atlanta, Georgia. Upon a determination of the Peanut Administrative Committee, confirmed by the Agricultural Marketing Service, authorizing rejection, such peanuts, and title thereto, if passed to the buyer, shall be returned to the seller. Seller shall not be precluded from replacing such peanuts if he so elects.

Seller shall, prior to shipment of a lot of shelled peanuts covered by this sales contract, cause appropriate samples to be drawn by the Federal or Federal-State Inspection Service from such lot, shall cause the sample(s) to be sent to a USDA laboratory or if designated by the buyer, a laboratory listed on the most recent Committee list of approved laboratories to conduct such assay, for an aflatoxin assay and cause the laboratory, if other than the buyer's, to send one copy of the results of the assay to the buyer. The laboratory costs shall be for the account of the buyer and buyer agrees to pay them when invoiced by the laboratory or, in the event the seller has paid them, by the seller.

Any handler who fails to include such provisions in his sales contract shall be ineligible for indemnification payments with respect to any claim filed with the Committee on 1977 crop peanuts covered by the sales contract.

In addition, should any handler enter into any oral or written sales contract which fixes the level of aflatoxin at which rejection may be made and hence conflicts with these terms and conditions, the handler doing so will not be eligible for indemnification payments with respect to any claim filed with the Committee on 1977 crop peanuts on or after the filing date of a claim under such contract, except upon the Committee's finding that acceptance of such contract was inadvertent; and for purposes of this provi-

sion a claim shall be deemed to be filed when notice of possible rejection is first given to the Committee.

Any handler who fails to conform to the requirements of paragraph (h) of the "Incoming Quality Regulation—1977 Crop Peanuts" shall be ineligible for any indemnification payments until such condition or conditions are corrected to the satisfaction of the Committee.

Categories eligible for indemnification are as follows:

CLEANED INSHELL PEANUTS

(1) U.S. Jumbos
(2) U.S. Fancy Handpicks
(3) Valencia—Roasting Stock [1]

U.S. GRADE SHELLED PEANUTS

(1) U.S. No. 1
(2) U.S. Splits
(3) U.S. Virginia Extra-Large
(4) U.S. Virginia Medium

SHELLED PEANUTS "WITH SPLITS"

(1) Runners with splits which do not contain more than 15 percent splits or 3 percent whole kernels which will pass through 16/64 x ¾ slot screen.

(2) Spanish with splits which do not contain more than 15 percent splits or 2 percent whole kernels which will pass through a 15/64 x ¾ slot screen.

(3) Virginias with splits which do not contain more than 15 percent splits or 3 percent whole kernels which will pass through a 15/64 x 1 slot screen.

However, peanuts in any of the above categories shall not be eligible for indemnification if such peanuts: (1) Were milled from seed peanut residuals as referred to in the last sentence of paragraph (e) of the Incoming Quality Regulation and paragraph (i) of the Outgoing Quality Regulation for 1977 Crop Peanuts; (2) failed the Outgoing Quality Regulation for 1977 Crop Peanuts due to excessive damage and minor defects and such peanuts were subsequently blanched to remove such excess damage and minor defects pursuant to paragraph (h) of such regulation; (3) when shipped for human consumption outlets contained more than a total of 1.25 percent unshelled peanuts and damaged kernels or a total of 2 percent unshelled peanuts, damaged kernels and minor defects; (4) were received or acquired from another handler pursuant to paragraph (i) of the Incoming Quality Regulation and were milled to meet requirements of the Outgoing Quality Regulation pursuant to paragraph (h) of such regulation.

The indemnification value for all categories of peanuts eligible for indemnification, except U.S. Virginia Extra Large and all types of peanuts grading U.S. Splits as noted hereinafter, shall be a base price equal to the indemnification value, by type, on 1976 crop peanuts, plus an increase of 7½ points for each $1 increase in the final support price, by type, of the 1977 price support on farmers stock peanuts over the 1976 national average support price by type. The indemnification value for U.S. Virginia Extra Large shall be two cents per pound more than the indemnification value for other indemnifiable categories of 1977 Crop Virginia type peanuts. The indemnification value for U.S. Splits of all types shall be three cents per pound less than the indemnification value for other indemnifiable categories of 1977 Crop peanuts by type. All indemnification values shall be rounded to the nearest tenth of a cent per pound.

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[1] Inshell peanuts with not more than 25 percent having shells damaged by discoloration, which are cracked or broken, or both.

Farmers Home Administration

[Designation No. A482]

CONNECTICUT

Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in the following Connecticut Counties as a result of excessive rainfall May 6 and May 10, 1977, and a snowstorm May 9, 1977:

Hartford Tolland

Therefore, the Secretary has designated this area as eligible for emergency loans pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended by Pub. L. 94-68, and the provisions of 7 CFR 1832.3(b) including the recommendation of Governor Ella T. Grasso that such designation be made.

Applications for emergency loans must be received by this Department no later than August 1, 1977, for physical losses and March 1, 1978, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated area makes it impracticable and contrary to the public interest to give advance notice of proposed rulemaking and invite public participation.

Done at Washington, D.C., this 17th day of June 1977.

GORDON CAVANAUGH,
Administrator,
Farmers Home Administration.

[FR Doc.77-18030 Filed 6-23-77;8:45 am]

[Designation No. A485]

NEW MEXICO

Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in Union County, New Mexico, as a result of a snowstorm and high winds March 10 and 11, 1977.

Therefore, the Secretary has designated this area as eligible for emergency loans pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended by Pub. L. 94-68, and the provisions of 7 CFR 1832.3(b) including the recommendation of Governor Jerry Apodaca that such designation be made.

Applications for emergency loans must be received by this Department no later than August 8, 1977, for physical losses and March 9, 1978, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated area makes it impracticable and contrary to the public interest to give advance notice of proposed rulemaking and invite public participation.

Done at Washington, D.C. this 17th day of June 1977.

GORDON CAVANAUGH,
Administrator,
Farmers Home Administration.

[FR Doc.77-18031 Filed 6-23-77;8:45 am]

[Notice of Designation Number A487]

NEW YORK

Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in the following New York Counties as a result of excessive rainfall followed by cold weather and more rain April 1, 1976, through April 1, 1977, in Livingston County; and above normal temperature and rain which caused snowmelt and flooding March 13 and 14, 1977, in Rensselaer County. There was adverse weather August 19, 1976, through April 1, 1977, in Suffolk County. Suffolk County was affected by Hurricane Belle which caused a coating of salt spray on Long Island. This caused most vegetation to be burned. Following Hurricane Belle Suffolk County suffered a most severe winter and the abnormal cold was accompanied by high winds.

Therefore, the Secretary has designated this area as eligible for emergency loans pursuant to the provisions of the Consoliadted Farm and Rural Development Act, as amended by Pub. L. 94-68, and the provisions of 7 CFR 1832.3(b) including the recommendation of Governor Hugh L. Carey that such designation be made.

Applications for emergency loans must be received by this Department no later than August 11, 1977, for physical losses and March 10, 1978, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated area makes it impracticable and contrary to the public interest to give advance notice of proposed rulemaking and invite public participation.

Done at Washington, D.C., this 17th day of June 1977.

GORDON CAVANAUGH,
Administrator,
Farmers Home Administration.

[FR Doc.77-18033 Filed 6-23-77;8:45 am]

[Notice of Designation Number A486]

TEXAS

Designation of Emergency Areas

The Secretary of Agriculture has determined that farming, ranching, or aquaculture operations have been substantially affected in the following Texas Counties as a result of excessive rainfall during the growing season April 1 through June 30, 1976, and again during the harvest season, September 15 through December 20, 1976, combined with extremely cold weather in Bastrop County and high winds February 2, 22, and 24, March 2, 10, 11, 17, 24, and 28, and April 1, 1977, in Deaf Smith and Oldham Counties.

Therefore, the Secretary has designated this area as eligible for emergency loans pursuant to the provisions of the Consolidated Farm and Rural Development Act, as amended by Pub. L. 94-68, and the provisions of 7 CFR 1832.3 (b) including the recommendation of Governor Dolph Briscoe that such designation be made.

Applications for emergency loans must be received by this Department no later than August 8, 1977, for physical losses and March 9, 1978, for production losses, except that qualified borrowers who receive initial loans pursuant to this designation may be eligible for subsequent loans. The urgency of the need for loans in the designated area makes it impracticable and contrary to the public interest to give advance notice of proposed rulemaking and invite public participation.

Done at Washington, D.C., this 17th day of June 1977.

GORDON CAVANAUGH,
Administrator,
Farmers Home Administration.

[FR Doc.77-18034 Filed 6-23-77;8:45 am]

Forest Service

SKAGIT RIVER STUDY

Availability of Final Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a final environmental statement for the Skagit River Study, USDA-FS-FES(Leg)-75-06.

The environmental statement concerns a proposed amendment to the Wild and Scenic Rivers Act (Pub. L. 90-542) to add 157.5 miles of rivers in the Skagit River basin, Skagit and Snohomish County, Washington, to the National Wild and Scenic Rivers System as Recreational and Scenic Rivers.

This final environmental statement was transmitted to CEQ on June 17, 1977.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, South Agriculture Bldg., Room 3210, 12th St. and Independence Ave. SW., Washington, D.C. 20013.
USDA, Forest Service, Mt. Baker-Snoqualmie National Forest, 1601 Second Avenue Bldg., Seattle, Washington 98101.
USDA, Forest Service, Pacific Northwest Region, 319 SW. Pine St., Portland, Oregon 97204.

A limited number of single copies are available upon request to Forest Supervisor Don R. Campbell, Mt. Baker-Snoqualmie National Forest, 1601 Second Avenue Bldg., Seattle, Washington 98101.

Copies of the environmental statement have been sent to various Federal, state, and local agencies as outlined in the CEQ guidelines.

EINAR L. ROCET,
Acting Deputy Chief,
Forest Service.

JUNE 17, 1977.

[FR Doc.77-18035 Filed 6-23-77;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket 28115]

MIDWEST-ATLANTA COMPETITIVE SERVICE CASE

Oral Argument

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that oral argument in this proceeding is assigned to be held before the Board on July 20, 1977, at 10:00 a.m. (local time), in Room 1027, Universal Building, 1825 Connecticut Avenue, NW., Washington, D.C.

Dated at Washington, D.C., June 20, 1977.

HENRY M. SWITKAY,
Acting Chief
Administrative Law Judge.

[FR Doc.77-18098 Filed 6-23-77;8:45 am]

[Docket 20001]

TWA-SOUTHERN ROUTE EXCHANGE CASE

Notice of Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding is assigned to be held on July 19, 1977, at 10:00 a.m. (local time), in the Hyatt Regency Hotel, 623 Union Street, Nashville, Tennessee.

For details of the issues involved in this proceeding, interested persons are referred to the Prehearing Conference Report, served March 11, 1977, and other documents which are in the docket of this proceeding on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., June 20, 1977.

STEPHEN J. GROSS,
Administrative Law Judge.

[FR Doc.77-18099 Filed 6-23-77;8:45 am]

COMMISSION ON CIVIL RIGHTS

HEARING ON AGE DISCRIMINATION

Denver, Colorado

Notice is hereby given pursuant to the provisions of the Civil Rights Act of 1957, as amended, 42 U.S.C. 1975 et seq. (1976), that the U.S. Commission on Civil Rights will hold a public hearing in Denver, Colorado dealing specifically with the provisions of the Age Discrimination Act of 1975, enacted as part of the Older Americans Amendments of 1975, 42 U.S.C. 6101 et seq. (1976). The hearing will be held on July 28 and 29, 1977 at the Federal Building Courthouse, Room 2330, 1961 Stout Street, Denver, Colorado. The hearing will begin each day at 8:30 a.m. An Executive Session, if appropriate, will be convened on June 28 at the same location as the hearing.

The purpose of the hearing is to elicit the views of interested parties, including Federal departments and agencies, on issues relating to age discrimination in programs and activities receiving Federal financial assistance and particularly with respect to the reasonableness of distinguishing on the basis of age among potential participants in, or beneficiaries of, specific federally assisted programs.

The hearing will give particular attention to the following federally assisted programs and activities: Comprehensive Employment and Training Act Public Service Employment Programs; Community Mental Health Centers; Community Health Centers; Vocational Rehabilitation; Legal Services; Title XX of the Social Security Act; Food Stamps; Medicaid; and selected areas in the field of Education.

Dated at Washington, D.C., June 15, 1977.

ARTHUR S. FLEMMING,
Chairman.

[FR Doc.77-18029 Filed 6-23-77;8:45 am]

CIVIL SERVICE COMMISSION

ACTION

Notice of Grant of Authority To Make a Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes ACTION to fill by noncareer executive assignment in the excepted service the position of Executive Officer, Office of the Director.

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

[FR Doc.77-17926 Filed 6-23-77;8:45 am]

ACTION

Notice of Grant of Authority To Make a Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes ACTION to fill by noncareer executive assignment

in the excepted service the position of Executive Assistant for Programs, Office of the Director.

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

[FR Doc.77-17927 Filed 6-23-77;8:45 am]

ACTION

Notice of Title Change in Noncareer Executive Assignment

By notice of March 14, 1972, FR Doc. 72-3824 the Civil Service Commission authorized ACTION to fill by noncareer executive assignment the position of Deputy Associate Director for VISTA and Anti-Poverty Operations (Director of VISTA), Office of the Associate Director for Domestic and Anti-Poverty Operations, Office of VISTA. This is notice that the title of this position is now being changed to Deputy Associate Director for VISTA and ACTION Education Programs, Office of VISTA and ACTION Education Programs, Office of Domestic and Anti-Poverty Operations.

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

[FR Doc.77-17928 Filed 6-23-77;8:45 am]

DEPARTMENT OF AGRICULTURE

Notice of Grant of Authority To Make a Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Agriculture to fill by noncareer executive assignment in the excepted service the position of Administrator, Food Safety and Quality Service, Office of the Assistant Secretary for Food and Consumer Services.

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

[FR Doc.77-17929 Filed 6-23-77;8:45 am]

CIVIL SERVICE COMMISSION

Notice of Grant of Authority To Make a Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Civil Service Commission to fill by noncareer executive assignment in the excepted service on a temporary basis the position of Special Assistant to the Chairman for Transition Planning, Office of the Chairman.

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

[FR Doc.77-17930 Filed 6-23-77;8:45 am]

DEPARTMENT OF COMMERCE

Grant of Authority To Make a Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Commerce to fill by noncareer executive assignment in the excepted service the position of Chief Counsel, National Fire Prevention and Control Administration.

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

[FR Doc.77-17733 Filed 6-23-77;8:45 am]

DEPARTMENT OF DEFENSE

Notice of Grant of Authority To Make a Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Defense to fill by noncareer executive assignment in the excepted service the position of Special Assistant to the Assistant Secretary of Defense (International Security Affairs), Immediate Office, OASD (International Security Affairs), Office of the Secretary of Defense.

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

[FR Doc.77-17931 Filed 6-23-77;8:45 am]

DEPARTMENT OF DEFENSE

Grant of Authority To Make a Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Defense to fill by noncareer executive assignment in the excepted service the position of Personal Representative of the Secretary of Defense on the Strategic Arms Limitation Talks Delegation, Immediate Office, OASD (International Security Affairs), Office of the Secretary of Defense.

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

[FR Doc.77-17732 Filed 6-23-77;8:45 am]

DEPARTMENT OF DEFENSE

Notice of Grant of Authority To Make a Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Defense to fill by noncareer executive assignment in the excepted service the position of Principal Deputy Assistant Secretary (Manpower, Reserve Affairs and Logistics), Immediate Office, OASD (Manpower, Reserve Affairs and Logistics), Office of the Secretary of Defense.

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

[FR Doc.77-17962 Filed 6-23-77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Notice of Grant of Authority To Make a Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorities the Department of Health, Education, and Welfare to fill by noncareer executive assignment in the excepted service the position of Deputy General Counsel-Legal Counsel, Immediate Office, Office of the General Counsel, Office of the Secretary.

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

[FR Doc.77-17934 Filed 6-23-77;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Notice of Grant of Authority To Make a Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorities the Department of Housing and Urban Development to fill by noncareer executive assignment in the excepted service the position of Deputy Assistant to the Secretary for Public Affairs, Office of Public Affairs, Office of the Secretary.

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

[FR Doc.77-17935 Filed 6-23-77;8:45 am]

DEPARTMENT OF THE INTERIOR

Notice of Grant of Authority To Make a Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the De-

partment of Interior to fill by noncareer executive assignment in the excepted service the position of Assistant to the Under Secretary, Office of the Under Secretary, Office of the Secretary.

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

[FR Doc.77-17936 Filed 6-23-77;8:45 am]

DEPARTMENT OF THE INTERIOR

Notice of Revocation of Authority To Make a Noncareer Executive Assignment

Under authority of section 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of the Interior to fill by noncareer executive assignment in the excepted service the position of Deputy Assistant Secretary-Congressional and Legislative Affairs, Office of the Assistant Secretary-Congressional and Legislative Affairs, Office of the Secretary.

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

[FR Doc.77-17937 Filed 6-23-77;8:45 am]

FEDERAL EMPLOYEES PAY COUNCIL

Meeting

NAME: Federal Employees Pay Council.

DATE AND TIME: July 6, 1977, 2 p.m.

PLACE: U.S. Civil Service Commission, 1900 E Street NW., Washington, D.C., Room 5A06A.

TYPE OF MEETING: Open.

CONTACT PERSON:

Claire Kline, Committee Management staff for the President's agent, U.S. Civil Service Commission, 1900 E Street NW., Washington, D.C. (202-632-5595).

PURPOSE OF COMMITTEE: To make recommendations to the President's agent with respect to the process and procedures leading to, and amounts of, annual comparability adjustments in Federal white-collar pay.

SUPPLEMENTARY INFORMATION: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the President's agent announces the following meeting of Federal Employees Pay Council.

AGENDA: Discussions on the 1977 comparability adjustment for the statutory pay systems of the Federal Government, which are defined in section 5301 of title 5, United States Code.

For the President's agent.

RICHARD H. HALL,
Committee Management Officer for the President's agent.

[FR Doc.77-17679 Filed 6-23-77;8:45 am]

FEDERAL ENERGY ADMINISTRATION

Notice of Grant of Authority To Make a Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Federal Energy Administration to fill by noncareer executive assignment in the excepted service the position of Deputy Assistant Administrator for Conservation Policy Coordination, Office of Conservation.

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

[FR Doc.77-17933 Filed 6-23-77;8:45 am]

FEDERAL ENERGY ADMINISTRATION

Grant of Authority To Make a Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Federal Energy Administration to fill by noncareer executive assignment in the excepted service the position of Principal Deputy Director, Office of Communications and Public Affairs, Office of the Director.

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

[FR Doc.77-17731 Filed 6-23-77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Revocation of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of Health, Education, and Welfare to fill by noncareer executive assignment in the excepted service on a temporary basis a second position of Deputy General Counsel, Office of the General Counsel, Office of the Secretary.

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

[FR Doc.77-17730 Filed 6-23-77;8:45 am]

DEPARTMENT OF LABOR

Notice of Grant of Authority To Make a Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Labor to fill by noncareer executive assignment in the excepted service the position of Deputy Assistant Secretary, Occupational Safety and Health Administration, Office of the Assistant Secretary.

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

[FR Doc.77-17729 Filed 6-23-77;8:45 am]

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

PROCUREMENT LIST 1977

Proposed Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed Additions to Procurement List.

SUMMARY: The Committee has received proposals to add to Procurement List 1977 commodities to be produced by and a service to be provided by workshops for the blind or other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: July 27, 1977.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT:
C. W. Fletcher, 703-557-1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77.

If the Committee approves the proposed additions, all entities of the Government will be required to procure the commodities and service listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodities and service to Procurement List 1977, November 18, 1976 (41 FR 50975):

Class 7210

Pillow, Neoprene, 7210-01-035-3342.

Class 7510

Board, Wall Calendar, 7510-00-789-2455.

Class None

Safety Guard Modification Kit "A", PS Item 01075B.

SIC None

Affix Labels-U.S. Patent Documents, U.S. Department of Commerce, Patent and Trademark Office, Crystal City, Arlington, Virginia.

C. W. FLETCHER,
Executive Director.

[FR Doc.77-18041 Filed 6-23-77;8:45 am]

PROCUREMENT LIST 1977

Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Additions to Procurement List.

SUMMARY: This action adds to Procurement List 1977 commodities to be produced by workshops for the blind or other severely handicapped.

EFFECTIVE DATE: June 24, 1977.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT:

C. W. Fletcher, 703-557-1145.

SUPPLEMENTARY INFORMATION: On January 25, 1977 and March 18, 1977 the Committee for Purchase from the Blind and Other Severely Handicapped published notices (42 FR 4512) and (42 FR 15116) of proposed additions to Procurement List 1977, November 18, 1976 (41 FR 50975).

After consideration of the relevant matter presented, the Committee has determined that the commodities listed below are suitable for procurement by the Government under 41 U.S.C. 46-48(c), 85 Stat. 77.

Accordingly, the following commodities are hereby added to Procurement List 1977:

Class 4910

Creeper, Mechanic's (SH), 4910-00-106-7834.

Class 8340

Pin, Tent, Aluminum (SH) 8340-00-261-9749.

C. W. FLETCHER,
Executive Director.

[FR Doc.77-18040 Filed 6-23-77;8:45 am]

COUNCIL ON ENVIRONMENTAL QUALITY

ENVIRONMENTAL IMPACT STATEMENTS

Availability

The following is a list of environmental impact statements received by the Council on Environmental impact statements received by the Council on Environmental Quality from June 13 through June 17, 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. (August 8, 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 307A, Washington, D.C. 20250, 202-447-6827.

FOREST SERVICE

Final

Gallina unit plan, Santa Fe, N.F. Rio Arriba and Sandoval Counties, N. Mex., June 16: Proposed is a management plan for the 59,780 acre Gallina Planning Unit, Santa Fe National Forest. The proposal recognizes the need to continue commodity management at about the current level while continuing the protection of amenity values. Adverse effects include temporary impacts from commodity production resulting in soil disturbance, dust from unsurfaced roads, vegetative debris, and surface erosion when ground cover is reduced. Comments made by EPA, USDA, DOI, State and local agencies, and concerned citizens. (ELR Order No. 70747.)

Red River ski area expansion, Taos County, N. Mex., June 16: Proposed is the further development of Red River Ski Area in Red River, New Mexico. The statement discusses three alternatives for expanding ski facilities, and describes the associated impacts. The resort is located on Carson National Forest lands, where a special permit for recreation has been granted. Comments made by HEW, EPA, USDA, DOI, State and local agencies, and concerned citizens. (ELR Order No. 70748.)

RURAL ELECTRIFICATION ADMINISTRATION

Final

Alaska 6 Golden Valley, two 60MW turbines, Alaska, June 17: Proposed is the construction of two 60-megawatt combustion turbines and associated transmission lines and substations at North Pole, Alaska, in the Fairbanks North Star Borough. A 69 kV transmission line to the Highway Park Substation (approximately 3 miles) and a 138 kV line to the proposed Bently Substation (approximately 17 miles) will be associated with the turbines. Operation of the units will result in the emission of nitrogen and sulfur oxides and an insignificant quantity of particulates. Comments made by DOT, EPA, DOC, DOI, USDA, RPC, State and local agencies, and concerned citizens. (ELR Order No. 70751.)

SOIL CONSERVATION SERVICE

Final

Blue Eye Creek watershed, Alabama (2), Calhoun and Talladega Counties, Ala., June 14: Proposed is the Blue Eye Creek Watershed Project, which provide watershed protection and flood prevention in Calhoun and Talladega Counties, Alabama. The project includes conservation land treatment measures and about four miles of channel work. Two floodwater retarding structures and about 1.8 miles of channel work have been installed. About 47 acres of forest land will be cleared for channel installation within the channel work rights-of-way. Comments made by DOD, HEW, DOI, EPA, State and local agencies, and concerned citizens. (ELR Order No. 70739.)

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

Rookery Bay Estuarine Sanctuary, several Florida Counties, June 16: The proposed action is to award a grant to the State of Florida to acquire, develop, and operate an estuarine sanctuary in Rookery Bay. Boundaries of the existing 5,400 acre, privately maintained Rookery Bay Sanctuary would be expanded to include adjacent mangrove and upland transitional areas resulting in about 8,500 acres of land and water under State control. The action may result in potential conflicts between the sanctuary and adjacent owners in terms of drainage projects, mosquito control activities, and restrictions imposed by scientific research. (ELR Order No. 70746.)

DEPARTMENT OF DEFENSE
ARMY CORPS

Contact: Dr. C. Grant Ash, Office of Environmental Policy Department, Attn: DAEN-CWR-P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 1000 Independence Avenue, S.W., Washington, D.C. 20314, 202-693-6795.

Final

East Bend Station, Units 1 and 2 (Permit), Boone County, Ky., June 17: The proposed action is the issuance of a permit which would allow the construction and operation of a 1,200 megawatt coal-fired electric generation facility by the Cincinnati Gas and Electric Company. The project will involve approximately 938 acres of mostly agricultural private land. Wildlife habitat will be lost with resulting reduction in local wildlife populations. Nine families have already been relocated. Winnfield Cottage at Piatt's Landing, a historical property will be subject to visual, audible, and atmospheric elements that are out of character for the site. An increase in barge traffic would also affect recreational boating. (Louisvill District.) Comments made by EPA, HUD, DLAB, HEW, USDA, FPC, DOI, DOT, ORBC, State and local agencies, and interested persons. (ELR Order No. 70753.)

N. C. Phosphate Corp., Beaufort Co. dredging, Beaufort County, N.C., June 17: Proposed is the granting of a permit to the North Carolina Phosphate Corporation for dredging and filling activities in the vicinity of Aurora, Beaufort Co., North Carolina. Plans call for the dredging of a 25,000-ft. long, 125-ft. wide, 10.5-ft. deep access channel, a 2,000-ft. long, 250-ft. wide, 10.5-ft. deep turning basin, and 2 discharge canals. The purpose of the project is to provide for disposal of dregded materials and mineral wastes from phosphate mining. Adverse effects include alteration of the aquatic ecology of South Creek, as well as degradation of air and water. (Wilmington District.) Comments made by EPA, USDA, DOC, DOI, HEW, USCG, State and local agencies, and concerned citizens. (ELR Order No. 70752.)

Final

Adkin Branch flood control project, Lenoir County, N. Dak., June 17: The proposed action consists of enlarging the existing channel on Adkin Branch from the Neuse River to Queen Street in the City of Kingston, North Carolina. The excavated material will be placed only on one side of the channel or will be removed to a landfill area. Adverse impacts include loss of about 28 acres of wooded land and ornamental trees and shrubbery, disruption of wildlife, and increased turbidity. (Wilmington District.) Comments made by EPA, HEW, USDA, HUD, DOI, FPC, State and local agencies, and interested parties. (ELR Order No. 79689.)

ENVIRONMENTAL PROTECTION AGENCY

Please refer to the separate notice published by EPA in this issue of the FEDERAL REGISTER for the appropriate EPA contact.

Draft

Albuquerque wastewater treatment facilities, New Mexico, June 13: Proposed is the construction of 105 miles of new interceptor

and collector sewer lines for the City of Albuquerque. Also, relief interceptors will be constructed parallel to overloaded lines and lift and odor control stations will be upgraded. It is proposed that 1 mgd of effluent be sold to the Public Service Company of New Mexico for use as cooling water. All other effluent will be discharged to the Rio Grande as at present. Adverse impacts include consumption of energy, materials, chemicals and financial resources; generation of small amounts of non-recycled wastes; and continued discharge to the River. (Region VI.) (ELR Order No. 70734.)

Final

Shell Chem. Co. polypropylene plant—permit, St. Charles County, La., June 15: The proposed action is the issuance of a new source NPDES permit for discharge of plant effluent and stormwater from Shell Chemical Co.'s proposed polypropylene plant into Bayou Trepaguier, Louisiana. The proposed plant, located on a 64-acre site in Narco/Goodhope, will produce polypropylene pellets. An average of 680 gallons/minute of clarified water from the Mississippi R. will be used for cooling tower makeup, utility water, and wash systems for railroad cars and the polypropylene blender silos. Plant operation will result in emissions of hydrocarbons, carbon monoxide, nitrogen oxides, and particulates. Comments made by USDA, AHP, COE, DOT, DOI, EPA, State and local agencies, and interested parties. (ELR Order No. 70743.)

DEPARTMENT OF HUD

Contact: Mr. Richard H. Broun, Director, Office of Environmental Quality, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410, 202-755-6308.

Draft

Ranch Country subdivision, Harris County, Tex., June 16: Proposed is the development of 399 acres into a planned community, to be known as Ranch Country Subdivision. The project will be composed of single family homes, and commercial reserves, and will provide housing for approximately 5000 people. The development will result in increased loading of solid waste disposal sites, increased groundwater consumption, and increased demand for fossil fuels through heavy dependence upon the automobile for transportation. (ELR Order No. 70749.)

Final

Merrillville Terrace multifamily project, Lake County, Ind., June 15: Proposed is the development of Merrillville Terrace on 60.2 acres over a period of 5 years. The first phase of development will be 426 multi-family units (out of a total of 797) on 36.33 acres. Plans call for an open space recreation area with clubhouse, pool, and tennis courts. Commercial development is planned on 17.2 acres adjoining on the west by a different developer. Construction of Merrillville Terrace will result in slightly increased vehicular use of existing streets in the area. Comments made by EPA, AHP, USDA, DOD, 2FPC, 2GSA, DOI, DOT, State and local agencies, and interested parties. (ELR Order No. 70741.)

DEPARTMENT OF INTERIOR

Contact: Mr. Bruce Blanchard, Director, Environmental Project Review, Room 5311, Department of the Interior, Washington, D.C. 20240, 202-343-3891.

BUREAU OF INDIAN AFFAIRS

Final

Mancos Canyon Indian park, Montezuma County, Colo., June 13: The proposed action is the development of the Mancos Canyon Indian Park that will protect, preserve, and interpret numerous rivers located in Mancos Canyon on the Ute Mountain Ute Indian Reservation. The project includes a modern access road, foot trails, camp facilities in the park, and a modern motel and restaurant near the park entrance. Adverse impacts resulting from the development will be the excavation of ruins, and the introduction of many visitors to a relatively unvisited area. Comments made by DOI, AHP, and interested parties. (ELR Order No. 70733.)

GEOLOGICAL SURVEY

Final

East Decker and North Extension mines, Decker Coal Co., Big Horn County, Mont., June 13: The proposed action is the surface-mining and reclamation of the East Decker and North Extension mines in Big Horn County, Montana. The Decker Coal Co. plans to open a new mine with plant and loading facilities to remove 180 million tons of low-sulfur coal from a 3500-acre area, over the next 20 years. The relocation of short sections of a FAS highway and a county road will be necessary. The mining activity will result in the removal of shallow aquifers, allowing for leaching of soils and erosion; alteration of soil mixtures on 4,000–5,000 acres; reduction in air quality; and loss of 6,300 acres of grazing land. Comments made by AHP, USDA, FPC, EPA, HEW, FEA, ERDA, USA, State and local agencies, and interested groups and persons. (ELR Order No. 70731.)

NATIONAL PARK SERVICE

Draft

Lassen Volcanic National Park, several California Counties, June 13: Proposed is adoption of a general management plan for Lassen Volcanic National Park, located in Lassen, Plumas, Shasta, and Tehama Counties, California. The purpose of the action is to guide park management relative to development and visitor use. Major features of the plan include removal and relocation of facilities in the Manzanita Lake area due to a rockfall-avalanche hazard; and redesignation of Lassen ski area to reduce congestion, optimize proportionate use of terrain. The action will result in reduction in opportunities for harvesting timber, generating geothermal power and grazing livestock. (ELR Order No. 70744.)

NUCLEAR REGULATORY COMMISSION

Contact: Mr. Voss A. Moore, Division of Reactor Licensing, P-722, NRC Washington, D.C. 20555, 301-443-6965.

Draft

Lucky Mc Uranium Mill, County, Fremont County, Wyo., June 17: The proposed action is the continuation of Iowa Material License SUA-672 (with amendment) issued to Utah International Inc. for the operation of the Lucky Mc Uranium Mill in the Gas Hills region of Fremont county, Wyoming. The application for amendment proposes to increase the mill capacity to 2000 tons (1820 MT) of ore per day and increase the storage capacity of the tailings ponds to permit the continuation of present production rates of U308 through 1987 using lower-grade ores. Adverse effects include alternation of 200 acres of sagebrush-grassland, and construction-related impacts. (ELR Order No. 70755.)

Final

Wm. H. Zimmer Nuclear Power Station, County; Clermont, Ohio, June 13: Proposed is the issuance of a license to the Cincinnati Gas and Electric Co., the Columbus and Southern Ohio Electric Co., and the Dayton Power and Light Co. for the startup and operation of the Wm. H. Zimmer Nuclear Power Station located on the Ohio River, 24 miles southeast of Cincinnati. The plant will employ a boiling water reactor to produce up to 2436 MWt of electrical power capacity. A steam turbine-generator will use this heat to provide up to 840 MWe of electrical power capacity. Exhaust steam will be condensed by water circulated through a natural-draft cooling tower. Comment made by: AHP USDA, DOI, ERDA, EPA, and State and local agencies, concerned citizens. (ELR Order No. 70735.)

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 AVIATION ADMINISTRATION

Final

Oakland-Pontiac Airport, Runway 9R-27L, Oakland County, Mich., June 13: Proposed is the extension of Runway 9R-27L of the Oakland-Pontiac Airport, Pontiac, Michigan. Project plans involve the acquisition of land for approach protection, construction and lighting of an easterly extension to Runway 9R-27L, the resurfacing of the runway and parallel taxiway and apron, and construction and lighting of a connecting taxiway including holding apron. Adverse effects of project implementation include the relocation of three households. The runway extension will cause air pollution and noise to increase. Comments made by: EPA, DOI, DOT, COE, AHP, USDA, and State and local agencies, interested persons. (ELR Order No. 70736.)

FEDERAL HIGHWAY ADMINISTRATION

Draft

I-279 and East Street, Allegheny County, Pa., June 15: The proposed action is construction of 2.1 miles of I-279, including the East Street Interchange and reconstruction of a portion of Traffic Route 28 in Pittsburgh, Pennsylvania. The new highway section would be a 4, 6 and 8-lane facility with fully controlled access. The project will result in construction-related impacts and the demolishment of a youth recreation center. Other adverse effects include displacement of 255 families and 214 local businesses, and abandonment of numerous streets. (Region 3.) (ELR Order No. 70740.)

S.R. 842 (Broward Blvd.), Ft. Lauderdale, Broward County, Fla., June 15: Proposed is the widening of a 2.0 mile section of S.R. 842 in Fort Lauderdale, Florida. The project will widen a section from S.R. 9 (I-95) to East 8th Avenue to U.S. 1, already six lane divided. The present undivided, four laned arterial will be upgraded to six lanes with a median. Adverse impacts will result from the possible relocation of 8 families and 39 businesses, be less than those resulting if the facility is not improved. A 4(f) statement is included concerning Stranahan Park. Comments made by: USCG, COE, DOC, HEW, DOI, EPA, and State and local agencies, concerned citizens. (ELR Order No. 70742.)

US-131, 19 Mile Road to US-131 North, Mecosta, Osceola Counties, Mich., June 17: Proposed is the construction of a segment of US-131, which would begin at 19 Mile Road, north of the City of Big Rapids in Mecosta County and would terminate at LeRoy Road, north of the Village of Ashton in Osceola County, Michigan. The length of the segment is approximately 20 miles. Adverse impacts include: disruption of existing aquatic and terrestrial ecosystems, displacement of 30 residences and 2 businesses, and the acquisition of between 500 and 600 acres of agricultural land. Comments made by: HUD, DOI, USDA, EPA, USCG, DOT, and State and local agencies, concerned citizens. (ELR Order No. 70750.)

Detroit-Rocky River Bridge, Cuyahoga County, Ohio, June 14: The purpose of the

project is to replace the 708 foot long Detroit-Rocky River Bridge spanning the Rocky River between the cities of Lakewood and Rocky River. The statement includes alternatives of replacing the bridge on its present site or relocating it on one of three new alignments, and the involvement of Cleveland Metropolitan Park District's Rock River Reservation which borders on the right-of-way. The selected alternative represents a skew bridge alignment extending southerly from the existing eastern bridge approach to approximately 200 feet south of the existing western bridge terminus. (Region 5.) Comments made by: DOT, DOI, EPA, AHP, USCG, and State and local government, concerned citizens. (ELR Order No. 70737.)

Supplement

S.R. 45 (U.S. 41) (S-1), June 14: This statement supplements a final EIS filed with CEQ in November 1972. Proposed is the construction of a 4.7 mile segment of four lane divided S.R. 45 (U.S. 41) beginning at mile post 5.6 in Lee County and terminating at the existing four-lane section north of Estero. Because of the adverse effects of the recommended alternate in the FEIS on the Koreshan Unity Settlement Historic District, the approved corridor through Estero was rejected by the State Historic Preservation office. This supplemental EIS explores in further detail the remaining alternates. (Region 4.) (ELR Order No. 70738.)

URBAN MASS TRANSPORTATION ADMINISTRATION

Draft

Metrobus Garage Facility, Montgomery County, Md., June 16: Proposed is the granting of federal capital grants assistance to the Washington Metropolitan Area Transit Authority for a Metrobus Garage and Maintenance Facility for 250 buses in Montgomery County, Maryland. The garage is proposed for suburban bus service particularly in conjunction with the future complementary operation of Metrobus-Metrorail. The EIS reviews 3 alternative sites for the new facility. Adverse impacts include the relocation of businesses and/or clearing of woodlands. (ELR Order No. 70745.)

VETERANS ADMINISTRATION

Contact: (For Housing Programs), Mr. Lyman T. Miller, Assistant Director for Construction and Valuation, Veterans Administration, 810 Vermont Avenue, Washington, D.C. 20420, 202-389-2691. (For all other programs), Mr. Nicholas Clark, Civil Engineer, Technical Services Division, Engineering Service, Veterans Administration, Washington, D.C. 20420, 202-389-2086.

Draft

D.C. Area National Cemetary, Virginia, June 13: Proposed is the development of a Washington, D.C. Area National Cemetery in Quantico, Virginia. The 726.58-acre site is located on land excessed by the Department of Navy, Quantico Marine Corps Base. The cemetery will accommodate 300,000 veterans and their dependents with a variety of interment types. Adverse impacts include 50 percent less of forest condition, excessive grading, soil erosion, and disruption of a Wildlife Management area. (ELR Order No. 70732.)

NICHOLAS C. YOST,
Acting General Counsel.

[FR Doc.77-18208 Filed 6-23-77;8:45 am]

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF SCIENTIFIC ADVISORY BOARD

Meeting

JUNE 21, 1977.

The USAF Scientific Advisory Board ad hoc Committee on Avionics Acquisition will hold meetings on July 11, 12, 13 and 14, 1977 from 9 a.m. to 5 p.m. at Wright-Patterson Air Force Base, Ohio.

The Committee will receive classified briefings on the acquisition of avionics for Air Force systems.

The meetings concern matters listed in Section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly the meetings will be closed to the public.

For further information contact the Scientific Advisory Board Secretariat at 202-697-4811.

FRANKIE S. ESTEP,
Air Force Federal Register Liaison Officer, Directorate of Administration.

[FR Doc.77-18139 Filed 6-23-77;8:45 am]

USAF SCIENTIFIC ADVISORY BOARD

Meeting

JUNE 21, 1977.

The USAF Scientific Advisory Board ad hoc Committee on Test and Evaluation will hold a meeting on July 20 and 21, 1977 from 8:30 a.m. to 5:30 p.m. each day at the Air Force Test and Evaluation Center, Kirtland Air Force Base, New Mexico.

The Committee will receive classified briefings and hold classified discussions on the Air Force JTIDS program. The meeting will be closed to the public in accordance with Section 552b(c) of Title 5, United States Code, specifically subparagraph (1).

For further information contact the Scientific Advisory Board Secretariat at 202-697-8404.

FRANKIE S. ESTEP,
Air Force Federal Register Liaison Officer, Directorate of Administration.

[FR Doc.77-18140 Filed 6-23-77;8:45 am]

JANNAF INTERAGENCY PROPULSION COMMITTEE

Workshop on External Burning

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), notice is hereby given that a workshop on external burning will be held Thursday and Friday, July 14-15, 1977 at 9 a.m. in the Frank Wolfe's Beach Side Motel, Cocoa Beach, Florida. This workshop is sponsored by the Department of Defense Chemical Propulsion Advisory Committee (Combustion Working Group).

The Committee's primary responsibilities are to provide technical advice to the Joint Army, Navy, NASA, Air Force (JANNAF) Interagency Propulsion Committee and to promote the exchange of technical information in the field of chemical propulsion. This workshop will review the analytical and experimental studies of external burning related to propulsion, base drag reduction, and rapid vehicle control. Modeling efforts will be discussed and the predictions analyzed and compared to existing experimental data.

The workshop of the Advisory Committee is open to the public. Public attendance, depending on available space, may be limited to the persons who have notified the Workshop Coordinator in writing, at least five (5) days prior to the workshop, of their intention to attend the workshop.

Members of the public who may wish to do so are invited to submit material in writing to the Workshop Coordinator concerning matters believed to be deserving of the workshop's attention. To the extent that time permits, the Workshop Coordinator may allow public presentation of oral statements at the workshop.

All communication regarding this workshop should be addressed to the Workshop Coordinator, Dr. Carroll E. Peters, ARO, Incorporated, Arnold AFS, Tennessee 37389.

BERNARD T. WOLFSON,
Program Manager, AFOSR, Bolling AFB.

[FR Doc.77 18134 Filed 6-23-77;8:45 am]

Department of the Army

FUNDAMENTAL REACTIONS IN SOLID PROPELLANT COMBUSTION

Workshop

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that a workshop on the fundamental reactions in solid propellant combustion will be held on Tuesday and Wednesday, July 26-27, 1977 at 9 a.m. in Room 116, Building 390, U.S. Army Ballistic Research Laboratory, Aberdeen Proving Ground, Md. This workshop is sponsored by the Department of Defense Chemical Propulsion Advisory Committee (Combustion Working Group).

The Committee's primary responsibilities are to provide technical advice to the Joint Army, Navy, NASA, Air Force (JANNAF) Interagency Propulsion Committee and to promote the exchange of technical information in the field of chemical propulsion. At this workshop, the chemical mechanisms involved in the combustion of both nitramine and nitrate ester solid propellants will be examined. The mechanisms will be evaluated in terms of their correlation with experimental measurable properties such as burning rates, species concentration

profiles, combustion products, and flame temperatures.

The workshop of the Advisory Committee is open to the public. Public attendance, depending on available space, will be limited to the persons who notify the Workshop Coordinator in writing, at least five (5) days prior to the workshop, on their intention to attend the workshop.

Members of the public who may wish to do so are invited to submit material in writing to the Workshop Coordinator concerning matters believed to be deserving of the attention of the workshop participants. To the extent that time permits, the Workshop Coordinator may allow public presentation of oral statements at the workshop.

All communications regarding this workshop should be addressed to the Workshop Coordinator, Dr. Robert A. Pifer, DRDAR-BLP, U.S. Army Ballistic Research Laboratory, Aberdeen Proving Ground, Maryland 21005.

ROBERT A. PIFER,
Ignition and Combustion Branch, Propulsion Division Ballistic Research Laboratory.

[FR Doc.77-18027 Filed 6-23-77;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 751-6; OPP-180129]

ARKANSAS DEPARTMENT OF COMMERCE

Issuance of a Specific Exemption To Use Avitrol To Control Bird Damage to Rice Crop

The Environmental Protection Agency (EPA) has granted a specific exemption to the Arkansas Department of Commerce (hereafter referred to as the "Applicant") to use not more than 80,000 pounds of an Avitrol product to control damage by depredating birds which are threatening the rice crop in Arkansas. This exemption was granted in accordance with, and is subject to, the provisions of 40 CFR Part 166, which prescribes requirements for exemption of Federal and State agencies for use of pesticides under emergency conditions.

This notice contains a summary of certain information required by regulation to be included in the notice. For more detailed information, interested parties are referred to the application on file with the Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M St. SW., Room E-315, Washington, D.C. 20460.

According to the Applicant, rice producers in Arkansas regularly sustain considerable damage to their crops as a result of blackbird damage to sprouting seed. Lack of an approved blackbird control in rice would have a serious impact on farmers in all rice producing counties. The acreage damaged so severely that it must be replanted would result in increased production costs and decreased crop yields. For many years, Aldrin was used as a seed treatment for rice, primarily against rice water weevil. According to the Applicant, secondary benefit derived from seed treatment with Aldrin was that the treated rice also served as a bird repellent; Aldrin was used on an estimated 80 percent of the rice seeded in Arkansas. The Applicant stated that since Aldrin is no longer available, no satisfactory bird repellent is available.

Rice is a very important crop financially to Arkansas, with the highest acreage planted to rice of any State. The Applicant requested permission to treat a maximum of 80,000 acres of the total 800,000 acres of rice fields in the State; it was estimated that damage to these 80,000 acres could result in an economic loss of $3,000,000.

Currently, there are no avicides or avian repellents registered for use in rice fields. The Applicant proposed to aerially apply one pound of Avitrol Corn Chops-99 (EPA Reg. No. 11649-12), which is equal to 0.03 percent active 4-aminopyridine per acre in sixty foot swaths with a 120 foot swath between treated areas. The actual application rate would be three (3) pounds of product per acre of treated swaths. According to the Applicant, two to three applications may be necessary in some areas should reinfestation occur.

Avitrol Corn Chops-99 is registered for bird damage control in twelve (12) states. It is formulated such that only one particle in one-hundred particles of corn actually contains the active ingredient. To date, most of the field studies with this product have been concerned with its use to control bird damage of corn and sunflowers. Obviously, hazards associated with these uses are significantly different from those associated with rice agriculture.

EPA has determined that the greatest hazard associated with the use of Avitrol is to non-target avian species (migratory and native waterfowl, upland game birds, and songbirds). The greatest hazard generally exists to the smaller avian species. The U.S. Department of the Interior (USDI) reviewed the proposed use of Avitrol and agreed that there are potential hazards to non-target avian species in treated areas; however, the USDI stated that an adequate monitoring program would reduce damage of such species. There are no grain feeding endangered avian species in Arkansas which are likely to be exposed to this use of Avitrol.

A tolerance of 0.1 ppm has been established for negligible residues of the bird repellent 4-aminopyridine in or on the raw agricultural commodities corn grain, forage and fodder, and sunflower seeds. EPA has reviewed the data submitted for this use of Avitrol and has determined that residues in or on rice grain or straw would not be expected to exceed 0.1 ppm under this use.

After reviewing the application and other available information, EPA has determined that (a) bird depredation of seeded rice in Arkansas is likely to occur; (b) there is no pesticide presently registered and available for use to control bird damage to rice crops; (c) there are no alternative means of control, taking into account the efficacy and hazard; (d) significant economic problems may result if the birds are not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until June 30, 1977, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. The EPA registered product, Avitrol Corn Chops-99 (EPA Reg. No. 11649-12), must be used and applied at a maximum rate of three (3) pounds of product per acre of treated swaths. Avitrol will be applied in sixty foot swaths with a 120 foot swath between treated areas;

2. A maximum of three (3) applications will be made. The second and third applications, if necessary, will be made to untreated swaths to prevent double treatment of the same land;

3. The total quantity of Avitrol product used will not exceed 80,000 pounds;

4. This product is extremely toxic to wildlife. Keep out of lakes, streams or ponds. Do not contaminate water by cleaning of equipment or disposal of waste;

5. All appropriate label directions and precautionary statements will be observed;

6. A residue level not to exceed 0.1 ppm 4-aminopyridine in or on rice grain or straw has been deemed adequate to protect the public health. The Food and Drug Administration of the U.S. Department of Health, Education, and Welfare, has been advised of this action;

7. A full report of this program will be submitted to EPA upon the completion of the program. In addition, a plan must be developed with and approved by the EPA Regional office prior to the application of the pesticide which will ensure that the following requirements and restrictions are observed;

8. Applicators must report the time and place of application to the EPA Regional office at least 24 hours prior to such application;

9. On-site surveillance must be conducted by State or county personnel or personnel of the USDI or the EPA Regional office;

10. Post-treatment monitoring for effects on non-target species must be conducted by one of the above agencies; and

11. This use of Avitrol Corn Chops-99 will be terminated immediately in those areas where high mortality to non-target species occurs. Particular care must be exercised regarding migratory waterfowl.

Sec. 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136(a) et seq.).)

Dated: June 17, 1977.

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

[FR Doc.77-17990 Filed 6-23-77;8:45 am]

[FRL 750-6; OPP-50283A]

BASF WYANDOTTE

Issuance of Experimental Use Permits; Correction

In FR Doc. 77-9884 appearing on page 17898 in the issue of April 4, 1977, the first line of the fourth paragraph should be corrected to read "No. 7969-EUP-8. BASF Wyandotte Corporation, Parsippany, New Jersey 07054 * * *."

Dated: June 17, 1977.

DOUGLAS D. CAMPT,
Director, Registration Division.

[FR Doc.77-17985 Filed 6-23-77;8:45 am]

[FRL 752-1; OPP-180124]

CALIFORNIA DEPARTMENT OF HEALTH

Issuance of a Specific Exemption To Use DDT To Suppress Flea Vectors of Plague

The Environmental Protection Agency (EPA) has granted a specific exemption to the California Department of Health (hereafter referred to as the "Applicant") to use no more than fifty (50) pounds of DDT for the suppression of flea populations in areas in the foothills and mountains of California, where flea populations vectoring plague on wild rodents may endanger the public health. This exemption was granted in accordance with, and is subject to, the provisions of 40 CFR Part 166, which prescribes requirements for exemption of Federal and State agencies for use of pesticides under emergency conditions.

This notice contains a summary of certain information required by regulation to be included in the notice. For more detailed information, interested parties are referred to the application on file with the Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M Street SW., Room E-315, Washington, D.C. 20460. The situation described in this exemption has been a continuing problem in California since 1975, and has occurred in other States as well. In view of the significance of the problem of plague and the potential exposure of man to plague vectors, EPA is requesting comments/views from interested parties on this control program and any other similar programs. Comments may be submitted to the Federal Register Section, Technical Services Division (WH-569), Office of Pesticide Programs, Room E-401, at the Headquarters address shown above. Three copies of the comments should be submitted to facilitate the work of the Agency and of others interested in inspecting them. The comments must be received on or before July 25, 1977, and should bear the identifying notation OPP-180124. All written comments filed pursuant to this notice will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4 p.m. Monday through Friday.

According to the Applicant, DDT will be needed again in 1977 to control flea vectors of plague in California. The Applicant applied carbaryl in an effort to suppress flea populations vectoring plague in Plumas County, California, in 1975 and in April 1976; because of the apparent low level of control exercised by carbaryl, the Applicant promulgated a crisis exemption under existing regulations. Forty-seven (47) pounds of a ten percent DDT dust was applied to rodent burrows on 80 acres of two affected campgrounds. Plague-vectoring flea populations were reduced to a level which was adequate to protect the public health. In May 1976, the Applicant requested a specific exemption to apply ten percent DDT dust directly into the burrows of wild rodents to reduce flea populations; this exemption was granted and subsequently amended to include the use of bait dust stations and to increase the amount of DDT to be used. A total of 61.1 pounds active ingredient DDT dust was used under that exemption.

Two human cases of plague resulted from widespread and intensive plague epizootics among rodents in the mountain and foothills regions of California in 1975. According to the Applicant, carbaryl, the only pesticide registered for plague vector control, has a record of doubtful efficacy in some California situations. Evidence indicates carbaryl dust to be reasonably efficacious in controlling fleas of the Ground Squirrel (*Spermophilus beecheyi*) but to be undependable in controlling fleas of chipmunks and other rodents of similar habits. The Applicant also stated that DDT is available and is of demonstrated efficacy against fleas of wild rodents.

The program conducted under this exemption will be essentially the same as the 1976 treatment. The material (DDT dust) will be applied by hand-operated dusters directly into rodent burrows, or applied through the use of bait dust stations at a maximum rate of 0.06 pound per acre of actual DDT. The areas treated will have to meet the following criteria: (1) Without flea control, the public health would be endangered, and (2) the situation would be such as to give rise to a reasonable doubt about the anticipated efficacy of carbaryl. All applications will be made by the Applicant's Vector and Waste Management Section public health biologists. In some cases, other people might be called upon to assist personnel of this Section; in this situation, these people will work under the direct supervision of a public health biologist.

This application was endorsed by Dr. Allen M. Barnes, Chief, Plague Branch, Center for Disease Control (CDC), Fort Collins, Colorado, U.S. Department of Health, Education, and Welfare. According to Dr. Barnes, the plague potential for 1977 is unknown and unpredictable at this time. An extensive plague surveillance program is being conducted by the Applicant and a number of collaborating agencies, including CDC, in order to gain insight in the plague situation as early in the season as possible. Dr. Barnes stated that the issuance of this exemption was advisable so that the Applicant might be prepared for an epizootic outbreak of the plague bacillus among wild rodents.

The Fish and Wildlife Service, U.S. Department of the Interior, informally supports this use of DDT with certain reservations regarding application in the presence of endangered species.

After reviewing the application and other available information, EPA has determined that (a) a pest outbreak of fleas vectoring plague is likely to occur; (b) there are no alternative means of control available, taking into account the efficacy and hazard; (c) significant health problems may result if the fleas vectoring plague are not controlled; and (d) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until November 30, 1977, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. The total amount of DDT used may not exceed fifty (50) pounds actual insecticide;
2. The DDT will be applied directly to wild rodent burrows with hand-powered dusting equipment or applied through the use of bait dust stations;
3. Areas in the foothills and mountains of California to be treated are limited to those meeting the two criteria specified above in this notice;
4. All applications will be made by, or under the supervision of, the Applicant's Vector and Waste Management Section;
5. Dr. Allen M. Barnes, Chief, Plague Branch, CDC (Fort Collins), will be kept advised of all flea population suppression activities;
6. Areas treated with DDT should be surveyed to ensure that no endangered species that could be adversely affected are present;
7. Every precaution will be taken to avoid adverse effects on the American Peregrine falcon; and
8. Liaison will be established with the California Fish and Game Department prior to applying DDT in any area.

(Sec. 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136(a) et seq.).)

Dated: June 17, 1977.

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

[FR Doc.77-17993 Filed 6-23-77; 8:45 am]

[FRL 751-1; OPP-50301]

CHEVRON CHEMICAL CO. AND ROHM & HAAS CO.

Issuance of Experimental Use Permits

The Environmental Protection Agency (EPA) has issued experimental use permits to the following applicants. Such permits are in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with

respect to the use of pesticides for experimental purposes.

No. 239-EUP-81. Chevron Chemical Company, Richmond, California 94804. This experimental use permit allows the use of 2,347.5 pounds of the insecticide acephate on peanuts to evaluate control of corn earworms, velvetbean caterpillars, armyworms, leafhoppers, granulate cutworms, soybean loopers, and cabbage loopers. A total of 470 acres is involved; the program is authorized only in the States of Alabama, Georgia, North Carolina, Oklahoma, Texas, and Virginia. The experimental use permit is effective from April 21, 1977, to April 21, 1978. A temporary tolerance for residues of the active ingredient in or on peanuts has been established.

No. 707-EUP-82. Rohm & Haas Company, Philadelphia, Pennsylvania 19105. This experimental use permit allows the use of 1,100 pounds of the herbicide 2-Chloro-1-(3 - ethxoy - 4 - nitrophenoxy)-4-(trifluoromethyl) benzene on corn to evaluate control of witchweed. A total of 600 acres is involved; the program is authorized only in the States of North Carolina and South Carolina. The experimental use permit is effective from April 21, 1977, to June 4, 1978. A temporary tolerance for residues of the active ingredient in or on corn has been established.

No. 707-EUP-83. Rohm & Haas Company, Philadelphia, Pennsylvania 19105. This experimental use permit allows the use of 2,036 pounds of the herbicide 2-Chloro-1-(3-ethoxy -4-nitrophenoxy) -4-(trifluoromethyl) benzene on soybeans to evaluate control of broadleaf weeds and grasses. A total of 8,125 acres is involved; the program is authorized only in the States of Alabama, Arkansas, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Virginia, and Wisconsin. The experimental use permit is effective from April 21, 1977, to June 4, 1978. A temporary tolerance for residues of the active ingredient in or on soybeans has been established.

Interested parties wishing to review the experimental use permits are referred to Room E-315, Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M St. SW., Washington, D.C. 20460. It is suggested that such interested persons call 202/755-4851 before visiting the EPA Headquarters Office, so that the appropriate permits may be made conveniently available for review purposes. These files will be available for inspection from 8:30 a.m. to 4 p.m. Monday through Friday.

(Sec. 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136(a) et seq.).)

Dated: June 17, 1977.

DOUGLAS D. CAMPT,
Director, Registration Division.

[FR Doc.77-17988 Filed 6-23-77;8:45 am]

[FRL 750-7; OPP-30134]

DOW CHEMICAL

Receipt of Application To Register a Pesticide Product Containing a New Active Ingredient

Dow Chemical, Box 1706, Midland, MI. 48640, has submitted to the Environmental Protection Agency (EPA) an application to register the pesticide product GARLON 3A HERBICIDE (EPA File Symbol 464-LUA), containing 44.4% of the active ingredient Triclopyr [[(3,5,6 - trichloro - 2 - pyridinyl) oxy] acetic acid] as the triethylamine salt, which has not been included in any previously registered pesticide products. The application received from Dow Chemical proposes that the product be classified for general use as a Right-of-Way (non-food) herbicide. PM25.

Notice of receipt of this application does not indicate a decision by the Agency on the application. Interested persons are invited to submit written comments on this application to the Federal Register Section, Technical Services Division (WH-569), Office of Pesticide Programs, Environmental Protection Agency, Rm. 401, East Tower, 401 M St. SW., Washington, D.C. 20460. Three copies of the comments should be submitted to facilitate the work of the Agency and others interested in inspecting them. The comments must be received on or before July 25, 1977, and should bear a notation indicating the EPA File Symbol "464-LUA." Comments received within the specified time period will be considered before a final decision is made with respect to the pending application. Comments received after the specified time period will be considered only to the extent possible without delaying processing of the application. Specific questions concerning this application should be directed to the Product Manager (PM) 25, Registration Division (WH-567), Office of Pesticide Programs, at the above address or by telephone at 202/426-2632.

Notice of approval or denial of this application to register GARLON 3A HERBICIDE will be announced in the FEDERAL REGISTER. The label furnished by Dow Chemical as well as all written comments filed pursuant to this notice, will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4 p.m. Monday through Friday.

Dated: June 17, 1977.

DOUGLAS D. CAMPT,
Director, Registration Division.

[FR Doc.77-17986 Filed 6-23-77;8:45 am]

[FRL 749-2]

ENVIRONMENTAL IMPACT STATEMENTS AND OTHER ACTIONS IMPACTING THE ENVIRONMENT

Availability of Environmental Protection Agency Comments

Pursuant to the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969, and section 309 of the Clean Air Act, as amended, the Environmental Protection Agency (EPA) has reviewed and commented in writing on Federal agency actions impacting the environment contained in the following appendices during the period of April 1, 1977, and April 30, 1977.

Appendix I contains a listing of draft environmental impact statements reviewed and commented upon in writing during this review period. The list includes the Federal agency responsible for the statement, the number and title of the statement, the classification of the nature of EPA's comments as defined in Appendix II, and the EPA source for copies of of the comments as set forth in Appendix VI.

Appendix II contains the definitions of the classifications of EPA's comments on the draft environmental impact statements as set forth in Appendix I.

Appendix III contains a listing of final environmental impact statements reviewed and commented upon in writing during this review period. The listing includes the Federal agency responsible for the statement, the number and title of the statement, a summary of the nature of EPA's comments, and the EPA source for copies of the comments as set forth in Appendix VI.

Appendix IV contains a listing of final environmental impact statements reviewed but not commented upon by EPA during this review period. The listing includes the Federal agency responsible for the statement, the number and title of the statement, and the source of the EPA review as set forth in Appendix VI.

Appendix V contains a listing of proposed Federal agency regulations, legislation proposed by Federal agencies, and any other proposed actions reviewed and commented upon in writing pursuant to section 309(a) of the Clean Air Act, as amended, during the referenced reviewing period. The listing includes the Federal agency responsible for the proposed action, the title of the action, a summary of the nature of EPA's comments, and the source for copies of the comments as set forth in Appendix VI.

Appendix VI contains a listing of the names and addresses of the sources of EPA reviews and comments listed in Appendices I, III, IV, and V.

Copies of the EPA Manual setting forth the policies and procedures for EPA's review of agency actions may be obtained by writing the Public Information Reference Unit, Environmental Protection Agency, Room 2922, Waterside Mall SW., Washington, D.C. 20460, telephone 202-755-2808. Copies of the draft and final environmental impact statements referenced herein are available from the originating Federal department or agency.

Dated: June 16, 1977.

REBECCA W. HANMER,
Director, Office of Federal Activities.

APPENDIX I.—*Draft environmental impact statement for which comments were issued between Apr. 1, 1977 and Apr. 30, 1977*

Identifying No.	Title	General nature of comments	Source for copies of comments
	CORPS OF ENGINEERS		
D-COE-B35006-CT	Maintenance Dredging, Mianus River, Greenwich, Conn.	EU-2	B
D-COE-B35007-ME	Portland Harbor Maintenance Dredging Project, Fore River, Portland, Maine	EU-3	B
D-COE-C32003-PR	Puerto Rico Aquatic Plant Control, Puerto Rico	LO-2	C
D-COE-D32005-MD	Rock Hall Harbor, Small Navigation Project, Kent County, Md.	LO-2	D
D-COE-E32021-FL	Boot Key Harbor, Navigation, Marathon, Fla.	ER-2	E
D-COE-F00006-WI	Pleasant Prairie Power Plant, Wisconsin Electric Power Co., Kenosha County, Wis.	LO-2	F
D-COE-F32048-MI	Sault Ste Marie, Operation and Maintenance, Federal Navigation and Power Generation Facilities, Mich.	LO-2	F
D-COE-F32050-MI	Grand Haven Harbor, Navigation Improvement, Mich.	LO-2	F
D-COE-F39048-IL	Kaskaskia Island Drainage and Levee District, Randolph County, Ill.	ER-2	F
D-COE-G35003-LA	Development of Port Facilities, Terrebonne Port Commission, Houma, La.	ER-2	G
DS-COE-G39025-OK	Parker Lake, Muddy Boggy Creek, Coal County, Okla.	ER-2	G
DS-COE-H39030-IA	Waterloo, Local Protection Project, Iowa	ER-2	H
D-COE-K39002-HI	Beach Erosion Control, Kualoa Regional Park, Oahu, Honolulu County, Hawaii.	LO-1	J
D-COE-K39029-CA	Redbank and Fancher Creeks Flood Control, Fresno County, Calif.	3	J
D-COE-L39051-WA	Okanogan River Urban Levee Project, Omak, Wash.	LO-1	K
	DEPARTMENT OF AGRICULTURE		
D-AFS-G65022-NM	Western Spruce Budworm Suppression and Evaluation, Santa Fe National Forest, Sandoval and Rio Arriba Counties, N. Mex.	ER-1	G
D-AFS-G65023-NM	Red River Ski Area, Carson National Forest, Taos County, N. Mex.	LO-2	G
D-AFS-J65060-WY	Union Pass Planning Unit, Bridger-Teton National Forest, Sublette and Fremont Counties, Wyo.	ER-2	I
D-AFS-J65063-MT	Placid Blanchard Planning Unit, Lolo National Forest, Missoula County, Mont.	ER-1	I
D-AFS-K61015-CA	Sierra Ski Ranch Expansion, Eldorado National Forest, Calif.	ER-2	J
D-AFS-L61087-ID	South Fork Salmon River Planning Unit, Boise and Payette National Forests, Valley County, Idaho (USDA-FS-R4-DES-ADM-R4-77-2).	ER-1	K
D-AFS-L64008-AK	Burnett Nonprofit Fish Hatchery, Stikine Area, Tongass National Forest, Alaska (FS-R10-DES-ADM-76-06).	LO-1	K
DS-AFS-L65018-AK	Herbicide Use, National Forests of Alaska, Calendar Year 1976, Alaska.	LO-2	K
D-AFS-L65027-OR	Revised Timber Management Plan, Ochoco National Forest, Oreg. (USDA-FS-R6-DES (ADM)-77-7).	LO-2	K
DS-AFS-L82001-00	1977 Addendum to Cooperative Western Spruce Budworm Pest Management Plan, Washington and Oregon (USDA-FS-R6-DES-ADM-76-7).	LO-2	K
D-REA-E07008-GA	Robert W. Scherer Plant and Related 500 kV Transmission Lines, Oglethorpe Electric Membership Corp., Application, Monroe County, Ga. (formerly Central Georgia Project.)	ER-2	E
D-SCS-E39043-AL	Dyrne Creek Watershed Protection, Flood Prevention, Municipal and Industrial Water Supply and Recreation, Cleburne County, Ala.	LO-1	E
D-SCS-F39048-OH	Little Auglaize River Watershed, Mercer, Putnam, Paulding and Van Wert Counties, Ohio.	ER-2	F
D-SCS-I39008-CO	Canon Watershed Project, Fremont County, Colo.	LO-2	I
	DEPARTMENT OF DEFENSE		
D-USN-K10001-CA	Ready Missile Test Facility, Pacific Missile Test Center, Point Mugu, Ventura County, Calif.	LO-2	J
D-USN-L02002-AK	Continuing Exploration and Evaluation of Naval Reserve No. 4, Alaska.	LO-1	K
	DEPARTMENT OF THE INTERIOR		
D-BLM-A02112-00	Proposed 1977 Outer Continental Shelf Oil and Gas Lease Sale No. 43 (OCS), South Atlantic.	ER-2	A
D-BPA-L08034-WA	BPA Electrical Service to the Northwest Alloy Magnesium Plant, Addy, Wash. (DES-77-7).	ER-2	K
D-IBR-L39052-WA	Esquatzel Coulee Wasteway, Columbia Basin Project, Franklin County, Wash.	LO-1	K

Identifying No.	Title	General nature of comments	Source for copies of comments
	DEPARTMENT OF TRANSPORTATION		
DA-FHW-A40434-IA	U.S. 30, Benton and Linn counties, Iowa	ER-2	H
DA-FHW-A41284-KS	U.S. 169, Neosho and Allen Counties, Kans. (FHWA-KS-EIS-72-11-DS-2).	LO-1	H
D-FHW-B40021-CT	I-84 and I-86, East Hartford to Manchester, Hartford County, Conn. (FHWA-CT-77-01-D).	3	B
D-FHW-C40030-NY	NY-9, Ossining Cedar Place to Beach Rd., Westchester County, N.Y.	LO-1	C
DS-FHW-D40033-MD	Air Quality Analysis, Arundel Expressway, Anne Arundel County, Md.	LO-2	D
DS-FHW-D40040-MD	Air Quality Analysis, MD-2 and MD-4 Extended, St. Mary's County, Md.	LO-2	D
D-FHW-K40048-NV	McCarran Blvd., Northwest Quadrant and North-South Freeway to Pyramid Way, Nev.	LO-2	J
D-FHW-D40044-PA	LR 1013, Lackawanna Valley Expressway and the Carbondale Bypass, Lackawanna County, Pa.	ER-2	D
D-FHW-E40098-GA	I-675, I-75 to I-285, Clayton, Henry and De Kalb Counties, Ga. (FHWA-GA-EIS-77-02-D).	ER-2	E
D-FHW-E40099-NC	NC-24 and NC-27, Albemarle Rd., NC-3128 to NC-51, Mecklenburg County, N.C. (FHWA-GA-EIS-77-01-D).	LO-2	E
D-FHW-E40100-GA	Canton Rd., Relocation, I-75, to Marietta, Cobb County, Ga. (FHWA-GA-EIS-76-05-D).	ER-2	E
D-FHW-E40101-MS	Bailey Ave. to Illinois Central Gulf RR. Overpass, Hinds County, Miss. (FHWA-MS-EIS-77-01-D).	LO-2	E
D-FHW-H40102-NC	Extension of Dawson and McDowell St., Raleigh, N.C. (FHWA-NC-EIS-77-05-D).	LO-2	E
D-FHW-H40067-IA	U.S. 30, IA-330, Marshall and Tama Counties, Iowa (FHWA-Iowa-EIS-77-01-D).	LO-2	H
D-FHW-H40068-NB	Benekelman East, FAS 1270, Dundy County, Nebr.	ER-2	H
D-FHW-K40050-CA	I-080, Corridor Development, Oakland, Calif.	3	J
D-FHW-K40051-HI	Kauai Belt Rd., Kalihiwai to Haena, Kauai, Hawaii	LO-1	J
D-UMT-5B4002-MA	Orange Line Relocation and Arterial Street Construction, South Cove to Forest Hills, Boston, Suffolk County, Mass.	LO-2	B
	ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION		
D-ERD-A00126-SC	Waste Management Operations at Savannah River Plant, Aiken, S.C. (ERDA-1537).	LO-2	A
D-ERD-A00127-TN	Management of Intermediate Level Radioactive Waste, Oak Ridge National Laboratory (ORNL), Oak Ridge, Tenn. (ERDA-1553D).	ER-2	A
D-ERD-A00128-ID	Safety Research Experiment Facilities (SAREF), Idaho National Engineering Laboratory (INEL), Idaho (ERDA-1552D).	LO-2	A
D-ERD-A00130-OH	Portsmouth Gaseous Diffusion Plant Site, Piketon, Pike County, Ohio (ERDA-1555D).	ER-2	A
	FEDERAL ENERGY ADMINISTRATION		
DS-FEA-A07086-00	Energy Supply and Environmental Coordination Act sec. 2, Coal Conversion Program (DES-77-3).	ER-2	A
D-FEA-E03002-KY	Central Rock Mine, Strategic Petroleum Reserve, Lexington, Fayette County, Ky.	ER-2	E
	GENERAL SERVICES ADMINISTRATION		
D-GSA-J60001-CO	GSA Leasing Program, Cumulative Effect, West Denver Metro Area, Colo.	ER-2	I
	DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT		
D-HUD-C85014-PR	Verdemar Housing Development, Humacao, Puerto Rico	ER-2	C
D-HUD-D85011-PA	Wedgewood Estates Subdivision, Planned Residential Development, Chester County, Pa.	LO-2	D
D-HUD-D85012-PA	Industrial Park Urban Renewal Project, Wilkes Barre, Pa.	ER-2	D
D-HUD-E85022-SC	Forestbrook Subdivision, Myrtle Beach Area, Horry County, S.C. (RO4-EIS-77-01-D).	ER-2	E
D-HUD-F85017-MN	Shepard Park West, St. Paul, Ramsey County, Minn.	ER-2	F
D-HUD-F85018-IL	Indian Oaks Subdivision, Will County, Ill.	ER-2	F
D-HUD-G85023-TX	Williamsburg Subdivision, Harris County, Tex.	LO-2	G
D-HUD-G85025-TX	Atascocita Forest Subdivision, Harris County, Tex.	LO-1	G
D-HUD-G85026-TX	Woodland Trails, West Subdivision, Harris County, Tex.	LO-2	G
D-HUD-G85027-TX	Proposed Cimmarron Subdivision, Harris County, Tex.	LO-2	G
D-HUD-G85028-TX	Hunters Glen Subdivision, Fort Bend County, Tex.	LO-1	G
D-HUD-G85029-TX	The Colonies, Harris County, Tex.	LO-1	G
D-HUD-G85030-TX	Colony Park Subdivision, Travis County, Tex.	LO-1	G
D-HUD-G85032-TX	Pebble Hills Addition, El Paso County, Tex.	LO-2	G
D-HUD-G85033-TX	Golf Resort Joint Venture, E Paso County, Tex.	LO-2	G
D-HUD-J24000-MT	Eastside No. 2 Sanitary Sewer Outfall Main, Helena, Mont.	LO-2	I
D-HUD-J85010-CO	Sunstream and Silo Planned Developments, Jefferson County, Colo.	ER-2	I
D-HUD-K85007-CA	The Village, Title X, Chico, Calif.	LO-2	J
	DEPARTMENT OF LABOR		
RD-OSH-A99137-00	Proposed Standard for Occupational Exposure to Lead, Inorganic Lead (40 FR 45934).	LO-1	A
	U.S. POSTAL SERVICE		
D-UPS-C81002-NY	General Mail Facility, Rochester, N.Y.	LO-1	C

APPENDIX II

DEFINITIONS OF CODES FOR THE GENERAL NATURE OF EPA COMMENTS

Environmental Impact of the Action

LO—Lack of objection.—EPA has no objections to the proposed action as described in the draft impact statement; or suggests only minor changes in the proposed action.

ER—Environmental reservations. EPA has reservations concerning the environmental effects of certain aspects of the proposed action. EPA believes that further study of suggested alternatives or modifications is required and has asked the originating Federal agency to reassess these impacts.

EU—Environmentally unsatisfactory. EPA believes that the proposed action is unsatisfactory because of its potentially harmful effect on the environment. Furthermore, the Agency believes that the potential safeguards which might be utilized may not adequately protect the environment from hazards arising from this action. The Agency recommends that alternatives to the action be analyzed further (including the possibility of no action at all).

Adequacy of the Impact Statement

Category 1—Adequate. The draft impact statement adequately sets forth the environmental impact of the proposed project or action as well as alternatives reasonably available to the project or action.

Category 2—Insufficient information. EPA believes that the draft impact statement does not contain sufficient information to assess fully the environmental impact of the proposed project or action. However, from the information submitted, the Agency is able to make a preliminary determination of the impact on the environment. EPA has requested that the originator provide the information that was not included in the draft statement.

Category 3—Inadequate. EPA believes that the draft impact statement does not adequately assess the environmental impact of the proposed project or action, or that the statement inadequately analyzes reasonable available alternatives. The Agency has requested more information and analysis concerning the potential environmental hazards and has asked that substantial revision be made to the impact statement.

APPENDIX III.—*Final environmental impact statements for which comments were issued between Apr. 1, 1977 and Apr. 30, 1977*

Identifying No.	Title	General nature of comments	Source for copies of comments
	CORPS OF ENGINEERS		
FS-COE-A34128-00	Pumped storage, Richard B. Russell Dam and Lake, Georgia and South Carolina	EPA's review of the supplement to the final EIS indicated that there is insufficient information on pumped storage for the Richard B. Russell Dam and Lake to fully evaluate the biological impacts of the proposed operation. Of specific concern to EPA is the lack of specific design details such as what will be the water velocity at the intake, the anticipated area of flow reversal, and the velocities within the area of flow reversal during the pump-back operation? Additional data are needed regarding the effects of the operation on the white bass population in Clark Hill Reservoir and entrainment impacts.	E
FS-COE-A36350-MO	Stockton Lake, Sac River, Downstream Flooding, Cedar County, Mo.	EPA expressed severe environmental reservations with the proposed project. Specific concerns include adverse water quality impacts due to increased velocity and discharge of the Sac River; the degradation of wetlands due to bypassing a portion of the Sac River at Horseshoe Bend; loss of riparian habitat due to bank erosion; and the probable loss of the Sac River fishery.	H
FS-COE-D35002-PA	Diked Disposal Site No. 2, Erie Harbor, Erie County, Pa.	EPA's concerns were adequately addressed in the supplement to the final EIS.	D
F-COE-E35008-SC	Wando and Cooper Rivers, Permit Dredge, Fill and Construction of a Marine Terminal, Charleston County, S.C.	EPA has determined that the project as proposed is environmental unsatisfactory. Major concerns expressed by EPA are the cumulative adverse impacts from runoff, oil spills and industrial development upon the water quality of the Wando River; the destruction and contamination of Marshlands; damage to marine life; secondary development induced by the terminal; and early exhaustion of dredged material disposed sites. In addition, possible alternative sites have not been analyzed sufficiently. Therefore, pursuant to sec. 309(B) of the Clean Air Act, EPA has referred this proposed project to the council on environmental quality as unsatisfactory to public health, welfare and environmental quality.	E

Identifying No.	Title	General nature of comments	Source for copies of comments
F-COE-E35028-FL	Cross Florida Barge Canal, Restudy Report, from St. Johns River at Palatka to the Gulf of Mexico at Yankeetown, Fla.	EPA recognizes that the chief of the US Army Corps of Engineers has recommended the termination of all activities leading toward completion of the Cross Florida Barge Canal. However, EPA's comments were forwarded for the record. Of great concern to EPA is the potential introduction of contaminated water into the Floridian aquifer which is used as a potable water supply and is a potential major water source for the future. Also EPA is concerned about the impacts on water quality form herbicides and pesticide use and nutrient and sulfide enrichment. Further, EPA is concerned with loss and degradation of the unique Oklawaha River system, degraded surface water quality in both the Oklawaha and Withlacoochee Rivers, and loss of bottomlands valuable for timber, wildlife and agriculture production. EPA concurs with the decision of the chief of engineers to terminate the proposed project.	E
F-COE-E36039-00	Operation and Maintenance, Navigation Project, Savannah River Below Augusta, New Savannah Bluff Lock and Dam, Georgia and South Carolina.	EPA's concerns were adequately addressed in the EIS. However, EPA does not agree to the blocking of the old river bends with spoil at the cutoffs. This spoil disposal should be coordinated with the conservation agencies as previously suggested by EPA.	E
F-COE-F06001-MI	Presque Isle Generating Station, Units 7, 8, and 9, Marquette County Mich.	EPA's concerns were adequately addressed in the final EIS.	F
F-COE-F32013-WI	Green Bay Harbor Maintenance, Dredging, and Contained disposal of Dredge Materials, Wisconsin.	EPA's concerns were adequately addressed in the final EIS. EPA recommended the supernatant monitoring limits which would cause closure of the CDF should be provided. EPA also recommended future bottom sediment analysis should include pesticides and PCB's.	F
F-COE-H34006-KS	Operation and Maintenance of John Redmond, Marion, and Council Grove Lakes, Kans.	EPA's review of the final EIS indicated the corps was unresponsive to EPA's comments prepared on the draft EIS, therefore EPA has requested that the Corps of Engineers prepare a supplemental EIS. Specifically, EPA requested that data on the water quality of the reservoirs, allocation of water supply storage, and operation of the system reservoirs in the Neosho River Basin be included in the final EIS. The responses to these comments were inadequate thereby leading to EPA's rating of the final EIS as unresponsive.	H
F-COE-K80008-CA	Redwood Shores Regional Shopping Center, Permit, Redwood City, San Mateo County, Calif.	EPA's concerns were adequately addressed in the final EIS.	J
DEPARTMENT OF AGRICULTURE			
F-AFS-J65042-SD	Timber Management Plan, Black Hills National Forest, S. Dak. (USDA-FS-R2-FES-ADM-76-08).	EPA's concerns were adequately addressed in the final EIS.	I
FS-REA-A08012-00	Underwood Generation Station, Units 1 and 2, Related Transmission Lines, North Dakota and Minnesota.	....do....	I
F-SCS-F30004-IL	Little Cache Creek Watershed, Johnson County, Ill.	....do....	F
DEPARTMENT OF COMMERCE			
F-NOA-L64001-OR.....	State of Oregon Coastal Management program.	Generally, EPA's concerns were adequately addressed in the final EIS. However, EPA's primary concern was that neither the EIS or the draft coastal management program described the mechanisms by which the coastal management program would be coordinated with EPA sponsored environmental protection programs or the mechanisms which would be used to implement the Federal consistency requirements of the Coastal Zone Management Act. EPA found that the final coastal management program dealt adequately with the ist of these information gaps. However, EPA also found that Federal consisteney procedures are not yet developed and therefore recommended OCZ xl provide for formal Federal agency concurrence in Oregon's procedures prior to their implementation.	K

Identifying No.	Title	General nature of comments	Source for copies of comments
	DEPARTMENT OF DEFENSE		
F-UAF-F11004-MI	Closure, Kincheloe Air Force Base, Mich.	EPA's review of the final EIS indicated the USAF was unresponsive to EPA's comments on the draft EIS. EPA has requested the USAF provides adequate information on water quality and noise for the proposed project.	F
	DEPARTMENT OF INTERIOR		
F-BLM-J07004-UT	Emery Power Plant, Utah	EPA's concerns were adequately addressed in the final EIS. However, EPA suggested that future power plant impact statements contain independent market demand studies and give further consideration to the project alternatives of conservation and the use of nondepletable sources of energy.	I
F-IBR-J34006-CO	Fruitland Mesa Project, Delta, Montrose and Gunnison Counties, Colo.	EPA's concerns were adequately addressed in the final EIS.	I
	DEPARTMENT OF TRANSPORTATION		
F-DOT-A41566-CO	U.S. 287 to CO-14, Fort Collins expressway, larimer County, Colo.	EPA expressed concern that planning for the proposed project was being done in the absence of a comprehensive land use plan for the highway corridor area and a regional transportation plan.	I
F-DOT-A41655-MN	MN-23, Junction MN-24 and MN-212, Lyon, Yellow Medicine, Renville, Chippewa Counties, Minn.	EPA's concerns were adequately addressed in the final EIS.	F
NF-FAA-D51005-VA	Mecklenburg-Brunswick Regional Airport, South Hill, Va.	EPA's concerns were adequately addressed in the negative declaration.	D
F-FHW-D54025-MD	Relocated U.S. 140, Northwest Expressway, Phase I, Rapid Transit, Baltimore Md.	EPA's concerns were adequately addressed in the final EIS. EPA requested a continuing liaison through ongoing development to insure proper phasing of highway and transit elements of the facility.	D
F-FHW-E40031-KY	I-471, Cincinnati I-275 Connector, Campbell County, Ky (FHWA-KY-EIS-75-05-F).	EPA's concerns were adequately addressed in the final EIS. However, EPA requested the FHWA reevaluate their position on abatement if the impact and public raection warrant it.	E
F-FHW-E40071-NC	Independence Blvd. Corridor, Inner Loop From I-77 to Northwest Freeway, Charlotte, N.C. (FHWA-NC-EIS-76-02-F).	EPA continues to have environmental reservations on the proposed project. Specifically the, findings of the EIS are not consistent with the objectives of attainment and maintenance of the NAAQS for photochemical oxidants. To be environmentally acceptable for air quality, the project shoind not increase the total burden on hydrocarbon emissions in the metropolitan area.	E
F-FHW-F40049-IL	I-255, Jefferson Barracks Bridge, Monroe County, Ill.	EPA's concerns were adequately addressed in the final EIS.	F
F-FHW-F40058-MN	I-94, I-494, and I-694 interchange, Washington County, Minn.	EPA concerns were adequately addressed in the final EIS. EPA has recommended the proposed route be used. However, the noise impacts upon 2 sites were great enough to warrant EPA's recommendation for removal.	F
F-FWH-F40070-MN	U.S. 2 Bypass of Bemidji, Beltrami County, Minn.	EPA's concerns were adequately addressed in the final EIS.	F
F-FHW-J40016-MT	Elmo-Rollins and Flathead County Line South, U.S. 93 West Side of Flathead Lake between Polson and Kalispell, Mont.	....do	I
F-FHW-K40045-NV	Flamingo Rd., I-15 to U.S. 93 and U.S. 95, Clark County, Nev.	....do	
F-FHW-K40046-NV	U.S. 395 Corridor, South Virginia St. to Panther Valley, Washoe County, Nev.	....do	J

Identifying No.	Title	General nature of comments	Source for copies of comments
	DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT		
F-HUD-C85013-PR	Monte Brisas Development, Fajardo, Puerto Rico.	EPA continues to have environmental reservations concerning the proposed project. Specifically, the potential impacts on water supplies and the failure of the final EIS to discuss water conservation measures previously recommended.	C
FS-HUD-K60006-CA	West End II, Redevelopment Project, Property Acquisition, Demolition, Residential Relocation and Project Improvements, Stockton, Calif.	EPA's concerns were adequately addressed in the supplement to the final EIS.	J
F-ICC-F53002-WI	Chicago and North Western Transportation Co. Abandonment, Sawyer, Ashland and Bayfield Counties, Wis.	EPA's concerns were adequately addressed in the final EIS. However, EPA indicated the abandonment would have an adverse impact upon the Nation's energy resources.	F*
F-ICC-F53004-00	Chicago, South Shore, South Bend, RR. Discontinuance of All Passenger Train Service, Indiana and Illinois.	EPA's concerns were adequately addressed in the final EIS. The ICC has denied the request for immediate abandonment of service by requiring operations to continue for a period of 10 mo. EPA opposes abandonment because public transportation in Chicago and Northern Indiana is an essential to achieve compliance with air quality standards. EPA hopes that Indiana will utilize this 10-mo. period to make arrangement to match available Federal grants which would permit commuter operations to continue.	F
	DEPARTMENT OF LABOR		
RF-LAB-A27001-00	Standard for Occupational Exposure to Inorganic Arsenic.	EPA's concerns were adequately addressed in the final EIS.	A
	U.S. POSTAL SERVICE		
F-UPS-C99002-NY	Manhattan Vehicle Maintenance Facility, and Chelsea Morgan Housing, New York.	EPA's concerns were adequately addressed in the final EIS.	C

APPENDIX IV.—*Final environmental impact statements which were reviewed and not commented on between Apr. 1, 1977 and Apr. 30, 1977*

Identifying No.	Title	Source of review
	CORPS OF ENGINEERS	
F-COE-A32471-MS	Pascagoula River, Maintenance, Escatawpa River, George and Jackson Counties, Miss.	E
F-COE-D07003-DE	Permit, Delmarva Power and Light Co., Indian River Power Station, Unit No. 4, Sussex County, Del.	D
F-COE-G34004-OK	Operation and Maintenance Program, Oologah Lake, Verdigris River, Hulah Lake, Caney River, Reyburn Lake, Polecat Creek, Okla.	G
F-COE-G34030-LA	Calcasieu River and Pass; Coon Island, Devil's Elbow, Calcasieu River Basin, Operation and Maintenance, La.	G
F-COE-G36045-TX	Local Flood Protection Project, Three Rivers, Live Oak County, Tex.	G
F-COE-H34005-KS	Operation and Maintenance, Elk City, Fall River and Toronto Lakes, Kans.	H
	DEPARTMENT OF AGRICULTURE	
F-AFS-A61163-MT	Flathead, Wild and Scenic River Proposal, Mont.	I
F-AFS-G65017-AR	South Fourche Unit, Quachita National Forest, Saline County, Ark.	G
F-AFS-L61068-OR	Siuslaw National Forest, Marys Peak Planning Unit, Benton and Polk Counties, Oreg.	K
F-AFS-L61077-OR	Land Use Plan, Butte Planning Unit, Oregon (USDA-FS-R6-FES (ADM)-76-12).	K
F-AFS-L65021-WA	Wenatchee National Forest, Off-Road Vehicle Use, Washington.	K
	DEPARTMENT OF DEFENSE	
FS-USA-J20005-UT	Disposal of Toxic Residue, West Granite Disposal Area, Dugway Proving Ground, Utah.	I
	DEPARTMENT OF INTERIOR	
F-BOR-H61001-IA	Des Moines Riverfront Development, Polk County, Iowa.	H
F-IBR-G32021-NM	Operation and Maintenance, Rio Grande-Velarde to Caballo Dam, N. Mex.	G

Identifying No.	Title	Source of review
DEPARTMENT OF TRANSPORTATION		
F-FAA-L5100G-AK	Anchorage International Airport, North South Runway, Anchorage, Alaska.	K
F-FHW-E40103-AL	I-20, I-459, and I-20 Interchange to U.S. 78, Jefferson County, Ala.	E
F-FHW-H40038-NB	Center St. and Mercy Rd. Intersection, Omaha, Douglas County, Nebr.	H
F-FHW-L40031-ID	U.S. 95, Cox's Ranch to Goff Bridge, Idaho (FHWA-ID-EIS-76-01-F)	K
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT		
F-HUD-E28020-AL	Lowndes County Rural Water System Improvements, Lowndes County, Ala. (CDBG).	E
F-HUD-G24002-AR	Southeast Sanitary Sewer, Pine Bluff, Jefferson County, Ark.	O
F-HUD-G85018-TX	Trailwood Subdivision, Dallas County, Tex.	O
F-HUD-G85021-TX	Pine Trails Subdivision, Harris County, Tex.	O

APPENDIX V.—*Regulations, legislation and other Federal agency actions for which comments were issued between Apr. 1, 1977 and Apr. 30, 1977*

Identifying No.	Title	General nature of comments	Source for copies of comments
CORPS OF ENGINEERS			
R-COE-A86103-00	33 CFR Parts 207, 308, 309, 310, Environmental Considerations, Proposed Policies and Procedures, Environmental Regulations (42 FR 10782).	EPA found that the proposed regulations generally meet their objective of supporting environmental quality aspects of corps planning procedures. EPA did offer a number of suggestions which it believed would strengthen specific sections of the regulation.	A
DEPARTMENT OF INTERIOR			
R-BLM-A01044-00	43 CFR Part 3800, Surface Management of Public Land Under U.S. Mining Laws, Proposed Procedures to Minimize Adverse Environmental Impacts.	EPA expressed general agreement with the intent of the proposed rules. Comments were offered regarding possible modifications to the regulations which would allow more time for the administrative review of proposed mining operations. In addition, comments were provided regarding the implementation of criteria for plan modification, bond requirements, and air and water quality considerations.	A
DEPARTMENT OF TRANSPORTATION			
R-CGD-A52111-00	33 CFR Part 161, Vessel Traffic Systems, Proposed Prince William Sound Vessel Traffic Service (CGD-75-032) (42 FR 7164).	EPA has reviewed the proposed regulations and has no comments at this time.	A
R-CGD-A52112-00	33 CFR Parts 160 and 165, Safety Zones, Proposed Authorization (CGD-75-205).	EPA suggested the USCG establish a standard marking system to identify the safety zones.	A
R-AFS-A05129-00	36 CFR Chapter I, Sale and Disposal of Timber.	EPA expressed general agreement with the proposed rule. EPA offered a number of suggestions to strengthen specific sections of the regulations.	A

APPENDIX VI

SOURCE FOR COPIES OF EPA COMMENTS

A. Public Information Reference Unit (PM-213), Environmental Protection Agency, Room 3922, Waterside Mall SW., Washington, D.C. 20460.

B. Director of Public Affairs, Region 1, Environmental Protection Agency, John F. Kennedy Federal Building, Boston, Massachusetts 02203.

C. Director of Public Affairs, Region 2, Environmental Protection Agency, 26 Federal Plaza, New York, New York 10007.

D. Director of Public Affairs, Region 3, Environmental Protection Agency, Curtis Building, 6th and Walnut Streets, Philadelphia, Pennsylvania 19106.

E. Director of Public Affairs, Region 4, Environmental Protection Agency, 345 Courtland Street NE, Atlanta, Georgia 30308.

F. Director of Public Affairs, Region 5, Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604.

G. Director of Public Affairs, Region 6, Environmental Protection Agency, 1201 Elm Street, Dallas, Texas 75270.

H. Director of Public Affairs, Region 7, Environmental Protection Agency, 1735 Baltimore Street, Kansas City, Missouri 64108.

I. Director of Public Affairs, Region 8, Environmental Protection Agency, 1860 Lincoln Street, Denver, Colorado 80203.

J. Director of Public Affairs, Region 9, Environmental Protection Agency, 100 California Street, San Francisco, California 94111.

K. Director of Public Affairs, Region 10, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101.

[FR Doc.77-17840 Filed 6-23-77;8:45 am]

[FRL 750-8; OPP-50304]

MONSANTO AGRICULTURAL PRODUCTS CO. ET AL.

Issuance of Experimental Use Permits

The Environmental Protection Agency (EPA) has issued experimental use permits to the following applicants. Such permits are in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

No. 524-EUP-28. Monsanto Agricultural Products Company, St. Louis, Missouri 63166. This experimental use permit allows the use of 3,225 pounds of the herbicide glyphosate N-(Phosphonomethyl) glycine on sugarcane to evaluate control of annual and perennial grasses and broadleaf weeds. A total of 865 acres is involved; the program is authorized only in the States of Florida, Hawaii, Louisiana, Puerto Rico, and Texas. The experimental use permit is effective from May 3, 1977, to May 3, 1978. Temporary tolerances for residues of the active ingredient in or on sugarcane and in the liver and kidney of cattle, goats, hogs, horses, poultry, and sheep have been established.

No. 239-EUP-82. Chevron Chemical Company, Richmond, California 94804. This experimental use permit allows the use of 3,000 pounds of the insecticide acephate on pecans to evaluate control of pecan aphid. A total of 600 acres is involved; the program is authorized only in the States of Alabama, Arkansas, Florida, Georgia, Louisiana, Oklahoma, Mississippi, and Texas. The experimental use permit is effective from April 28, 1977, to April 28, 1978. A temporary tolerance for residues of the active ingredient in or on pecans has been established. This permit is issued with the restriction that there will be no grazing of livestock in treated areas.

No. 11312-EUP-22. U.S. Department of Agriculture, Hyattsville, Maryland 20782. This experimental use permit allows the use of 30 pounds of the inspecticide N-[[(4-chlorophenyl)amino]carbonyl] - 2,6 - difluorobenzamine on forest areas to evaluate control of Gypsy moths. A total of 600 acres is involved; the program is authorized only in the State of Pennsylvania. The experimental use permit is effective from May 6, 1977, to May 6, 1978.

Interested parties wishing to review the experimental use permits are referred to Room E-315, Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M St., S.W., Washington, D.C. 20460. It is suggested that such interested persons call 202/755-4851 before visiting the EPA Headquarters Office, so that the appropriate permits may be made conveniently available for review purposes. These files will be available for inspection from 8:30 a.m. to 4:00 p.m. Monday through Friday.

Sec. 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136(a) *et seq.*

Dated: June 17, 1977.

DOUGLAS D. CAMPT,
Director, Registration Division.

[FR Doc.77-17987 Filed 6-23-77;8:45 am]

[FRL 751-4; OPP-30000/14A]

REBUTTABLE PRESUMPTION AGAINST REGISTRATION AND CONTINUED REGISTRATION OF CERTAIN PESTICIDE PRODUCTS CONTAINING PRONAMIDE

Notice of Extension of Period for Submission of Rebuttal Evidence and Comments

On May 9, 1977, the Environmental Protection Agency (EPA) issued a notice of presumption against registration and continued registration of pesticide products containing the ingredient Pronamide. This nctice was published in the FEDERAL REGISTER on May 20, 1977 (42 FR 25906). The regulations governing rebuttable presumptions provide that the applicant or registrant of such pesticide products shall have forty-five (45) days from the date such notice is sent to submit evidence in rebuttal of the presumption. However, for good cause shown, an additional sixty (60) days may be granted in which such evidence may be submitted [40 CFR 162.11(a)(1)(i)].

A request for an additional 60 days in which to present evidence to the Agency has been received from Rohm and Haas Co. who currently has six applications for registration pending before the Agency and two registered products which contain pronamide. Rohm and Haas is the sole producer of the technical grade and the 50 percent wettable powder marketed under the name "Kerb 50-W". The notice of rebuttable presumption contained some points which have not been previously considered by Rohm and Haas and which will, therefore, require considerable time to conduct a detailed examination and evaluation of pertinent information. A 60-day extension would permit an effective in-depth data collection/evaluation effort.

The Agency agrees that additional time would be beneficial to ensure the submission of complete and accurate responses to this notice of presumption. Therefore, because good cause has been shown for an extension of time by an affected party wishing to respond to the notice of presumption, all registrants, applicants for registration, and other interested persons shall have until August 29, 1977, to submit rebuttal evidence and other comments or information. Such evidence, comments, or other information relevant to the presumption against registration and continued registration should be submitted to the Federal Register Section, Technical Services Division (WH-569), Office of Pesticide Programs, Environmental Protection Agency, Rm. 401, East Tower, 401 M St. SW., Washington, D.C. 20460. Three copies of the comments should be submitted to facilitate the efforts of the Agency and of others interested in inspecting them. All comments should bear the identifying notation "OPP-30000/14A". Comments and information received on or before August 29, 1977, shall be considered before it is determined whether a notice shall be issued in accordance with 40 CFR 162.11(a)(5)(ii) and 7 U.S.C. 136(a)(c)(6) or 7 U.S.C. 136(d)(b)(1). Comments received after August 29, 1977, shall be considered only to the extent feasible consistent with the time limits imposed by 40 CFR 162.11(a)(5)(ii). All written comments filed pursuant to this notice will be available for public inspection in the office of the Federal Register Section at the above business address from 8:30 a.m. to 4 p.m. on normal business days. The file supporting the Agency's presumption against this pesticide is available for public inspection in the Office of Special Pesticide Review, Rm. 447, East Tower, during the same time period.

Dated: June 17, 1977.

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

[FR Doc.77-17983 Filed 6-23-77;8:45 am]

[FRL 751-3]

[FRL 751-3; PP 661755/T116]

SHELL CHEMICAL CO.; CYANO (3-PHENOXYPHENYL)METHYL - 4 - CHLORO - α-(METHYLETHYL)BENZENEACETATE

Notice of Extension of Temporary Tolerances

On July 16, 1976, the Environmental Protection Agency (EPA) gave notice (41 FR 29470) that in response to a pesticide petition (PP 661755) submitted to the Agency by Shell Chemical Co., 1025 Connecticut Ave. NW., Washington, D.C. 20036, temporary tolerances were established for residues of the insecticide cyano (3 - phenoxyphenyl) methyl 4-chloro-α-(1-methylethyl) benzeneacetate in or on the raw agricultural commodities cottonseed at 0.2 part per million (ppm) and in the fat of milk at 0.02 ppm. These temporary tolerances are scheduled to expire July 9, 1977.

Shell Chemical Co. requested a one-year extension of these temporary tolerances both to permit continued testing to obtain additional data and to permit the marketing of the above raw agricultural commodities when treated in accordance with the provisions of an experimental use permit that has been extended under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136(a) et seq.).

The scientific data reported and all other relevant material were evaluated and it was determined that an extension of the temporary tolerances would protect the public health. Therefore, the temporary tolerances have been extended on condition that the pesticide is used in accordance with the experimental use permit with the following provisions:

1. The total amount of the pesticide to be used must not exceed the quantity authorized by the experimental use permit.

2. Shell Chemical Co. must immediately notify the EPA of any findings from the experimental use that that a bearing on safety. The firm must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

These temporary tolerances expire May 16, 1978. Residues not in excess of 0.2 ppm and 0.02 ppm remaining in or on cottonseed and in the fat of milk, respectively, after this expiration date will not be considered actionable if the pesticide is legally applied during the term of and in accordance with the provisions of the experimental use permit and temporary tolerances. These temporary tolerances may be revoked if the experimental use permit is revoked or if any scientific data or experience with this pesticide indicate such revocation is necessary to protect the public health. Inquiries concerning this notice may be directed to Special Registrations Section, Registration Division (WH-567), Office of Pesticide Programs, Room 315, East Tower, 401 M St. SW., Washington, D.C. 20460 (202/755-4851).

(Sec. 408(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(j)).)

Dated: June 17, 1977.

DOUGLAS D. CAMPT,
Acting Director, Registration Division.

[FR Doc.77-17984 Filed 6-23-77;8:45 am]

[FRL751-7; OPP-180128]

STATE OF LOUISIANA

Issuance of a Specific Exemption To Use Avitrol To Control Bird Damage to Rice Crop

The Environmental Protection Agency (EPA) has granted a specific exemption to the State of Louisiana (hereafter referred to as the "Applicant") to use not more than 150,000 pounds of an Avitrol product to control damage by depredating birds which are threatening the rice crop in southwestern Louisiana. This exemption was granted in accordance with, and is subject to, the provisions of 40 CFR Part 166, which prescribes requirements for exemption of Federal and State agencies for use of pesticides under emergency conditions.

This notice contains a summary of certain information required by regulation to be included in the notice. For more detailed information, interested parties are referred to the application on file with the Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M St., S.W., Room E-315, Washington, D.C. 20460.

According to the Applicant, a common rice seeding practice in southwestern Louisiana is to flood the rice fields and sow the seeds into the water by aircraft. The water is then drawn off exposing the seeds. The Applicant stated that large flocks of brown-headed cowbirds, boat-tailed grackles, common grackles, and rusty blackbirds inhabiting this area of Louisiana can quickly consume newly planted rice seed.

Bird damage is not so severe when rice is planted by drill seeding, but weather and soil conditions may prevent drilling. Alternatively, if after water planting, the water is not drawn off, there can be no bird damage; however, the Applicant stated that this is not compatible with rice farm management practices. For many years, Aldrin was used as a seed treatment for rice, primarily against rice water weevil.

A secondary benefit derived from seed treatment with Aldrin was that the treated rice also served as a bird repellent. The Applicant stated that since Aldrin is no longer available, no satisfactory bird repellent is available.

Rice is the second most important crop in Louisiana, according to the Applicant; it was estimated that one out of every ten acres of rice fields would suffer bird damage if control measures were not taken. This could represent 150,000 acres of the approximate total of 600,000 acres of rice to be planted in Louisiana this year.

Currently, there are no avicides or avian repellents registered for use in rice fields. The Applicant proposed to aerially apply one pound of Avitrol Corn Chops-99 (EPA Reg. No. 11649-12), which is equal to 0.03 percent active 4-aminopyridine per acre in sixty foot swaths with a 120 foot swath between treated areas. The actual application rate would be three (3) pounds of product per acre of treated swaths. According to the Applicant, two to three applications may be necessary in some areas should reinfestation occur.

Avitrol Corn Chops-99 is registered for bird damage control in twelve (12) States. It is formulated such that only one particle in one-hundred particles of corn actually contains the active ingredient. To date, most of the field studies with this product have been concerned with its use to control bird damage of corn and sunflowers. Obviously, hazards associated with these uses are significantly different from those associated with rice agriculture.

EPA has determined that the greatest hazard associated with the use of Avitrol is to non-target avian species (migratory and native waterfowl, upland game birds, and songbirds). Numerous waterfowl species utilize rice fields, as well as adjacent areas, extensively during early spring; some of these species are mallards, shovellers, teals, wood ducks, and canvasbacks. Although many of these and other birds are beginning to migrate north by mid-March, birds that wintered farther south are continually using rice fields as stopover sites on their journey northward. The greatest hazard generally exists to the smaller avian species.

The U.S. Department of the Interior (USDI) reviewed the proposed use of Avitrol and agreed that there are potential hazards to non-target avian species in treated areas; however, the USDI stated that an adequate monitoring program would reduce damage of such species.

A tolerance of 0.1 ppm has been established for negligible residues of the bird repellent 4-aminopyridine in or on the raw agricultural commodities corn grain, forage and fodder, and sunflower seeds. EPA has reviewed the data submitted for this use of Avitrol and has determined that residues in or on rice grain or straw would not be expected to exceed 0.1 ppm under this use.

After reviewing the application and other available information, EPA has determined that (a) bird depredation of seeded rice in Louisiana is likely to occur; (b) there is no pesticide presently registered and available for use to control bird damage to rice crops; (c) there are no alternative means of control, taking into account the efficacy and hazard; (d) significant economic problems may result if birds are not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until June 30, 1977, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. The EPA registered product, Avitrol Corn Chops-99 (EPA Reg. No. 11649-12), must be used and applied at a maximum rate of three (3) pounds of product per acre of treated swaths. Avitrol will be applied in sixty foot swaths with a 120 foot swath between treated areas;

2. A maximum of three (3) applications will be made. The second and third application, if necessary, will be made to untreated swaths to prevent double treatment of the same land;

3. The total quantity of Avitrol product used will not exceed 150,000 pounds;

4. This product is extremely toxic to wildlife. Keep out of lakes, streams or ponds. Do not contaminate water by cleaning of equipment or disposal of waste;

5. All appropriate label directions and precautionary statements will be observed;

6. A residue level not to exceed 0.1 ppm 4-aminopyridine in or on rice grain or straw has been deemed adequate to protect the public health. The Food and Drug Administration of the U.S. Department of Health, Education, and Welfare, has been advised of this action;

7. A full report of this program will be submitted to EPA upon the completion of the program. In addition, a plan must be developed with and approved by the EPA Regional office prior to the application of the pesticide which will ensure that the following requirements and restrictions are observed;

8. Applicators must report the time and place of application to the EPA Regional office at least 24 hours prior to such application;

9. On-site surveillance must be conducted by State or county personnel or personnel of the USDI or the EPA Regional office;

10. Post-treatment monitoring for effects on nontarget species must be conducted by one of the above agencies; and

11. This use of Avitrol Corn Chops-99 will be terminated immediately in those areas where high mortality to non-target species occurs. Particular care will be exercised regarding migratory waterfowl.

(Sec. 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136(a) et seq.).)

Dated: June 17, 1977.

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

[FR Doc.77-17991 Filed 6-23-77;8:45 am]

[FRL 751-8; OPP-180127]

TEXAS DEPARTMENT OF AGRICULTURE

Issuance of a Specific Exemption To Use Avitrol To Control Bird Damage to Rice Crop

The Environmental Protection Agency (EPA) has granted a specific exemption to the Texas Department of Agriculture (hereafter referred to as the "Applicant") to use not more than 60,000 pounds of an Avitrol product to control damage by depredating birds which are threatening the rice crop in nineteen (19) counties in Texas. This exemption was granted in accordance with, and is subject to, the provisions of 40 CFR Part 166, which prescribes requirements for exemption of Federal and State agencies for use of pesticides under emergency conditions.

This notice contains a summary of certain information required by regulation to be included in the notice. For more detailed information, interested parties are referred to the application on file with the Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M Street SW., Room E-315, Washington, D.C. 20460.

According to the Applicant, rice fields in the affected areas are irrigated to add soil moisture and then drained before being seeded. Rice is then aerially seeded. It is at this time, immediately after seeding, that the birds (blackbirds, cowbirds, grackles, starlings, wrens, doves, and treeducks) cause damage by eating the seed and seedlings. Depredation of rice seed may greatly reduce yields at harvest.

The Applicant estimated that one out of every ten acres of rice fields would be unfit for harvesting if control measures are not taken. This could represent 50,000 acres of the total 500,000 acres planted in rice each year in Texas. The potential yield loss to bird depredation has been estimated by the Applicant at $16,026,000. Reseeding 50,000 acres of depredated rice fields would cost approximately $3,000,000.

Currently, there are no avicides or avian repellents registered for use in rice fields. The applicant proposed to aerially apply one pound of Avitrol Corn Chops-99 (EPA Reg. No. 11649-12), which is equal to 0.03 percent active 4-aminopyridine per acre in sixty foot swaths with a 120 foot swath between

treated areas. The actual application rate would be three (3) pounds of product per acre of treated swaths. According to the Applicant, two to three applications may be necessary in some areas should reinfestation occur. However, if additional treatments are necessary, they would be applied to untreated swaths to prevent double treatment of the same land. The following coastal counties of Texas are involved: Austin, Brazoria, Calhoun, Chambers, Colorado, Fort Bend, Galveston, Hardin, Harris, Jackson, Jefferson, Lavaca, Liberty, Matagorda, Newton, Orange, Victoria, Waller, and Wharton.

Avitrol Corn Chops–99 is registered for bird damage control in twelve (12) states; Avitrol is not registered for bird damage control in Texas. To date, most of the field studies with this product have been concerned with its use to control bird damage of corn and sunflowers. Obviously, hazards associated with these uses are significantly different from those associated with rice agriculture.

EPA has determined that the greatest hazard associated with the use of Avitrol is to non-target avian species (migratory and native waterfowl, Attwater's Prairie Chicken, etc.). Numerous waterfowl species utilize rice fields, as well as adjacent areas, extensively during early spring; some of these species are mallards, shovellers, teals, wood ducks, and canvasbacks. Although many of these and other birds are beginning to migrate north by mid-March, birds that wintered farther south are continually using rice fields as stopover sites on their journey northward. Certain species of waterfowl may be found in these areas by late May. Other avian species which utilize the rice fields include upland game birds, such as quail, pheasant, dove, and turkeys as well as numerous species of shore birds and songbirds. The greatest hazard generally exists to the smaller avian species.

The Attwater's Prairie Chicken, an endangered species, is a native to this area of Texas. Although EPA does not have toxicity data for the Attwater's Prairie Chicken, toxicity data for other avian species indicate that one (1) treated kernel may be sufficient to incapacitate an adult chicken. One potential hazard to Attwater's Prairie Chicken from ingestion of Avitrol is potential reproduction impairment. A study with coturnix quail found that egg production was reduced when females were given a single oral subacute dose of 5.62 mg/kg of Avitrol. Although these results do not conclusively prove that egg production in the Attwater's Prairie Chicken would suffer similar effects, it does point to a potential hazard. The ecological disruption of the chicken's habitat is yet another possible hazard posed by this use of Avitrol. It is possible that heavy mortality to target and/or non-target species could attract large numbers of predators, many of which could be nest predators. However, the program to be used includes monitoring (pre- and post-treatment) for effects on non-target species by State and Federal personnel, the termination of all applications of Avitrol in those areas where high mortality to nontarget species occurs, and prohibiting the use of Avitrol in any area utilized by Attwater's Prairie Chicken. These procedures have been adopted to prevent violation of the Endangered Species Act. In the past, several emergency exemptions which posed potential hazards to endangered species have been issued by EPA; however, appropriate restrictions have always been imposed to avoid or reduce exposure to a minimum, when it was deemed necessary to use pesticides under emergency conditions. The restrictions have usually involved monitoring by state and Federal officials to ensure that endangered species are not in the areas to be treated. As of this date, no reported serious consequences to the existence or habitat of endangered species have resulted from a pesticide program authorized under an emergency exemption.

The U.S. Department of the Interior (USDI) reviewed the proposed use of Avitrol and agreed that there are potential hazards to non-target avian species in treated areas; however, the USDI stated that an adequate monitoring program would reduce damage of such species.

A tolerance of 0.1 ppm has been established for negligible residues of the bird repellent 4-aminopyridine in or on the raw agricultural commodities corn grain, forage and fodder, and sunflower seeds. EPA has reviewed the data submitted for this use of Avitrol and has determined that residues in or on rice grain or straw would not be expected to exceed 0.1 ppm under this use.

After reviewing the application and other available information, EPA has determined that (a) bird depredation of seeded rice in Texas has occurred; (b) there is no pesticide presently registered and available for use to control bird damage to rice crops; (c) there are no alternative means of control, taking into account the efficacy and hazard; (d) significant economic problems may result if the birds are not controlled; and (e) the time available for action to mitigate the problems posed is insufficient for a pesticide to be registered for this use. Accordingly, the Applicant has been granted a specific exemption to use the pesticide noted above until June 30, 1977, to the extent and in the manner set forth in the application. The specific exemption is also subject to the following conditions:

1. The EPA registered product, Avitrol Corn Chops-99 (EPA Reg. No. 11649–12), must be used and applied at a maximum rate of three (3) pounds of product per acre of treated swaths. Avitrol will be applied in sixty foot swaths with a 120 foot swath between treated areas;

2. A maximum of three (3) applications will be made. The second and third applications, if necessary, will be made to untreated swaths to prevent double treatment of the same land;

3. The total quantity of Avitrol product used will not exceed 60,000 pounds;

4. The use of Avitrol is limited to the nineteen (19) counties listed elsewhere in this notice;

5. A residue level not to exceed 0.1 ppm 4-aminopyridine in or on rice grain or straw has been deemed adequate to protect the public health. The Food and Drug Administration of the U.S. Department of Health, Education, and Welfare, has been advised of this action;

6. This product is extremely toxic to wildlife. Keep out of lakes, streams or ponds. Do not contaminate water by cleaning of equipment or disposal of waste;

7. All appropriate label directions and precautionary statements will be observed;

8. A full report of this program will be submitted to EPA upon the completion of the program. In addition, a plan must be developed with and approved by the EPA Regional office prior to the application of the pesticide which will ensure that the following requirements and restriction are observed;

9. Applicators must report the time and place of application to the EPA Regional office at least 24 hours prior to such application;

10. On-site surveillance must be conducted by State or county personnel or personnel of the USDI or the EPA Regional office;

11. Post-treatment monitoring for effects on non-target species must be conducted by one of the above agencies;

12. Avitrol must not be applied to areas utilized by Attwater's Prairie Chicken or in any area where sightings have been reported. An appropriate buffer zone agreed to among the Texas Fish and Wildlife Department, the Texas Department of Agriculture and the EPA Regional office will be maintained to ensure the safety of the Attwater's Prairie Chicken;

13. Avitrol will not be applied to any off-target sites (roads, roadside ditches, fence rows, tree lines, irrigation ditches, etc.); and

14. This use of Avitrol Corn Chops–99 will be terminated immediately in those areas where high mortality to non-target species occurs. Particular care will be exercised regarding migratory waterfowl.

(Sec. 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C 136(a) et seq.).)

Dated: June 17, 1977.

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

[FR Doc.77-17992 Filed 6-23-77;8:45 am]

[FRL 751-2; OPP-50279A]

U.S. BORAX RESEARCH CORP.

Issuance of Experimental Use Permit To Use USB 3153

On March 21, 1977, the Environmental Protection Agency (EPA) announced in the FEDERAL REGISTER (42 FR 15361) the receipt of an application from the U.S. Borax Research Corporation for an experimental use permit to allow the use of 5,953 pounds of active ingredient of the herbicide USB 3153 on cotton,

soybeans, apricots, peaches, plums, grapes, almonds, and walnuts to evaluate control of various broadleaf weeds and grasses and crop tolerance. Since the Administrator, EPA, determined that issuance of the permit might be of regional or national significance, interested parties were invited to submit written comments regarding the application. No comments were received during the thirty-day comment period.

Based on available information, an experimental use permit has been issued to the U.S. Borax Research Corporation, Anaheim, California 92801. Such permit is in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

This experimental use permit (No. 1624-EUP-19) allows the use of 5,953 pounds of herbicide USB 3153 (N3,N3-di-N-propyl-2,4-dinitro-6-(trifluoromethyl)-m-phenylenediamine on cotton, soybeans, apricots, peaches, plums, grapes, almonds, and walnuts for the purpose stated above. A total of 6,546 acres is involved; the program is authorized only in the States of Alabama, Arizona, Arkansas, California, Colorado, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Nebraska, Nevada, New Hampshire, North Carolina, Ohio, Oklahoma, South Carolina, Tennessee, Texas, and Virginia. The experimental use permit is effective from April 21, 1977, to April 21, 1978. Temporary tolerances for residues of the active ingredient in or on almonds, apricots, cottonseed, grapes, peaches, plums, soybeans, and walnuts have been established.

Interested parties wishing to review the experimental use permits are referred to Room E-315, Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M Street SW., Washington, D.C. 20460. It is suggested that such interested persons call 202-755-4851 before visiting the EPA Headquarters Office, so that the appropriate permits may be made conveniently available for review purposes. These files will be available for inspection from 8:30 a.m. to 4 p.m. Monday through Friday.

(Sec. 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 U.S.C. 136(a) et seq.).)

Dated: June 17, 1977.

DOUGLAS D. CAMPT,
Director,
Registration Division.

[FR Doc.77-17989 Filed 6-23-77;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 863]

COMMON CARRIER SERVICES INFORMATION

Applications Accepted for Filing

JUNE 20, 1977.

The applications listed herein have been found, upon initial review, to be acceptable for filing. The Commission reserves the right to return any of these applications, if upon further examination, it is determined they are defective and not in conformance with the Commission's rules and regulations or its policies.

Final action will not be taken on any of these applications earlier than 31 days following the date of this notice, except for radio applications not requiring a 30 day notice period (see Section 309(c) of the Communications Act), applications filed under Part 68, applications filed under Part 63 relative to small projects, or as otherwise noted. Unless specified to the contrary, comments or petitions may be filed concerning radio and section 214 applications within 30 days of the date of this notice and within 20 days for Part 68 applications.

In order for an application filed under Part 21 of the Commission's rules (Domestic Public Radio Services) to be considered mutually exclusive with any other such application appearing herein, it must be substantially complete and tendered for filing by whichever date is earlier: (a) The close of business one business day preceding the day on which the Commission takes action on the previously filed application; or (b) within 60 days after the date of the public notice listing the first prior filed application (with which the subsequent application is in conflict) as having been accepted for filing. In common carrier radio services other than those listed under Part 21, the cut-off date for filing a mutually exclusive application is the close of business one business day preceding the day on which the previously filed application is designated for hearing. With limited exceptions, an application which is subsequently amended by a major change will be considered as a newly filed application for purposes of the cut-off rule. (See §§ 1.227(b)(3) and 21.30(b) of the Commission's rules.)

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

APPLICATIONS ACCEPTED FOR FILING

DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE

21516-CD-AL-(2)-77 George Metroyanis dba Mobile Radio Communications of Gary Consent to Assignment of License from Mobile Radio Communications of Gary, assignor to Northern Indiana Radiophone and Paging System, Inc., assignee. Stations: KSD311 and KSD315, Gary, Indiana.

21517-CD-TC-5-77 Northern Illinois Radiophone and Paging System, Inc. Consent to Transfer of Control from John H. Fuhler, transferor to Beeper Call, Inc., transferee. Stations: KSB590, KSD316, Warren Township, Illinois; KTS200, Elmwood Park, Illinois; and KUO608, McHenry, Illinois, KSA-256, Warren Township, Illinois.

21518-CD-P-77 Page Boy, Inc. (KCI299). C.P. for additional facilities to operate on 35.22 MHz to be located at a new site described as Loc. No. 2: WHNB-TV Tower, Rattlesnake Mountain, New Britain, Connecticut.

21519-CD-P-(2)-77 Tel-Car, Inc. (KLF-594). C.P. for additional facilities to operate on 158.70 MHz at a new site described as Loc. No. 6: Clay Point, 0.7 miles SE of Payette, Idaho; and for additional control facilities to operate on 454.300 MHz to be located at Loc. No. 3: ½ mile East of Meridian, Idaho.

21520-CD-P-(10)-77 R.C.S. (KMD689). C.P. for additional facilities to operate on 454.025, 454.050, 454.275 and 454.300 MHz at Loc. No. 1: Tasajera Peak, 7 miles NNW of San Luis Obispo, California; change antenna system; replace transmitter operating on 152.15 MHz and for additional facilities to operate on 152.09, 454.025, 454.050, 454.275, and 454.300 MHz at Loc. No. 4: Tepusquet Peak, approx. 13½ miles ESE of Santa Maria, California.

21521-CD-P-(3)-77 American Communications Systems, Inc. (new). C.P. for a new station to operate on 454.100 MHz at three (3) sites described as: Loc. No. 1: First National Bank Bldg., No. 2 Peachtree Street, Atlanta, Georgia; Loc. No. 2: Northside Hospital, 1000 Johnson Ferry Road, NE, Atlanta, Georgia; and Loc. No. 3: 835 South Cobb Drive, 0.15 mile South Marietta city limits, Marietta, Georgia.

21522-CD-P-P-77 Wiley W. Brannen, Jr. dba Brannen Mobile Telephone (new). C.P. for a new station to operate on 152.18 MHz to be located on U.S. Hwy. 25, 1.5 miles SW of Statesboro, Georgia.

21523-CD-AL-77 Western Communications, Inc. dba Wescom. Consent to Assignment of License from Wescom, assignor to Advance Business Communications, Inc., assignee. Station: KRS617, Aberdeen, South Dakota.

21524-CD-P-(3)-77 Miami Valley Radiotelephone (KLF577). C.P. for additional facilities to operate on 72.06 MHz, control located at 1591 Boyle Road, Near Hamilton, Ohio; and for additional facilities to operate on 35.22 MHz, base, at (2) new sites, Loc. No. 9: 7 miles S/N of Jamestown, Ohio on Bone Road, Near Jamestown, Ohio; Loc. No. 10: 1625 Dayton Road, Greenville, Ohio.

21525-CD-P-(2)-77 Miami Valley Radiotelephone (KQK592). C.P. to replace transmitter and change antenna system operating on 454.125 MHz at Loc. No. 4: I-75 and WDAO Tower, Dayton, Ohio.

21526-CD-P-77 Withers Communications Company (KUC843). C.P. for additional facilities to operate on 152.09 MHz at a new site at 120 East Center Street, Sikeston, Missouri.

21527-CD-P-(4)-77 The Ohio Bell Telephone Company (new). C.P. for a new 1-way station to operate on 152.84 MHz at (4) new sites described as Loc. No. 1: Blackstone C.O., 50 W. Bowery Street, Akron, Ohio; Loc. No. 2: Tallmadge C.O., 83 West Avenue, Tallmadge, Ohio; Loc. No. 3: Kent C.O., 203 N. Depeyster, Kent, Ohio; and Loc. No. 4: Manchester Radio Site, 6615 Grove Road, approx. 1 miles west of Manchester, Ohio.

21528-CD-P-(2)-77 General Communications Service, Inc. (KOA611). C.P. to change antenna system, and replace transmitter operating on 152.21 MHz and for additional facilities to operate on 152.12 MHz at Loc., No. 1: Tumomoc Hill, 0.5 miles west of Tucson, Arizona.

21529-CD-AL-77 Auto Phone, Inc. Consent to Assignment of License from Auto Phone, Inc., assignor to Charles L. Escue and H.B. Lee dba Telpage, Ltd., assignee. Station: KIY773, Huntsville, Alabama.

21530-CD-R-77 General Telephone Company of California (KWT906) (developmental). Renewal of license expiring 7-14-77. Term: 7-14-77 to 7-14-78.

21531-CD-P-77 Industrial Communications Systems, Inc. (KSV926), C.P. for additional facilities to operate on 158.70 MHz to be located at a new site described as Loc. No. 7: 4 miles North of Barstow, California.

21532-CD-P-77 Pacific Paging, Inc. (KUA 287), C.P. for additional facilities to operate on 43.22 MHz at a new site described as Loc. No. 2: 3533 SW Blackstone, Portland, Oregon.

21534-CD-P-77 Advanced TelCom (KWB 377), C.P. to change antenna system operating on 152.12 MHz located 0.8 miles South of Watson Blvd. and 0.2 miles West of South Pleasant Hill Road, Warner Robins, Georgia.

21535-CD-TC-2-77 Arvig Telephone Co. Consent to Transfer of Control from Esther N. Arvig, transferor to Gilroy G. Arvig, transferee. Stations: KCI305, Pequot Lakes, Minnesota and KUS222, Ash River Falls, Minnesota.

21537-CD-P-77 Terry K. Swenson and Sharon Ann Swenson dba Mobilcomm (new), C.P. for a new station to operate on 152.12 MHz to be located NW 1620 Kenny Drive, Pullman, Washington.

21538-CD-P-(2)-77 Nemont Telephone Cooperative, Inc. (KLF544), C.P. to change antenna system operating on 152.78 MHz and for additional facilities to operate on 152.60 MHz located 3.5 miles east of Scobey, Montana.

21539-CD-P-77 Nemont Telephone Cooperative, Inc. (new), C.P. for a new station to operate on 152.72 MHz to be located 2.6 miles east of Reserve, Montana.

21540-CD-P-77 Nemont Telephone Cooperative, Inc. (new) C.P. for a new station to operate on 152.63 MHz to be located 4.0 miles South of Glentana, Montana.

MAJOR AMENDMENT

20360-CD-P-77 Radio Relay-New York Corp. (KEC745) Frequency 43.22 MHz Amend to change location No. 13 from Phillipstown to Indiana Hill Road, 6.5 miles NE of Peekskill, New York. All other particulars of operation remain as reported in PN No. 837 dated December 20, 1976.

CORRECTION

21487-CD-P-77 H.I. Pierce dba Business Communications Company (new), Correct entry to change file number to 21487-CD-P-(2)-77 and to add frequency 152.18 MHZ. All other particulars to remain as reported on PN No. 862 dated June 13, 1977.

RURAL RADIO

60433-CR-P-77 Continental Telephone Company of the West (new), C.P. for a new rural subscriber station to operate on 157.86 MHz located 10.5 miles North of Socorro, Sierra County Line, 1 mile NW of U.S. Hwy. No. 85, New Mexico.

60434-CR-P-77 Silver Beehive Telephone Company (new), C.P. for a new rural subscriber tsation to operate on 157.86 MHz to be located at any temporary fixed location within the territory of the grantee.

60435-CR-P-77 Silver Beehive Telephone Company (new), C.P. for a new central office station to operate on 152.60 MHz to be located at any temporary fixed location within the territory of the grantee.

60436-CR-TC-(5)-77 Arvig Telephone Co. Consent to Transfer of Control from Esther N. Arvig, Transferor to Gilroy G. Arvig, Transferee. Stations: WSN59, Elephant Lake, Minnesota; WSN61, Ash River Falls, Minnesota; and WSN60, WAF787 and WAQ576, Temp-Fixed.

POINT TO POINT MICROWAVE RADIO SERVICE

2713-CF-R-77 American Telephone and Telegraph Company (WBB372) Renewal of developmental radio station license expired 7-1-77 term: 7-1-77 to 7-1-78.

2714-CF-R-77 Same, (WBB373) Renewal of developmental radio station license expired 7-1-77 term: 7-1-77 to 7-1-78.

2715-CF-R-77 Same, (WBB374) Renewal of developmental radio station license expired 7-1-77 term: 7-1-77 to 7-1-78.

2716-CF-R-77 Same, (WBB375) Renewal of developmental radio station license expired 7-1-77 term: 7-1-77 to 7-1-78.

2717-CF-R-77 Same, (WBB376) Renewal of developmental radio station license expired 7-1-77 term: 7-1-77 to 7-1-78.

2718-CF-R-77 Same, (WBB377) Renewal of developmental radio station license expired 7-1-77 term: 7-1-77 to 7-1-78.

2719-CF-R-77 Same, (WWB378) Renewal of developmental radio station license expired 7-1-77 term: 7-1-77 to 7-1-78.

2720-CF-R-77 Same, (WBB379) Renewal of developmental radio station license expired 7-1-77 term: 7-1-77 to 7-1-78.

2721-CF-R-77 Same, (WBB380) Renewal of developmental radio station license expired 7-1-77 term: 7-1-77 to 7-1-78.

2722-CF-R-77 Same, (WBB381) Renewal of developmental radio station license expired 7-1-77 term: 7-1-77 to 7-1-78.

2723-CF-R-77 Same, (WBB382) Renewal of developmental radio station license expired 7-1-77 term: 7-1-77 to 7-1-78.

2724-CF-R-77 Same, (WBB383) Renewal of developmental radio station license expired 7-1-77 term: 7-1-77 to 7-1-78.

2812-CF-R-77 The Pacific Telephone and Telegraph Company (KMD40), Dakin 2 2 miles WNW. of Avalon, California Lat. 33°31'00" N. Long. 118°21'05" W. C.P. to change frequencies 6315.9V to 5945.2V MHz toward San Pedro, 6375.2V to 6004.5V MHz toward San Clemente Island, move and replace antenna and transmitters on frequencies 6063.8V MHz toward San Pedro, 6123.1V MHz toward San Clemente Island.

2813-CF-P-77 The Pacific Telephone and Telegraph Company (KMD39), San Clemente Island. Lat. 32°58'48" N. Long. 118°32'46" W., C.P. to change frequency 6004.5V to 6375.2V MHz toward Dakin, and replace transmitter on 6256.5V MHz toward Dakin, California.

2831-CF-P-77 General Telephone Company of Florida (KIV21), 830 Arlington Avenue, St. Petersburg, Florida. Lat. 27°46'19" N., Long. 82°38'44" W., C.P. to add frequency 6197.24H MHz toward Wimauma, Florida on azimuth 101.5°.

2832-CF-P-77 Same, (WIU84) 2.4 miles WNW from Wimauma, Florida. Lat. 27°-42'57" N., Long. 82°20'13" W., C.P. to add frequencies 5945.20H MHz toward St. Petersburg, on azimuth 281.6° and 3810.0H MHz toward Tampa, Florida on azimuth 335.6°.

2833-CF-P-87 Same, (KIL88) 519 Zack Street Tampa, Florida. Lat. 27°57'01" N., Long. 82°27'24" W., C.P. to add frequency 3850H MHz toward Wimauma, Florida on azimuth 155.5°.

2741-CF-P/ML-77 Pioneer Telephone Cooperative, Inc. (KLS67), 122 East Robberts Ave., Kingfisher, Oklahoma. Lat. 35°51'52" N., Long. 97°55'52" W., C.P. and ML to reinstate license. Replace transmitter and antenna on frequency 6219.5V MHz toward Watonga, Oklahoma on azimuth 266.1°.

2742-CF-P-77 Same, (KLS68) 207 North Noble Watonga, Oklahoma. Lat. 35°50'12" N., Long. 98°24'36" W., C.P. and ML to reinstate license. Replace transmitter and antenna on frequency 5937.8V MHz toward Kingfisher, Oklahoma on azimuth 85.8°.

2811-CF-P-77 The Pacific Telephone and Telegraph Company (KMD41), 425 Fifthe Street, San Pedro, California. Lat. 33°44'-22" N., Long. 118°17'08" W., C.P. to change coordinates, change frequency 5945.2V to 6315.9V MHz toward Dakin on azimuth 8.0° and replace transmitter on frequency 6197.2V MHz toward Dakin, California.

1684-CF-P-77 United Video, Inc. (WOE83), 12 miles NW. of Ada, Oklahoma, (lat. 34°-54'16" N., Long. 96°44'32" W.): Construction permit to add 5974.8H and 6034.2H MHz toward Ada CATV, Oklahoma, via power split, on azimuth 149.6°.

2752-CF-R-77 South Central Bell Telephone Company (KZS92), temporary fixed developmental within the states of Alabama, Kentucky, Louisiana, Mississippi and Tennessee. Application for radio station blanket license renewal.

2730-CF-MP-77 Microvideo, Inc. (KLU60) SE of Childress, Texas, (Lat. 34°24'25' N., Long. 100°12'05" W.): Modification of construction permit to add 6182.4V and 6419.6V MHz toward Quanah, Texas.

CORRECTION

2568-CF-P-77 American Telephone and Telegraph Company (KXQ73), 411 East Berry Street, Fort Wayne, Indiana, corrected latitude to read 41°04'49". All other particular remain as reported on PN 360 date 5-31-77.

2586-CF-P-77 The Chesapeake and Potomac Telephone of Virginia (KIX55), 224 Luck Avenue, S.W., Roanoke, Virginia, corrected file number to read 2585-CF-P-77. All other particular remain as reported on PN 860 dated 5-31-77.

[FR Doc.77-18070 Filed 6-23-77;8:45 am]

FCC WARC ADVISORY COMMITTEE FOR AMATEUR RADIO

Meeting

DATE: July 12, 1977—Time: 9:00 a.m.

LOCATION: Room 8210, Federal Communications Commission, 2025 M Street NW., Washington, D.C.

AGENDA: FCC and National WARC-79 Timetable; Proposed sharing criteria for future RF spectrum allocations; Technical research support for the U.S. delegation to Geneva WARC-79 meetings; ACAR proposal to support WARC-79 meetings; Presentation on the use of low frequencies by radio amateurs; Review of FCC Docket 20271; 5th Notice of Inquiry; ACAR tasks and milestones.

PUBLIC PARTICIPATION: Meetings of the FCC WARC Advisory Committee for Amateur Radio are open to U.S. citizens. Public representatives who desire to make a presentation at this meeting should coordinate their request with the Executive Secretary, WARC Advisory Committee for Amateur Radio: Peter M. Hurd, 6425 Cygnet Drive, Alexandria, Virginia 22307. Telephone: (202) 695-7181 or (703) 768-9535. Required information includes: Name, mailing address, and telephone number of person making the presentation; outline of material to be presented; duration of presentation; and audio/visual aids required. Written statements should be addressed to the Chairman, WARC Advisory Committee for Amateur Radio (Safety and Special),

Room 5114, Federal Communications Commission, Washington, D.C. 20554.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.77-18067 Filed 6-23-77;8:45 am]

[Docket No. 21266; File No. BRCT-629; FCC 77-373]

NORTHLAND TELEVISION, INC.

Order and Notice of Apparent Liability Designating Application for Hearing on Stated Issues

Adopted: May 26, 1977.

Released: June 15, 1977.

In regard application of: Northland Television, Inc., Television Station WAEO, Rhinelander, Wisconsin. For renewal of license, Docket No. 21266, File No. BRCT-629.

1. The Commission has before it for consideration the above-captioned application and its inquiries into the operation of Television Station WAEO, Rhinelander, Wisconsin.

2. Information before the Commission raises serious questions as to whether the applicant possesses the qualifications to be or remain a licensee of the captioned station. In view of these questions, the Commission is unable to find that a grant of the renewal application would serve the public interest, convenience and necessity, and must, therefore, designate the application for hearing.

3. *Accordingly, it is ordered,* That the captioned application is designated for hearing pursuant to section 309(e) of the Communications Act of 1934, as amended, at a time and place to be specified in a subsequent order, upon the following issues:

(a) To determine all the facts and circumstances surrounding station WAEO-TV's and/or Northland Television, Inc.'s preparation and issuance of network station reports.

(b) To determine whether, and, if so, the extent to which the licensee has violated § 73.1205 of the Commission's rules regarding fraudulent billing practices.

(c) To determine whether the management, officials or employees of the licensee have made misrepresentations to or were lacking in candor with the Commission regarding the operation of Station WAEO-TV and with regard to the matters explored under issue (a), above.

(d) To determine whether, and, if so, the extent to which the licensee of Station WAEO-TV has violated § 73.670 (b)(1)(iii) and (2)(i) and (ii) and § 73.673 of the Commission's rules regarding the maintenance and retention of accurate and complete program logs.

(e) To determine, in light of the evidence adduced under the preceding issues, whether the licensee of WAEO-TV possesses the requisite qualifications to be or remain a licensee of the Commission, and whether a grant of the captioned application would serve the public interest, convenience and necessity.

4. *It is ordered,* That the Chief of the Broadcast Bureau is directed to serve upon the captioned applicant within thirty (30) days of the release of this order, a Bill of Particulars with respect to issues (a) through (d), inclusive.

5. *It is further ordered,* That the Broadcast Bureau proceed with the initial presentation of evidence with respect to issues (a) through (d), inclusive, and the applicant then proceed with its evidence and have the burden of establishing it possesses the requisite qualifications to be and remain a licensee of the Commission and that a grant of the application would serve the public interest, convenience and necessity.

6. *It is further ordered,* That to avail itself of the opportunity to be heard, the applicant, pursuant to § 1.221 (c) of the Commission's Rules, in person or by attorney, shall, within twenty (20) days of the mailing of this order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for hearing and present evidence on the issues specified in this order.

7. *It is further ordered,* That the applicant herein, pursuant to section 311 (a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, shall give notice of the hearing within the time and in the manner prescribed in such rule and shall advise the Commission thereof as required by § 1.594(g) of the rules.

8. *It is further ordered,* That if it is determined that the hearing record does not warrant an order denying the captioned application for renewal of license of Station WAEO-TV, it shall also be determined whether the applicant has repeatedly or willfully violated the following sections of the Commission's rules and regulations: Sections 73.1205, 73.670 and 73.673. If so, it shall also be determined whether an Order of Forfeiture pursuant to section 503(b) of the Communications Act of 1934, as amended, in the amount of $10,000 or less should be issued for violations which occurred within one year preceding the issuance of the Bill of Particulars in this matter.

9. *It is further ordered,* That this document constitutes a Notice of Apparent Liability to Northland Television Inc., for forfeiture for violations of the Commission's rules set out in paragraph eight above. The Commission has determined that, in every case designated for hearing involving revocation or denial of renewal of license for alleged violations which also come within the purview of section 503(b) of the Act, it shall, as a matter of course, include this forfeiture notice so as to maintain the fullest possible flexibility of action. Since this procedure is thus a routine or standard one, we stress that inclusion of this notice is not to be taken as in any way indicating what the initial or final disposition of the case should be; that judgment is, of course, to be made on the facts of each case.

10. *It is further ordered,* That pursuant to Public Notice, "Questions Concerning Basic Qualifications of Broadcast Applicants," FCC 73-1024, 28 RR 2d 705, released October 5, 1973, action on the application (BTC-8178) for transfer of control of Station WAEO-TV, Rhinelander, Wisconsin, to Northwoods Television, Inc., shall be deferred pending resolution of the issues in the instant proceeding.

11. *It is further ordered,* That the Secretary of the Commission send a copy of this order by Certified Mail, Return Receipt Requested to Northland Television, Inc., licensee of television Station WAEO, Rhinelander, Wisconsin.

FEDERAL COMMUNICATIONS COMMISSION,[1]
VINCENT J. MULLINS,
Secretary.

[FR Doc.77-18090 Filed 6-23-77;8:45 am]

FEDERAL ENERGY ADMINISTRATION

ISSUANCE OF DECISIONS AND ORDERS; WEEK OF MAY 16 THROUGH MAY 20, 1977

Exceptions and Appeals

Notice is hereby given that during the week of May 16 through May 20, 1977, the Decisions and Orders summarized below were issued with respect to Appeals and Applications for Exception or other relief filed with the Office of Exceptions and Appeals of the Federal Energy Administration. The following summary also contains a list of submissions which were dismissed by the Office of Exceptions and Appeals and the basis for the dismissal.

APPENDIX

APPEALS

B. F. Goodrich Chemical Co.; Cleveland, Ohio; FXA-1161; Propane

The B. F. Goodrich Chemical Company (Goodrich) appealed from a Decision and Order in which the FEA denied an Application for Exception which the firm had previously submitted. *B. F. Goodrich Chemical Co.*, 4 FEA Par. 83,234 (December 16, 1976). The Appeal, if granted, would have resulted in the issuance of an order by the FEA increasing the firm's base period use of propane. In considering the Appeal the FEA rejected Goodrich's contention that Section 4(b)(1) of the Emergency Petroleum Allocation Act of 1973 (EPAA) entitles the firm to the increased allocation which it requested. The FEA observed that its allocation regulations are designed to achieve an appropriate balance of the various policy objectives contained in Section 4(b)(1) of the EPAA and that Goodrich had failed to show that the FEA regulatory program had been implemented in an arbitrary or capricious manner with respect to Goodrich. In addition, the FEA concluded that, contrary to the firm's claims, Section 4(c)(5) of the EPAA does not entitle Goodrich to the additional quantities of propane which it requested because that statutory provision does not guarantee an industrial user access to an unlimited quantity of propane. The FEA also determined that the difference between Goodrich's current requirements and its base period vol-

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[1] Commissioner Lee absent; Commissioners Hooks and Washburn concurring in the result.

ume of propane did not constitute a gross disparity. The FEA found that Goodrich presently has access to sufficient supplies of surplus propane to satisfy its needs and that the firm had failed to provide any basis for the FEA to depart from its well-established precedent of declining to approve exception relief of the type requested where a firm is able to obtain surplus product to meet its current requirements. Finally, the FEA concluded that the fact that Goodrich must rely upon surplus propane for a portion of its current needs would not adversely affect the firm to such an inordinate degree as compared to its competitors so as to constitute a gross inequity. The Goodrich Appeal was therefore denied.

BP Oil, Inc.; Cleveland, Ohio; FXA-1166; Motor gasoline

BP Oil, Inc. (BP), a wholly owned subsidiary of the Standard Oil Company of Ohio (Sohio), filed an Appeal from a Decision and Order which the FEA issued to it on December 10, 1976. *BP Oil, Inc.*, 4 FEA Par. 83,222 (December 10, 1976). In the December 10 Order, the FEA denied a request for exception which the firm had submitted from the provisions of Sections 212.82 and 212.112 of the FEA Price Regulations. The BP Appeal, if granted, would have resulted in the issuance of an Order rescinding the December 10 Order and permitting BP to calculate the selling prices which it may charge for unleaded motor gasoline on a separate basis from Sohio. In its Appeal, BP contended that it is uniquely and inequitably affected by the requirement that it sell unleaded motor gasoline at a price which is based on Sohio's May 15, 1973 selling price for that product. The FEA found, however, that, contrary to the firm's contentions, BP is not a separate firm but instead is a wholly-owned subsidiary of Sohio and is therefore considered under the FEA regulations to be part of a "firm" which marketed unleaded motor gasoline during May 1973. The FEA therefore concluded that BP had failed to demonstrate that the manner in which the FEA Regulations apply to the situation which it is encountering is significantly different from the application of the Regulations to other firms which did not produce unleaded motor gasoline in May 1973 in all of the refineries which they owned. The FEA also found that the denial of exception relief would not seriously affect Sohio's financial posture or impair any aspect of its operations. Furthermore, the FEA determined that BP had failed to present any evidence which would properly lead to the conclusion that the objectives of the FEA Price Regulations or the Emergency Petroleum Allocation Act of 1973 would be seriously frustrated unless exception relief were granted to BP. Finally, contrary to BP's claim, the FEA found that the relationship between BP and Sohio was clearly distinguishable from the relationship which had existed between the Getty Oil Company and its subsidiary, the Skelly Oil Company, prior to a merger of those firms. *See Getty Oil Company (Eastern Operations), Inc.; Skelly Oil Company*, 2 FEA Par. 83,041 (February 11, 1975); and *Getty Oil Company*, 5 FEA Par. 87,009 (January 25, 1977). Since BP had failed to demonstrate that the December 10 Order was erroneous in any respect, its Appeal was denied.

Boyd Oil, Corp.; Contoocook, N.H.; FRA-1195; Middle distillates

Boyd Oil Corporation filed an Appeal from a Remedial Order which the Director of Regulatory Programs of FEA Region I issued to the firm on February 4, 1977. The Remedial Order found that during the period November 1, 1973 through December 31, 1975, Boyd sold No. 2 heating oil and diesel fuel at prices which were in excess of the maximum permissible prices specified in 10 CFR 212.93. In order to remedy the violation cited, the Remedial Order directed Boyd to refund $36,896.52 in overcharges plus interest to its customers. In considering the Boyd Appeal, the FEA rejected the firm's contention that no violation could be found to exist since the sales transactions in question were made under the terms of a contract which had been awarded by the Defense Fuel Supply Center (DFSC). Contrary to the position advanced by Boyd, the FEA found that the DFSC's classification as a priority fuel customer for purposes of the Mandatory Petroleum Allocation Regulations has no bearing on the maximum allowable price which Boyd was permitted to charge in its sales to the DFSC. The FEA also observed that it has been firmly established that the FEA regulations may preempt the terms of any contract in order to effectuate the objectives of the Emergency Petroleum Allocation Act of 1973. With respect to Boyd's claim that the firm's refund liability should have been reduced by the amount of revenues which it failed to obtain during certain periods as a result of charging prices which were below its maximum allowable prices, the FEA determined that Boyd did not even allege that it had implemented those price reductions in order to refund to its customers the previous overcharges. The Boyd Appeal was therefore denied.

Omega Oil Co.; Dayton Ohio; FXA-1144; Motor gasoline

Omega Oil Company filed an Appeal from a Decision and Order which had been issued to it by the FEA on November 9, 1976. *Omega Oil Co.*, 4 FEA Par. 83,189 (November 9, 1976). In the previous determination, the FEA denied Omega's request for increased allocations of motor gasoline for certain full-service retail outlets which the firm had purchased from Sohio and converted to high-volume outlets. The present Appeal, if granted, would have approved the increased allocations. In considering the Appeal, the FEA determined that, contrary to Omega's assertions, the previous denial of exception relief had not impeded the implementation of an antitrust consent decree which required Sohio to divest certain retail gasoline stations. In this regard, the FEA found that the denial of the Omega exception application had not deterred other marketers from purchasing Sohio stations since three firms had acquired Sohio outlets following the issuance of the November 9 Decision. Moreover, any firm which might be precluded from purchasing a Sohio outlet could apply for an increased allocation prior to its acquisition of the station. In contrast, the FEA found that Omega had purchased the stations as a discretionary business matter prior to seeking exception relief and did so with full knowledge of the existing allocation levels of those stations. The FEA also found that the Department of Justice, which has primary responsibility for overseeing the consent decree, had adopted a neutral stance regarding the Omega request. With respect to Omega's claim that the base period volumes of motor gasoline for its stations should be equivalent to the base period volumes for new retail sales outlets, the FEA found that a firm was not entitled to an increased allocation merely because it had changed its method of operations. Finally, the FEA determined that the previous decision had properly applied the criteria for serious hardship by considering the profitability of the petroleum related activities of Omega's parent corporation. Accordingly, the Omega Appeal was denied.

Warrior Asphalt Co. of Alabama, Inc.; Tuscaloosa, Ala.; FXA-1159; Crude oil

Warrior Asphalt Company of Alabama, Inc., appealed from a Decision and Order which the FEA issued to it on December 15, 1976. *Warrior Asphalt Company of Alabama, Inc.*, 4 FEA Par. 83,263 (December 15, 1976). In the December 15 determination the FEA denied an Application for Exception which Warrior had filed from the provisions of 10 CFR 211.67 (the Old Oil Entitlements Program). On December 23, 1976, the FEA issued a Supplemental Order to Warrior in which it determined that the December 15 Decision and Order was erroneous and, accordingly, reduced by $102,844 per month the value of entitlements which Warrior would otherwise be required to purchase during the period December 1976 through May 1977. *Warrior Asphalt Company of Alabama, Inc., Supplemental Order*, 4 FEA Par. 83,263 (December 23, 1976). Warrior's Appeal, if granted, would have resulted in certain adjustments to the FEA's calculation of the firm's historical and current profitability, thereby increasing the level of exception relief granted to in firm in the December 23 Order. In considering the Warrior Appeal, the FEA noted that the arguments which the firm raised were identical to the arguments which it had presented in a prior Appeal submission. The FEA found that those arguments had been fully considered and rejected by the FEA in a Decision and Order which was issued to the firm on April 12, 1977. *Warrior Asphalt Company of Alabama, Inc.*, 5 FEA Par. ____ (April 12, 1977). Consequently, the FEA concluded that the present Warrior Appeal should be denied on the grounds set forth in the April 12, 1977 Decision and Order.

REQUESTS FOR EXCEPTION

Hocker Oil Co., Salem, Mo.; FEE-4027; Motor gasoline

Hocker Oil Company filed an Application for Exception from the provisions of 10 CFR 211.12 which, if granted, would have resulted in the issuance of FEA Orders increasing the firm's base period use of motor gasoline from 4,276,042 gallons to 10,080,000 gallons per year and assigning suppliers to furnish Hocker with the increased volume. In its exception application Hocker contended that it was experiencing a gross inequity since a significant increase had occurred in the demand for motor gasoline at its 15 retail outlets. The firm further contended that it was currently experiencing a serious hardship which resulted from the high prices that it had been paying for the substantial quantities of surplus gasoline which it purchased to meet this increased demand. In considering Hocker's exception request, the FEA found that, even though a gross disparity exists between the quantity of motor gasoline which the 15 outlets are currently selling and their aggregate adjusted base period volume, Hocker had failed to satisfy the remaining criteria necessary for the approval of exception relief on gross inequity grounds. *See Climax Molybdenum Company*, 2 FEA Par. 83,157 (May 20, 1975). In addition, the FEA found that any financial difficulties Hocker was experiencing were primarily due to the firm's business decision to sell substantial quantities of petroleum products at minimum levels of markup and were not caused by the requirements of the FEA Mandatory Petroleum Allocation Regulations. The FEA therefore concluded that Hocker had also failed to satisfy the criteria which were set forth in prior Decisions as the basis for adjusting a firm's base period use of a petroleum product on serious hardship grounds. The Hocker Application was therefore denied.

Maralo, Inc.; Houston, Tex.; FEE–3509; Crude oil

Maralo, Inc. filed an Application for Exception from the provisions of Subpart D of the FEA Price Regulations. In its Application, Maralo sought retroactive and prospective authorization from the FEA to treat six of its crude oil reservoirs as separate properties even though the wells which have been producing crude oil from those reservoirs are not subject to separate rights to produce. *See* 10 CFR 212.72. In considering Maralo's request for retroactive exception relief, the FEA rejected the firm's contention that the regulatory definition of "property" had been so vague prior to the issuance of Ruling 1975-15 on September 4, 1975, as to permit a crude oil producer to treat reservoirs which it had developed separately as separate properties under FEA crude oil price regulations. With respect to Maralo's allegation that it had relied on advice from FEA officials regarding the proper application of the definition of "property," the FEA found that if Maralo had received advice it was oral and unrecorded and does not constitute a formal interpretation of FEA Regulations upon which a firm may rely. The FEA observed that it was neither reasonable nor consistent with FEA regulations and precedents for the FEA to accept a firm's reliance upon unrecorded, oral advice as ratifying violations of the FEA Price Regulations. *See* 10 CFR 205.80(a) and *Flying Diamond Oil Corp.*, 4 FEA Par. 83,159 (October 22, 1976) at p. 83,687 and cases cited therein. The FEA therefore concluded that Maralo's request for retroactive relief should be denied. With respect to Maralo's request for prospective exception relief, the FEA found that the amended regulatory definition of "property" which became effective on September 1, 1976 and the provision of FEA Ruling 1977-2 provide the firm with an alternative administrative remedy through which it can obtain the relief which it requests. *See* 10 CFR 212.72 and 42 Fed. Reg. 4409 (January 25, 1977). Maralo's request for prospective exception relief was therefore dismissed without prejudice to a refiling at a later date.

Pierce & Dehlinger; Midland, Tex.; FEE–4057; Crude oil

Pierce & Dehlinger (P&D) filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D, which, if granted, would have permitted the firm to sell at exempt prices the crude oil that it will produce from the Carter No. 1 well (the Carter well) subsequent to the repair of the well casing which is intended to restore the well to production. In considering P&D's application for exception, the FEA determined that the revenues which P&D would receive during the remaining eleven and one-half year life of the project would provide P&D with sufficient economic incentive to undertake the necessary capital investment to repair the Carter well. In fact, the FEA found that even in the absence of exception relief, P&D would realize an internal rate of return of 60 percent if the repairs are made. On the basis of these findings, the FEA concluded that the P&D Application should be denied.

REQUESTS FOR STAY

Bucks Butane and Propane Service, Inc.; San Jose, Calif.; FRS–1315; Propane

Bucks Butane and Propane Service, Inc. (Bucks) filed an Application for Stay of a Remedial Order which the Director of Compliance of the FEA Region IX issued to the firm on April 21, 1977. The Remedial Order determined that during the period November 1, 1973 through February 29, 1976, Bucks improperly sold propane at prices which were in excess of the maximum allowable prices computed pursuant to the provisions of 6 CFR 150.359 and 10 CFR 212.93. The Remedial Order found that Bucks had received $95,488.65 in overcharges from its sales of propane and $62,909.82 as a result of the prices it charged for propane tank rentals. On the basis of these findings, the Remedial Order directed Bucks to make refunds to its propane customers through a combination of prospective price reductions and lump-sum payments. Bucks' stay request, if approved, would relieve the firm of its obligation to make those refunds pending a final determination on its Appeal of the Remedial Order. In considering the request for stay, the FEA concluded that Bucks had raised substantial issues concerning the propriety of the Remedial Order and had made a strong showing that it would incur an irreparable injury if it were required to immediately comply with the refund provisions of the Remedial Order. In view of the large number of customers involved, the FEA found that Bucks could experience a great deal of difficulty in recovering any refunded revenues in the event that the firm ultimately succeeds on the merits of its Appeal. The FEA therefore held that Bucks had satisfied the criteria set forth in *General Crude Oil Co.*, 3 FEA Par. 85,040 (June 25, 9176), for the approval of a stay of the refund requirement of a Remedial Order. The FEA further concluded, however, that the stay should be conditioned upon the establishment of an escrow account into which Bucks is required to place a portion of the disputed funds.

Exxon Co., U.S.A.; Houston, Tex.; FRS–1287; Refined Petroleum Products

The Exxon Company, U.S.A., filed an Application for Stay of the requirements of a Remedial Order which was issued to the firm by the Deputy Regional Administrator of PEA Region VI on April 26, 1977. The Remedial Order directed Exxon to make refunds to Exxon retailers and to either reinstate certain bank credit card contracts or reduce its selling prices by an amount which reflects the savings to Exxon which resulted from the discontinuance of those credit card arrangements. The Order did not specify the amount of refunds to be made, but Exxon was directed to secure data from its retailers and to develop further data which would permit the calculation of this amount. In considering the Exxon request that a stay be granted pending final judicial settlements of *Marathon* v. *Federal Energy Administration*, the FEA noted that the only issues remaining to be decided in that case concern a type of credit practice which is different from the practice which is involved in the Exxon Remedial Order. Moreover, it did not appear that the decision which would be rendered in the *Marathon* case would be dispositive of the issues involved in the remedial action which is pending against Exxon. Accordingly, this portion of the Exxon Application was denied. In considering Exxon's request that a stay be granted pending consideration of an Appeal of the Remedial Order which Exxon has filed, the FEA noted that Exxon had raised substantial issues concerning the propriety of the Remedial Order. In addition, the FEA determined that if a stay were not granted, Exxon might incur an irreparable injury in the event that it were successful on the merits of its Appeal since, if Exxon were to reinstate the bank credit card contracts, it might not be able to extricate itself from the obligations which it had assumed. The FEA further determined that, if Exxon reduced its selling prices for refined petroleum products or made refunds to its retailers, it might experience substantial difficulty in recovering the funds involved. Accordingly, the FEA determined that a stay of the Remedial Order during the pendency of the Appeal proceedings was warranted. Exxon was not required to establish an escrow account since it would have been very difficult to determine the amount to be set aside, and Exxon's ability to reduce its selling prices and to remit the revenues involved to its retailers in a timely manner would not be impaired by the approval of a stay.

Guam Oil & Refining Co., Inc.; Dallas, Tex.; FES–4105; Crude Oil

Guam Oil & Refining Company, Inc. (Gorco), filed an Application for Stay in which it requested that the FEA refrain from making any adjustment to future Entitlement Lists which would have the effect of requiring it to make restitution for entitlements benefits it may have improperly obtained during the period January 1975 through February 1977. Gorco requested that the stay be made effective until a final FEA determination is made on an Application for Exception which Gorco has filed. In the determination which it issued, the FEA noted that it was not clear that the Office of Regulatory Programs could make the adjustments to Gorco's entitlement obligations in the manner which Gorco anticipated. Nevertheless, the FEA found that the seriousness of the issues which Gorco raised in its submission warranted immediate consideration in the context of its Application for Stay. In considering Gorco's Application, the FEA found that Gorco is the only domestic refiner in the Territory of Guam, and that the residents of Guam are therefore particularly vulnerable to any price increase which Gorco might institute. Furthermore, per capita energy costs on Guam already are considerably higher, relative to per capita income, than on the United States mainland. The FEA also found that the somewhat depressed economic conditions currently existing on Guam might make it difficult for its economy to absorb further substantial energy cost increases at this time, thus threatening Guam's economic recovery effort. The FEA therefore concluded that the residents of Guam could incur a particularly serious and immediate hardship if the adjustments which Gorco anticipated were made at the present time, since they would be likely to produce price increases for petroleum products sold on Guam. In addition, the possibility of a disruption in the supply of fuel to the Defense Fuel Supply Center which would occur if these adjustments were made immediately was found to constitute a potential danger to national defense interests in the Western Pacific. Finally, the FEA affirmed that restitution of any entitlement benefits which Gorco had improperly received would effect only a very small percentage change in future Entitlement Lists, and therefore no other firm could incur an immediate and serious hardship if stay relief were approved. In view of these considerations, the FEA concluded that, even though Gorco had not yet fully demonstrated the precise impact that the restitution of entitlements benefits and the resultant price increases would have the potential for very serious adverse consequences for the residents of Guam and for national defense interests clearly existed. Gorco's Application for Stay was therefore approved.

New England Power Co.; Westborough, Mass.; FES–4146; Coal Conversion

The New England Power Company (NEP) filed an Application for Stay which, if granted, would have extended the final date on which it could submit comments with respect to certain Notices of Intent (NOI's) which were issued to six of the firm's power-

plants. In the NOI's, the FEA announced its intention to issue Prohibition Orders to those powerplants pursuant to the provisions of the Energy Supply and Environmental Coordination Act of 1974 (ESECA). The Prohibition Orders would prohibit the six NEP powerplants from burning natural gas or petroleum as their primary energy source. The deadline for submission of written comments on the FEA's proposals to issue the Prohibition Orders is May 30, 1977. In its Application for Stay, NEP contended that it would be unable prior to the May 30 deadline to complete its analysis of the FEA's proposed findings and certain related material which was recently released to the firm. In considering these contentions the FEA found that the firm had not indicated the nature or significance of the data which it planned to submit to the agency if the May 30 deadline were extended. Moreover, the FEA found that NEP had not identified which of the proposed findings set forth in the NOI's it intended to challenge, nor had it described the nature of any irreparable injury the firm would suffer in the event the stay request were denied. The FEA further determined that NEP had been aware of the possibility that the NOI's might be issued to the six powerplants for a considerable period of time prior to their issuance, and that NEP was familiar with the statutory findings which the FEA was required to make under ESECA prior to the issuance of a Prohibition Order. The FEA therefore found that NEP had received adequate notice of the type of material which should be submitted on the record in order to dispute the FEA's proposed findings. Under these circumstances, the FEA held that the 35-day period allotted to NEP in the NOI's for the submission of written comments on the proposals to issue Prohibition Orders was reasonable and NEP's Application for Stay was therefore denied.

Stephens and Cass; Dallas, Tex.; FRS–4095; Crude Oil

Stephens and Cass (S&C) filed an Application for Stay of a Remedial Order which FEA Region VI issued to the firm on April 12, 1977. In the Remedial Order, the FEA found that during the period between September 1, 1973 and October 31, 1975, S&C had sold crude oil which it produced from 14 properties at prices which exceeded the applicable ceiling price levels. On the basis of this finding, the Remedial Order required S&C to reduce its prices for crude oil which is currently produced and sold from the properties by $10.00 per barrel until the overcharges are refunded. If the stay were granted, S&C would be relieved of its obligation to make the refunds pending the FEA's determination on a request for exception which the firm had submitted. In considering S&C's Application for Stay, the FEA applied the principles established in *General Crude Oil Co.*, 3 FEA Par. 85,040 (June 25, 1976), modified, 3 FEA Par. 85,040 (July 8, 1976). On the basis of these principles, the FEA concluded that a stay should be granted since S&C had raised substantial issues in its Application for Exception and the firm might encounter inordinate difficulty in recovering the refunds. S&C might thereby suffer an irreparable injury if it were to ultimately prevail on the merits of its exception request. The FEA further concluded, however, that in accordance with the considerations discussed in *General Crude*, the stay should be conditioned upon the establishment of an escrow account by S&C. In view of the requirement that the refunds be made through price reductions, the FEA directed that S&C charge the purchasers of the crude oil produced and sold from the properties a price which is equal to the prevailing market price minus $10 per barrel and in turn directed that each purchaser deposit into the escrow account an amount that is equal to $10 for each barrel of crude oil which it purchases from S&C.

Twin-Tech Oil Co., Washington, D.C.; FES–1318, Natural Gas Liquid Products

Twin-Tech Oil Co. filed a request that the provisions of 10 CFR, Part 212, Subpart K be stayed during the pendency of its Appeal from a Decision and Order which the FEA issued to the firm on March 28, 1977. *Twin-Tech Oil Co.*, 5 FEA Par. 83, 126 (March 28, 1977). The Request for Stay, if granted, would have resulted in the issuance of an Order permitting Twin-Tech to charge prices for natural gas liquid products and natural gas liquids (NGL's) which are in excess of the maximum selling prices which the firm was permitted to charge pursuant to the March 28 Order. In considering the Twin-Tech request, the FEA concluded that, although the firm had shown that it would raise significant substantive issues concerning the findings in the March 28 Decision, the material presented by the firm did not make a prima facie showing that the March 28 Decision and Order was erroneous in fact or in law. In addition, the FEA determined that Twin-Tech had failed to demonstrate that its financial viability was in jeopardy as a result of the FEA regulatory requirements or that the firm would incur an irreparable injury in the absence of a stay. In this regard, the FEA found that the record in this matter contained no evidence that Twin-Tech would be unable to continue its essential business operations during the period of time in which its Appeal from the March 28 Decision and Order was pending before the FEA. Moreover, the FEA concluded that no justification existed for the particular type of relief which Twin-Tech requested, viz., the issuance of an order which would permit the firm to continue to charge what are apparently improper prices for the NGL's which it produces and sells. Accordingly, the Twin-Tech stay request was denied.

SUPPLEMENTAL ORDER

Sabre Refining, Inc.; Bakersfield, Calif.; FEX–0120; Crude Oil

On July 16, 1976 the Federal Energy Administration issued a Decision and Order to Sabre Refining, Inc. in which exception relief from the provisions of 10 CFR 211.67 was approved. The July 16 Order relieved the firm of its obligation to purchase entitlements equal in value to $1,017,664 per month during that portion of its 1976 fiscal year following the rescission of Special Rule No. 6. *Sabre Refining, Inc.*, 4 FEA Par. 83,010 (July 16, 1976). In the July 16 Order, the FEA stated that a review of Sabre's actual financial results would be conducted at the end of the firm's fiscal year to determine whether it had received excessive benefits as a result of the exception relief which had been approved. The Order further stated that, if Sabre did receive excessive entitlements exception relief during its 1976 fiscal year, and adjustment would be made and Sabre would be required to purchase additional entitlements to account for the excessive benefits. In performing this review of the entitlements exception relief provided to Sabre, the FEA determined that Sabre had exceeded its historical profit margin during its 1976 fiscal year. In accordance with the criteria established in prior decisions, Sabre was required to purchase entitlements that are equal in value to $182,904 in order to offset the excessive exception relief which it received during 1976.

SUMMARY DECISION

The Office of Exceptions and Appeals of the Federal Energy Administration amended a Decision and Order which it previously issued to the following firm in order to require the Regional Administrator of FEA Region VI to assign to the firm a new base period supplier for 71.03 percent of its actual base period use of motor gasoline during the period from May through July 1977:

Jamar Oil Co.; Tulsa, Okla.; FEX–0158

REQUEST FOR EXCEPTION RECEIVED FROM A NATURAL GAS PROCESSOR

The Office of Exceptions and Appeals of the Federal Energy Administration has issued a Decision and Order granting exception relief from the provisions of 10 CFR 212.165 to the natural gas processor listed below. The exception granted permits the firm involved to increase the prices of the production of the gas plant listed below to reflect certain non-product cost increases:

Company	Case No.	Plant	Amount of price increase dollars per gallon
Oklahoma Natural Gas Co.	FXE–4062	Garvin County	0.0254

DISMISSALS

The following submission was dismissed for failure to correct deficiencies in the firm's filing as required by the FEA Procedural Regulations:

Bob Lawrence Volkswagon, Inc.; Salisbury, Md.; FRS–1263

The following submission was dismissed on the grounds that alternative regulatory procedures existed under which relief had already been obtained:

Boston Gas Co.; Washington, D.C.; FXE–4061

Copies of the full text of these Decisions and Orders are available in the Public Docket Room of the Office of Private Grievances and Redress, Room B–120, 2000 M Street NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1 p.m. and 5 p.m., e.d.t., except Federal holidays. They are also available in Energy Management: Federal Energy Guidelines, a commercially published loose leaf reporter system.

ERIC J. FYGI,
Acting General Counsel.

JUNE 20, 1977.

[FR Doc.77–18043 Filed 6–21–77;2:06 pm]

STATE ENERGY CONSERVATION PLANS

Negative Determination of Environmental Impact Re The Arkansas Energy Conservation Plan

Pursuant to 10 CFR 208.4, the Federal Energy Administration hereby gives notice that it has performed an analysis and review of the environmental impacts associated with the provision of Federal financial assistance for the implementation, by the State of Arkansas, of its State Energy Conservation Plan. Federal funding is authorized by Part C of Title III of the Energy Policy and Conservation Act, 42 U.S.C. 6321 et seq.

Based upon assessment of environmental impacts that are expected to result from implementation of this plan, the FEA has determined that Federal financial assistance will not be a "major Federal action significantly affecting the quality of the human environment" within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332(2)(C). Therefore, pursuant to 10 CFR 208.4(c), the Federal Energy Administration has determined that an environmental impact statement is not required for this plan.

Single copies of the environmental assessment of the State Plan for Arkansas are available upon request from the FEA National Energy Information Center, Room 1416, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461.

Copies of the environmental assessment will also be available for public review in the Federal Energy Administration Information Access Reading Room, Room 2107, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461.

Copies of the State Plan are available for public review in the Office of State Energy Conservation Programs, Room 6437, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461.

Interested persons are invited to submit data, views or arguments with respect to the environmental assessment to Executive Communications, Box NN, Room 3317, Federal Energy Administration, 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, "Environmental Assessment, Arkansas Energy Conservation Plan." Fifteen copies should be submitted. All comments should be received by FEA by 4:30 p.m., e.d.s.t., July 6, 1977, in order to receive full consideration.

Any information or data considered by the person submitting it to be confidential must be so identified and submitted in one copy only. The FEA reserves the right to determine the confidential status of the information or data and to treat it according to that determination.

Issued in Washington, D.C., June 21, 1977.

ERIC J. FYGI,
Acting General Counsel,
Federal Energy Administration.

[FR Doc.77-18074 Filed 6-23-77;8:45 am]

FEDERAL MARITIME COMMISSION

CAPITALIZATION OF THE COST OF FUNDS USED DURING VESSEL CONSTRUCTION

Enlargement of Time to File Comments

Upon request of counsel for PRMSA, and good cause appearing, time within which comments may be filed in response to the Commission's notice in this matter (42 FR 25353; May 17, 1977) is enlarged to and including July 18, 1977.

By the Commission, June 20, 1977.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77-18119 Filed 6-23-77;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. CP76-450]

COLUMBIA GAS TRANSMISSION CORP., ET AL.

Practice and Procedure Hearing; Order Setting Proceeding for Hearing, Adding Party Respondent, and Granting Intervention

JUNE 20, 1977.

Columbia Gas Transmission Corporation (Columbia Gas) and Columbia Gulf Transmission Company (Columbia Gulf) filed a joint application on July 20, 1976,[1] requesting certificate authorization to transport up to 1,000 Mcf of gas per day for Cabot Corporation (Cabot) in two stages from Eugene Island Block 285, Gulf of Mexico, Offshore Louisiana, to an existing point of delivery at Cabot's distribution system in Kanawha County, West Virginia, pursuant to an agreement dated June 8, 1976. The gas proposed to be transported is a 25 percent portion of Cabot's interest in production from the Eugene Island Block 273 Field that was expressly reserved by Cabot in its contract dated October 1, 1970,[2] covering a sale to Michigan Wisconsin Pipe Line Company (Michigan Wisconsin). The application states that Cabot intends to use these volumes mainly for Priorities 1 and 2 needs on its distribution system, which is undergoing a diminution of supply from other sources. Michigan Wisconsin is currently receiving 100 percent of Cabot's interest.

It is proposed that Columbia Gulf will transport the gas from Block 285 to a point in Boyd County, Kentucky, at a charge of 31.21 cents per Mcf; and that Columbia Gas will transport the gas from Boyd County, Kentucky to the delivery point to Cabot in Kanawha County, West Virginia, at a charge of 21.99 cents per Mcf.

After due notice of the application in this proceeding (issued August 5, 1976) in the Federal Register, the Public Service Commission of West Virginia (West Virginia) and the Public Service Commission of the State of New York (PSCNY) filed notices of intervention, with PSCNY requesting that a formal hearing be held. Cabot filed a petition to intervene. Pursuant to Section 1.8(a) of the Commission's Rules of Practice and Procedure, West Virginia and PSCNY are parties hereto without necessity of specific action on the part of the Commission.

The application herein raises a question as to whether and to what extent Cabot should be permitted to exercise its option to withdraw 25% of its gas from its sale to Michigan Wisconsin in Docket No. CL71-346, including questions as to (1) what use would the gas be put to if released for Cabot's distribution system, both directly and as a matter of displacement, (2) what rate would be charged ultimate consumers of this gas by Cabot, and (3) what uses would be affected by loss of this gas by the Michigan Wisconsin system. (This identification of questions involved is not intended to prohibit the raising of other questions during the hearing of this matter, including the reasonableness of transportation charges.)

As a further matter, the Commission regards Michigan Wisconsin as an essential party to this proceeding, even though it did not petition to intervene. Therefore, we will make Michigan Wisconsin a respondent herein.

In view of the foregoing, we deem it necessary that a hearing be held in this matter.

The Commission finds: It is necessary and in the public interest that this proceeding be set for hearing; that Michigan Wisconsin be made a respondent herein; and that Cabot be permitted to intervene.

The Commission orders: (A) This proceeding in Docket No. CP76-450 is hereby set for hearing and disposition.

(B) Michigan Wisconsin Pipe Line Company is hereby made a respondent herein.

(C) Pursuant to the authority of the Natural Gas Act, particularly Sections 4, 5, 7, 14, and 16 thereof, the Commission's Rules of Practice and Procedure, and the Regulations under the Natural Gas Act (18 CFR Chapter I), a public hearing in this proceeding, Docket No. CP76-450, shall be held in a hearing room of the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, for the purpose of hearing and disposition of the issues herein.

(D) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (see Delegation of Authority, 18 CFR 3.5 (d)), shall preside at the hearing in this proceeding, with authority to establish and change all procedural dates, and to rule on all motions (with the sole exception of petitions to intervene, motions to consolidate and sever, and motions to dismiss as provided for in the Rules of Practice and Procedure).

(E) Columbia Gas Transmission Corporation, Columbia Gulf Transmission Company, Cabot Corporation, and Michigan Wisconsin Pipe Line Company shall file their direct testimony and evidence responsive to the issues identified in the body of this order, and all parties in support of the application shall file their direct testimony and evidence on or before July 14, 1977. All testimony and evidence shall be served upon the Presiding Administrative Law Judge, the Commission Staff, and all parties to this proceeding.

(F) The Presiding Administrative Law Judge shall preside at a prehearing conference to be held in this proceeding on July 28, 1977, at 10 a.m. EDT in a hearing room at the address noted in Ordering Paragraph (C).

(G) Cabot Corporation is permitted to intervene, subject to the Rules and Regulations of the Commission, provided that the participation of Cabot shall be limited to matters affecting asserted rights and interests as specifically set

[1] A supplement thereto was filed September 1, 1976.

[2] On file as Cabot's FPC Gas Rate Schedule No. 102, sale authorized in Docket No. CI71-346.

forth in its petition to intervene and provided further that the admission of Cabot shall not be construed as recognition by the Commission that it might be aggrieved because of any order issued by the Commission in this proceeding.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-18083 Filed 6-23-77;8:45 am]

[Docket Nos. CP77-216; CP77-217; and CP77-218; CP77-100 et al.]

DISTRIGAS CORP., ET AL.

Hearing; Order Providing for Joint Limited Evidentiary Hearings

JUNE 17, 1977.

On February 11, 1977, Distrigas Corporation (Distrigas) filed in Docket No. CP77-218 an application pursuant to Section 3 of the Natural Gas Act for authorization to import liquefied natural gas (LNG) from Algeria into the United States for a 20-year period. A companion appplication was filed in Docket No. CP 77-217 by Distrigas seeking authorization to sell imported LNG to its affiliate, Distrigas of Massachusetts (DOMAC). DOMAC in Docket No. CP77-216 seeks authorization to resell the gas to certain distribution customers and to make certain modifications to its existing LNG terminal facilities at Everett, Massachusetts. By notice issued February 24, 1977, these applications were consolidated. No hearing schedule has as yet been fixed for these Distrigas proceedings.

On May 27, 1977, Distrigas and DOMAC filed with the Commission a motion for a limited evidentiary hearing on the limited supply aspects in order to take testimony and permit cross-examination of witnesses from La Societe Nationale Sonatrach), the Algeria national oil company which will sell the imported LNG to Distrigas. Distrigas and DOMAC in support of their motion state that Sonatrach personnel will be in this country during the week of June 20, 1977, in connection with hearings to be held in Canada and that the scheduling of a limited hearing for evidence and cross-examination of these witnesses immediately following a scheduled prehearing conference in Tenneco Atlantic Pipeline Company, et al., Docket Nos. CP77-100, *et al.* would eliminate a requirement that Algerian witnesses make successive trips to this country. Distrigas and DOMAC also request that the testimony and cross-examination on Algerian natural gas reserves be held on July 15, 1977, when the same Sonatrach consultant will be in Washington for hearings on the Tenneco Atlantic Pipeline Company, et al. proceeding currently scheduled to commence July 11, 1977. Brooklyn Union Gas Company filed on June 3, 1977, a joinder in support of Distrigas' motion.

Staff by a filing of June 8, 1977, supports the motion and further moves that such evidentiary hearing be held jointly with the *Tenneco Atlantic Pipeline Company, et al.* proceeding, and that the joint hearings should commence on June 23, 1977. The Commission Staff believes early joint hearings could be in the best interests of both the parties to this proceeding and to the Algerian witnesses.[1] This would allow parties adequate time to evaluate the Algerian natural gas situation before possible further hearings and would prevent successive trips by the Sonatrach witnesses to Washington, D.C. for hearings. Moreover, the Sonatrach witnesses will be in Washington, D.C. in the same time frame as the *Tenneco Atlantic* proceeding. Staff states it would ask the Sonatrach witnesses in the Distrigas hearing many of the same questions as it would ask in the *Tenneco Atlantic* hearing. Furthermore, most of the parties to the Distrigas proceeding are also intervenors in the *Tenneco Atlantic* proceeding.[2] The joint record may be used, as appropriate, by parties in the two seperate proceedings in arguments and seperate briefs and will be used by the Commission in making its ultimate decision in both cases.

On June 9, 1977, Distrigas filed a response in support of Staff's motion together with testimony of Sonatrach witnesses Mazouni and Watson.

Upon consideration in the interests of expedition we shall grant Distrigas' and Staff's motion for early joint hearings as hereafter ordered.

The Commission finds: The motions of Distrigas and Staff should be granted.

The Commission orders: (A) Joint limited evidentiary hearings for the Sonatrach witnesses Tayeb Mazouni and Abelmadjid Mazi Tani shall commence June 23, 1977, in Docket No. CP77-100, et al., and Docket No. CP77-216, et al. following the prehearing conference scheduled in Docket Nos. CP77-100, et al., to commence on the same date.

(B) Joint limited evidentiary hearings on Algerian natural gas reserves with respect to Sonatrach's witness James W. Watson shall commence on July 15, 1977, in Docket No. CP77-100, et al., and Docket No. CP77-216, et al.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-18084 Filed 6-23-77;8:45 am]

MONTANA POWER CO.

[Docket No. ER77-378]

Electric Rates: Acceptance for Filing; Order Accepting Agreement and Supplement for Filing, and Requiring Additional Information

JUNE 17, 1977.

On May 18, 1977, Montana Power Company (Montana) submitted for filing a power purchase agreement with Big Horn County Electric Cooperative, Inc. (Big Horn), as well as Supplement No. 1 to that agreement. The new agreement supersedes the present power purchase agreement dated May 9, 1956, between Montana and Big Horn[3] and provides for improved service to Big Horn at the same rates as the prior agreement.[4] Supplement No. 1, dated February 15, 1974, contains Montana's Rate Schedule REC-74, which would result in a rate increase of $44,613 to Big Horn for the year ending June 30, 1978.[5] Big Horn has signed both the agreement and the supplement.

Montana has requested a retroactive effective date of April 14, 1971, for its superseding agreement[6] and a prospective date of July 1, 1977, for Supplement No. 1.

Notice of the filing was issued on June 1, 1977, with comments and petitions due on or before June 8, 1977. No response was received.

Although the April 1971 power purchase agreement[7] contains rates identical to the demand and energy charges provided in the filed 1956 agreement, it also contains a tax adjustment clause not included in the prior agreement. We will not allow the operation of the tax adjustment clause because we do not know if Montana collected revenues under the clause in the agreement which apparently took effect in 1971. Any tax adjustment clause would require full cost of service data since the clause, if implemented, might constitute a rate increase. The Commission cannot approve a rate increase retroactively. In light of the fact that the proposed purchase agreement results in improved service to Big Horn, we will grant Montana's requested effective date of April 14, 1971, provided that the tax clause is of no effect.[8] Montana will be directed to advise the Commission if the Company has collected any revenues under the tax clause.

Supplement No. 1,[9] with a requested effective date of July 1, 1977, does not contain a tax adjustment clause. The

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[1] Tayeb Mazouni on Algerian policy and contractual relationships, Abelmadjid Mazi Tani on Algerian LNG and natural gas facilities, and James W. Watson on Algerian natural gas reserves.

[2] Of all the parties who have filed petitions to intervene in Docket No. CP77-216, *et al.*, only the City of New York and Fall River Gas Company have not filed petitions to intervene in Docket No. CP77-100, *et al.*

[3] Rate Schedule REA-50 (Designated as Rate Schedule FPC No. 16.)

[4] The improved service consists of higher voltage service at the Yellowtail delivery point and of higher maximum contract demands for power at both the Hardin and Yellowtail delivery points.

[5] Montana's Rate Schedule REC-74 has been accepted for filing in Docket No. E-9004 for similar service to Central Montana Electric Generation and Transmission Cooperative.

[6] April 14, 1971, is the date of approval of the agreement by the Rural Electrification Administration. Apparently the Company has been serving Big Horn under the superseding contract since April 14, 1971, but did not submit the agreement to the Commission for filing until May 18, 1977.

[7] Designated as Montana Power Company, Rate Schedule FPC No. 40 (Supersedes Rate Schedule FPC No. 16).

[8] Any attempt to implement a tax adjustment clause in the future would require full cost support as specified in Section 35.13 of the Commission's regulations.

[9] Designated as Montana Power Company, Supplement No. 1 to Rate Schedule FPC No. 40.

rate level provided in the Supplement has been found to be reasonable on the ground that the proposed rates have previously been supported by Montana's cost-of-service study filed in Docket No. E-9004 for service to Cooperative customers. Since the Supplement is dated February 15, 1974, Montana may have been collecting revenues under the supplement's rate level since that time.* The supplement and the proposed effective date will be accepted and Montana will be directed to advise the Commission if the Company has already collected any revenues under it.

The Commission finds: (1) Good cause exists to accept Montana Power Company's proposed agreement for filing to become effective on April 14, 1971, for all amounts collected under it except for those collected under the tax adjustment provision.

(2) Good cause exists to accept Montana's proposed Supplement No. 1 for filing to become effective on July 1, 1977.

(3) Good cause exists to require Montana to advise the Commission within 15 days of the issuance of the order if the Company has collected any revenues under (a) the tax clause of its proposed power purchase agreement or (b) its proposed Supplement No. 1, and, if so, the amount of such revenues.

The Commission orders: (A) Montana's proposed agreement is hereby accepted for filing to become effective retroactively on April 14, 1971, for all amounts collected under it except for those collected under the tax adjustment provision.

(B) Montana's proposed Supplement No. 1 is hereby accepted for filing to become effective on July 1, 1977.

(C) Montana shall advise the Commission within 15 days of the issuance of the order if the Company has collected any revenues under (1) the tax clause of its proposed power purchase agreement or (2) its proposed Supplement No. 1, and, if so, the amount of such revenues.

(D) The acceptance of the agreement and Supplement No. 1 for filing does not constitute approval of any service, rate, charge, classification, or any rule, regulation, contract, or practice affecting such rate or service provided for in the above-designated rate schedule; nor shall such acceptance be deemed as recognition of any claimed contractual right or obligation affecting or relating to such service or rate; and such acceptance is without prejudice to any findings or orders which have been or may hereafter be made by the Commission in any proceeding now pending or hereafter instituted by or against Montana.

(E) 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.77-18081 Filed 6-23-77;8:45 am]

[Docket No. ER77-402]

PHILADELPHIA ELECTRIC CO.

Extension of Time

JUNE 17, 1977.

On June 14, 1977, the Borough of Lansdale, Pennsylvania, filed a motion to extend the time for filing petitions to intervene or protests to the proposed tariff changes tendered for filing in the above indicated docket on May 27, 1977, and noticed June 10, 1977. The motion states that counsel for Philadelphia Electric Company does not object to an extension.

Upon consideration, notice is hereby given that the time for filing petitions to intervene or protests in the above proceeding is extended to and including July 1, 1977.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-18080 Filed 6-23-77;8:45 am]

[Docket No. CP77-432]

TENNESSEE GAS PIPELINE CO.

Application

JUNE 17, 1977.

Take notice that on June 9, 1977, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Applicant), P.O. Box 2511, Houston, Texas 77001, filed in Docket No. CP77-432 an application pursuant to Section 7(c) of the Natural Gas Act, for a certificate of public convenience and necessity authorizing the construction and operation of certain pipeline facilities necessary to connect gas purchased from Tenneco Oil Company in the South Marsh Island area, Blocks 60 and 61, offshore Louisiana. The proposed facilities will connect to Applicant's system reserves presently dedicated but not now physically connected to Applicant's system.

The proposed facilities, estimated to cost $9,773,000, consist of approximately 6.57 miles of 30-inch pipeline which will originate at Tenneco Oil Company's 61-C platform in the said South Marsh Island area and connect to Tennessee's existing Blue-Water Project facilities in Block 76.

Applicant estimates that 208 Bcf of recoverable gas reserves and deliverability of approximately 200 MMcf per day will be available to Applicant as a result of construction of the proposed facilities.

Applicant states that the proposed facilities are necessary to enable Applicant to attach reserves needed to improve its ability to serve existing customers.

Any person desiring to be heard or to make any protest with reference to said application, on or before July 6, 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.77-18082 Filed 6-23-77;8:45 am]

FEDERAL RESERVE SYSTEM

[H. 2, 1977 No. 23]

ACTIONS OF THE BOARD

Applications and Reports Received During the Week Ending June 4, 1977

ACTIONS OF THE BOARD

H.R. 7325, the International Banking Act of 1977, letter to Chairman St Germain, House Subcommittee on Financial Institutions Supervision, Regulation and Insurance, with enclosure of Board's proposed amendments to the bill.

Report on H.R. 1675, a bill to establish a national system of regional capital development banks, letter sent to Chairman Reuss, House Committee on Banking, Finance and Urban Affairs, in response to requests for comments.

Results of a survey of U.S. banks' claims on foreigners.

Regulation G, Securities Credit by Persons other than Banks, Brokers, or Dealers—adoption of revised forms required under Regulation G.

Issuance of subordinated capital notes by Seattle Trust & Savings Bank, Seattle, Washington.

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* These rates and rate provisions were not on file with the Commission.

First Security Corporation, Salt Lake City, Utah, letter to Corporation relating to the divestiture of FSC's interest in First Security Savings & Loan Association of Pocatello, Idaho, and requesting FSC to file a revised plan of divestiture by June 30, 1977.

First City Bancorporation of Texas, Inc., Houston, Texas, extension of time to August 29, 1977, within which to consummate the acquisition of Red Bird National Bank, Dallas, Texas.[1]

Northwestern State Bank of Austin, Austin, Minnesota, to make an additional investment in bank premises.[1]

McIlroy Bank & Trust, Fayetteville, Arkansas, extension of time to October 14, 1977, within which to complete the sale of subordinated capital notes to the public.[1]

Burlington Bank Realty Company, Burlington, Iowa, proposed merger with Hawkeye Bank and Trust, Burlington, Iowa, report to the Federal Deposit Insurance Corporation on competitive factors.[1]

Exchange National Bank of Pinellas County, Largo, Florida, proposed merger with The Exchange Bank of Dunedin, Dunedin, Florida, and The Exchange Bank and Trust Company of Clearwater, Clearwater, Florida, report to the Comptroller of the Currency on competitive factors.[1]

Valley National Bank of Auburn, Auburn, Washington, proposed acquisition by Puget Sound National Bank, Tacoma, Washingington, report to the Comptroller of the Currency on competitive factors.[1]

To Establish a Domestic Branch Pursuant to Section 9 of the Federal Reserve Act

APPROVED

The Harter Bank & Trust Company, Canton, Ohio. Branch to be established at the Mellett Mall Shopping Center, 4196 West Tuscarawas Street, Canton, Stark County.[2]

The State Savings Bank of West Branch, West, Michigan. Branch to be established at 620 Saginaw Street, Village of Steerling, Deep River Townshsip, Arenac County, Michigan.[2]

To Establish an Overseas Branch of a Member Bank Pursuant to Section 25 of the Federal Reserve Act

APPROVED

Chemical Bank: Branch—Hong Kong.

Thirty Day Notice by a Member Bank of Intention to Establish an Additional Branch in a Foreign County

APPROVED

Manufacturers Hanover Trust Company: Branch—additional in Dusseldorf, Germany.

International Investments and Other Actions Pursuant to Sections 25 and 25(a) of the Federal Reserve Act and Sections 4(c)(9) and 4(c)(13) of the Bank Holding Company Act of 1956, as amended

APPROVED

Marine Midland International Corporation: One-year extension of time—Disposition of additional shares of Irish Intercontinental Bank Limited.

Morgan Guaranty International Finance Corporation: Investment—additional in Cofiber, S.A., Madrid, Spain, to increase its ownership to 80 percent.

To Form a Bank Holding Company Pursuant to Section 3(a)(1) of the Bank Holding Company Act of 1956

APPROVED

Brogan Bankshares, Inc., Kaukauna, Wisconsin, for approval to acquire 80 percent of the voting shares of The Bank of Kaukauna, Kaukauna, Wisconsin.[2]

Panhandle Aviation, Inc., Clarinda, Iowa, for approval to acquire 80 percent or more of the voting shares of Citizens State Bank, Clarinda, Iowa.[2]

Krey Co. Ltd., Pratt, Kansas, for approval to acquire 51 percent of the voting shares of The Peoples Bank, Pratt, Kansas.

North Fork Corporation, Paonia, Colorado, for approval to acquire 80 percent or more of the voting shares of The First National Bank of Paonia, Paonia, Colorado.[2]

DENIED

Granite Holding Corp., Granite Falls, Minnesota, for approval to acquire 100 percent (less directors' qualifying shares) of the voting shares of Granite Falls Bank, Granite Falls, Minnesota.

To Expand a Bank Holding Company Pursuant to Section 3(a)(3) of the Bank Holding Company Act of 1956

APPROVED

First National Charter Corporation, Kansas City, Missouri, for approval to acquire 80 percent or more of the voting shares of The Farmers Trust Company of Lee's Summit, Lee's Summit, Missouri.

To Expand a Bank Holding Company Pursuant to Section 4(c)(8) of the Bank Holding Company Act of 1956

WITHDRAWN

Guaranty Loan and Investment Corporation of Tulsa, Inc., Tulsa, Oklahoma, notification of intent to engage in de novo activities (industrial banking including the issuance of thrift certificates and the extension of credit by first and second real estate mortgages and durable consumer goods) at 7021 South Memorial Drive, Tulsa, Oklahoma, through a subsidiary, Western Trust & Savings Company (5-31-77)[2]

DELAYED

Security Pacific Corporation, Los Angeles, California, notification of intent to engage in de novo activities (acting as agent or broker for the sale of credit related property and casualty insurance) at 1730 South Amphlett, San Mateo, California, through its subsidiary, Security Pacific Finance Corp. (5-31-77)[2]

PERMITTED

Industrial National Corporation, Providence, Rhode Island, notification of intent to relocate de novo activities (consumer finance and insurance agency for any insurance directly related to an extension of credit or provision of other financial services) from 1768 Lawrenceville Highway, Decatur, Georgia to 2955B N. Druid Hills Road, Atlanta, Georgia, through its subsidiary, Southern Discount Company, a subsidiary of Industrial National Corporation (6-4-77)[2]

Chemical New York Corporation, New York, New York, notification of intent to engage in de novo activities (leasing real and personal property and equipment on a nonoperating, full payout basis and acting as agent, broker, and adviser with respect to such leases; financing real and personal property and equipment such as would be done by a commercial finance company; and servicing such extensions of credit) at 244 West Passaic Street, Rochelle Park, New Jersey, through its subsidiary, Chem-Lease, Inc. (5-28-77)[2]

United Bank Corporation of New York, Albany, New York, notification of intent to relocate de novo activities (making and acquiring, for its own account or for the account of others, loans and other extensions of credit such as could be made by a finance company including secured and unsecured loans to individuals, discounting of installment sales contracts, and secured commercial financing such as dealer floor-plan financing and furnishing services or performing services in the leasing of personal property and equipment under the terms of leases which provide for compensating the lessor for not less than the lessor's full investment in the property) from 3588 Delaware Avenue, Buffalo, New York to Liberty Bank Building, Buffalo, New York, through its subsidiary, UBC Leasing of New York Inc. (6-2-77)[2]

United Virginia Bankshares Incorporated, Richmond, Virginia, notification of intent to relocate de novo activities (originating loans as principal; originating loans as agent; servicing loans for nonaffiliated individuals, partnerships, and corporations; servicing loans for affiliates of United Virginia Bankshares Incorporated; sale as agent, of credit life, credit disability, mortgage redemption and mortgage cancellation insurance in connection with such loans and such other activities as may be incidental to the business of a mortgage corporation) from 11009 Warwick Boulevard, Newport News, Virginia to 718 J. Clyde Morris Boulevard, Newport News, Virginia, through its subsidiary, United Virginia Mortgage Corporation (5-29-77)[2]

Third National Corporation, Nashville, Tennessee, notification of intent to engage in de novo activities (conducting the business of a mortgage company including the making or acquiring, for its own account or for the account of others, loans and other extensions of credit, servicing loans and other extensions of credit for any person; and to act as agent or broker in the sale of mortgage redemption insurance, credit life/accident and health insurance) at 201 Fourth Avenue, North, Nashville, Tennessee, through a subsidiary, Third National Mortgage Company (6-2-77)[2]

Security Pacific Corporation, Los Angeles, California, notification of intent to engage in de novo activities (making or acquiring, for its own account or for the account of others, loans and extensions of credit including making consumer installment personal loans, purchasing consumer installment sales finance contracts, making loans to small businesses and other extensions of credit such as would be made by a factoring company or a commercial finance company; and acting as broker or agent for the sale of credit-related life/accident and health insurance) at 2025 Gateway Place, San Jose, California, through its subsidiary, Security Pacific Finance Corp. (6-4-77)[2]

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[1] Application processed on behalf of the Board of Governors under delegated authority.

[2] Application processed by the Reserve Bank on behalf of the Board of Governors under delegated authority.

[2] Application processed by the Reserve Bank on behalf of the Board of Governors under delegated authority.

[2] 4(c)(8) and 4(c)(12) notifications processed by Reserve Bank on behalf of the Board of Governors under delegated authority.

Security Pacific Corporation, Los Angeles, California, notification of intent to engage in de novo activities (making or acquiring, for its own account or for the account of others, loans and extensions of credit including making consumer installment personal loans, purchasing consumer installment sales finance contracts, making loans to small businesses and other extensions of credit such as would be made by a factoring company or a commercial finance company; and acting as broker or agent for the sale of credit-related life/accident and health insurance) at 600 N. Mountain Avenue, Upland, California, through its subsidiary, Security Pacific Finance Corp. (6-4-77)[3]

APPROVED

Peoples Credit Co., Kansas City, Missouri, for approval to retain the assets of Midwest Data Processing (a division of Peoples Credit Co.), Kansas City, Missouri.

Krey Co. Ltd., Pratt, Kansas, for permission to acquire consumer finance company offices in Liberal, Kansas and Guymon, Oklahoma.

APPLICATIONS RECEIVED

To Establish a Domestic Branch Pursuant to Section 9 of the Federal Reserve Act

The Harter Bank & Trust Company, Canton, Ohio. Branch to be established adjacent to the Edison Park Shopping Center, Route No. 619, Hartville, Stark County.

To Establish an Overseas Branch of a Member Bank Pursuant to Section 25 of the Federal Reserve Act

Union Trust Company of Maryland: Branch—George Town, Grand Cayman, Cayman Islands.

To Expand a Bank Holding Company Pursuant to Section 3(a)(3) of the Bank Holding Company Act of 1956

First City Bancorporation of Texas, Inc., Houston, Texas, for approval to acquire 100 per cent of the voting shares (less directors' qualifying shares) of The City National Bank of Bryan, Bryan, Texas.

To Expand a Bank Holding Company Pursuant to Section 4(c)(8) of the Bank Holding Company Act of 1956

Maryland National Corporation, Baltimore, Maryland, notification of intent to engage in de novo activities (engaging generally in the business of leasing personal property including, but not limited to, the leasing of various types of equipment, machinery, vehicles, transportation equipment, and data processing equipment; originating personal property leases as principal or agent; servicing personal property leases for affiliated or nonaffiliated individuals, partnerships or corporations; buying and selling and otherwise dealing in personal property lease contracts as principal or agent; acting as adviser in personal property leasing transactions; engaging in the sale, as agent or broker, of insurance similar in form and intent to credit life and/or mortgage redemption insurance; engaging generally in the business of leasing real property where the lease is the functional equivalent of an extension of credit; originating real property leases as principal or agent; servicing real property leases for affiliated or nonaffiliated individuals, partnerships, corporations or other entities; buying, selling and otherwise dealing in real property leases as principal, agent or broker; and acting as adviser in real property leasing transactions) at 79 Oak Hill Road, Red Bank, New Jersey, through its subsidiary, Maryland National Leasing Corporation (5-31-77)[3]

Mercantile Bancorporation Inc., St. Louis, Missouri, notification of intent to engage in de novo activities (operating as an industrial loan company in the manner authorized by laws of West Virginia and will not both accept deposits and make commercial loans; and insurance agency or brokerage in connection with selling to borrowers credit life insurance and credit accident and health insurance) at 300 Carolina Avenue, Chester, West Virginia, through a subsidiary of Franklin Finance Company, a wholly-owned subsidiary, to be known as Franklin Thrift and Loan Co. of Chester Inc. (6-3-77)[3]

First National Lincoln Corp., Lincoln, Nebraska, notification of intent to engage in de novo activities (operation of a detached auxiliary office pursuant to Article 4 of Chapter 8, reissue revised statutes of Nebraska, 1943 as amended; this auxiliary office of the industrial bank will receive savings deposits, both installment (passbook) and time certificate paying interest thereon at rates not to exceed those approved from time to time by the Director of Banking & Finance of the State of Nebraska; the auxiliary office of the industrial bank will also make loans, principally consumer installment loans, and loans secured by first or second mortgages, pursuant to sections 8-435 to 8-450, reissue revised statutes of Nebraska, 1943) on the northwest corner of 14th and "L" Streets, Lincoln, Nebraska, through its subsidiary, First Savings Company of Lincoln (5-31-77)[3]

BankAmerica Corporation, San Francisco, California, notification of intent to engage in de novo activities (acting as investment or financial adviser to the extent of providing portfolio investment advice to others with emphasis on real property investments and real property interests) at 333 South Wacker Drive, Chicago, Illinois; 7801 East Belleview Avenue, Englewood, Colorado; 5401 West Kennedy Boulevard, Tampa, Florida; 57 Executive Park South, Atlanta, Georgia; 720 Main Street, Kansas City, Missouri; 7900 Xerxes Avenue South, Minneapolis, Minnesota; 500 West Wilson Bridge Road, Columbus, Ohio; 12700 Park Central Place, Dallas, Texas; and 5909 West Loop South, Bellaire, Texas; and to merge its subsidiary, BankAmerica International Realty Corporation with and into another subsidiary, BA Mortgage Company, Inc., the resulting subsidiary to be known as BA Mortgage and International Realty Corporation (5-25-77)[3]

Nevada National Bancorporation, Reno, Nevada and Sellon, Inc., Toledo, Ohio, notification of intent to relocate de novo activities (financing of personal property and equipment and the leasing of such property or the acting as an agent, broker, or adviser in the leasing and/or financing of such property where at the inception of the initial lease the effect of the transaction will yield a return that will compensate the lessor for not less than the lessor's full investment in the property plus the estimated total cost of financing the property over the term of the lease; making or acquiring, for its own account or for the account of others, loans and other extensions of credit in the normal course of its leasing business including the making of business installment loans, the purchase of business installment sales finance contracts and making loans to businesses of various sizes) from 4th and Bridger Streets to 3160 West Sahara Avenue, Las Vegas, Nevada, through its subsidiary, Nevada National Leasing Company, Inc. (5-26-77)[3]

Rainier Bancorporation, Seattle, Washington, notification of intent to engage in de novo activities (making or acquiring, for its own account or for the account of others, loans and other extensions of credit) at 33110 Pacific Highway South, Federal Way, Washington, through its subsidiary, Rainier Mortgage Company (5-26-77)[3]

Security Pacific Corporation, Los Angeles, California, notification of intent to engage in *de novo* activities (making or acquiring, for its own account or for the account of others, loans and extensions of credit including making consumer installment personal loans, purchasing consumer installment sales finance contracts, making loans to small businesses and other extensions of credit such as would be made by a factoring company or a commercial finance company; and acting as broker or agent for the sale of credit related life/accident and health insurance and credit related property and casualty insurance) at 1730 South Amphlett, San Mateo, California, through its subsidiary, Security Pacific Finance Corp. (5-23-77).[3]

Security Pacific Corporation, Los Angeles, California, notification of intent to engage in *de novo* activities (origination and acquisition of mortgage loans including development and construction loans on multi-family and commercial properties, for its own account or for the sale to others and the servicing of such loans for others) at 2020 Hurley Way, Sacramento, California, through its subsidiary, Security Pacific Mortgage Corporation (5-26-77).[3]

Security Pacific Corporation, Los Angeles, California, notification of intent to engage in *de novo* activities (the origination and acquisition of mortgage loans including development and construction loans on multi-family and commercial properties, for its own account or for the sale to others and the servicing of such loans for others) at 404 James Robertson Parkway, Nashville, Tennessee, through its subsidiary, Security Pacific Mortgage Corporation (5-25-77).[3]

REPORTS RECEIVED

Registration Statement Filed Pursuant to Section 22(g) of The Securities Exchange Act.

The Ypsilanti Savings Bank, Ypsilanti, Michigan.

Ownership Statement Filed Pursuant to Section 13(d) of The Securities Exchange Act.

Metropolitan Bank, Tampa, Florida. (Filed by The Summit Organization, Inc.—Amendment No. 2.)

PETITIONS FOR RULEMAKING

None.

Board of Governors of the Federal Reserve System, June 20, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-18097 Filed 6-23-77;8:45 am]

[3] 4(c)(8) and 4(c)(12) notifications processed by Reserve Bank on behalf of the Board of Governors under delegated authority.

CITIZENS BANCORP, INC.

Formation of Bank Holding Company

Citizens Bancorp, Inc., Hartford City, Indiana, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company through acquisition of 80 percent or more of the voting shares of The Citizens State Bank, Hartford City, Indiana. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than July 18, 1977.

Board of Governors of the Federal Reserve System, June 20, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-18091 Filed 6-23-77;8:45 am]

HUNTINGTON BANCSHARES INC.

Acquisition of Bank

Huntington Bancshares Incorporated, Columbus, Ohio, has applied for the Board's approval under § 3(a)(3) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(3)) to acquire 100 percent, less directors' qualifying shares, of the voting shares of Bellefontaine National Bank, Bellefontaine, Ohio. The factors that are considered in acting on the application are set forth § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Cleveland. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than July 18, 1977.

Board of Governors of the Federal Reserve System, June 20, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-18092 Filed 6-23-77;8:45 am]

HUNTINGTON BANCSHARES INC.

Acquisition of Bank

Huntington Bancshares Incorporated, Columbus, Ohio, has applied for the Board's approval under § 3(a)(3) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(3)) to acquire 100 percent, less directors' qualifying shares, of the voting shares of The Central National Bank of London, London, Ohio. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Cleveland. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than July 17, 1977.

Board of Governors of the Federal Reserve System, June 15, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-18093 Filed 6-23-77;8:45 am]

ROYAL TRUST CO. AND ROYAL TRUST BANK CORP.

Order Approving Acquisition of Bank

The Royal Trust Company, Montreal, Quebec, Canada ("Applicant"), and its wholly-owned subsidiary, Royal Trust Bank Corp., Miami, Florida ("Bank Corp."), both of which are bank holding companies within the meaning of the Bank Holding Company Act, have applied for the Board's approval under § 3(a)(3) of the Act (12 U.S.C. § 1842(a)(3)) to acquire all of the voting shares of Royal Trust Bank of South Dade, N.A., Dade County, Florida, a proposed new bank ("Bank").

Notice of the applications, affording opportunity for interested persons to submit comments and views, has been given in accordance with § 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the applications and all comments received in light of the factors set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

Applicant, with total assets of approximately $4.3 billion,[1] is the largest trust company and the eighth largest financial institution in Canada, and operates, through its subsidiaries and other interests, in both Europe and the Caribbean Islands. In the United States, Applicant controls six Florida banks ($184.7 million in deposits)[2] and one nonbank subsidiary.[3] Consummation of the subject proposal would not have an immediate effect upon the concentration of banking resources in Florida.

Bank will be located in the southern part of Dade County approximately four miles from the University of Miami's south campus. With two subsidiary banks in the relevant market,[4] applicant controls $107 million in deposits, or approximately 1.7 percent of the market deposits,[5] and is the 18th largest of 46 banking organizations (with 110 banks) operating in the market. Florida's six largest bank holding companies are also represented in the market. Although Applicant is already competing in the market, its lead bank and its closest subsidiary bank, Royal Trust Bank of Miami, N.A., is located 12.3 miles north of Bank's proposed location.[6] Due to the relative size of Applicant, the distances separating Bank from Applicant's other subsidiary banks, and the fact that Bank is a proposed new bank, consummation of Applicant's proposal would not appear to eliminate any potential competition, nor would it significantly increase the concentration of banking resources, in the relevant market. Accordingly, the Board concludes that competitive considerations are consistent with approval of the applications.

The financial and managerial resources and future prospects of Applicant, Bank Corp. and their subsidiaries are regarded as satisfactory. As a proposed new bank, Bank has no financial or operating history; however, its prospects as a subsidiary of Applicant appear favorable. Considerations relating to banking factors, therefore, are consistent with approval of the application.

Bank will serve as an additional full service banking alternative in the relevant market, and affiliation with Applicant will enable Bank to offer international banking services, accounts receivable financing, factoring, investment management, and investment portfolio analysis. Thus, these considerations relating to the convenience and needs of the community to be served lend some weight toward approval of the application. It is the Board's judgment that the proposed acquisition would be in the public interest and that the applications should be approved.

On the basis of the record, the applications are approved for the reasons

[1] All banking data are as of December 31, 1976, unless otherwise indicated and reflect bank holding company formations and acquisitions approved by the Board through April 30, 1977.

[2] Applicant currently controls five of these banks through Bank Corp. which was formed in 1976 as a wholly-owned subsidiary of Applicant in order to hold directly Applicant's banking interests in the United States.

[3] Information Systems Design of Florida, Inc., Miami, Florida ("ISD-Florida") was formed as a subsidiary of Information Systems Design, Inc., Santa Clara, California ("ISD-California") in 1971. While ISD-Florida is fully engaged in data processing activities permissible for bank holding companies within the scope of Regulation Y, 12 CFR § 225.4(a)(8), ISD-California is not. ISD-California is, in turn, 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 § 4(c)(9) of the Act (60 Fed. Res. Bull. 58 (1974)). On January 31, 1977, the Board approved in principle 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.

[4] The Greater Miami banking market, the relevant market, includes Dade County and that portion of Broward County lying south of the Dania Canal. The northern boundary of the market area is delineated by the Dania Canal, the Miami International Airport, and a tract of undeveloped land extending across Broward County.

[5] All market data are as of June 30, 1976.

[6] In addition, Applicant's lead bank, has received approval from the Regional Administrator of National Banks to open two branches, one 17 miles and the other 7.7 miles from Bank.

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 that date, and (c) Royal Trust Bank of South Dade, N.A., Dade County, Florida, shall be opened for business not later than six months after the effective date of this Order. Each of the periods described in (b) and (c) may be extended for good cause by the Board, or by the Federal Reserve Bank of Atlanta pursuant to delegated authority.

By order of the Board of Governors,[1] effective June 20, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-18094 Filed 6-23-77;8:45 am]

TRADE DEVELOPMENT HOLLAND HOLDING B.V. TRADE DEVELOPMENT FINANCE (NETHERLANDS ANTILLES) N.V.

Order Approving Formation of Bank Holding Companies

Trade Development Holland Holding B.V. ("TDHH"), Amsterdam, The Netherlands, and its parent corporation, Trade Development Finance (Netherlands Antilles) N.V. ("TDFNA"), Curocao, The Netherlands Antilles, have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies through direct acquisition by TDHH of approximately 40 to 47 percent of the voting shares of Republic New York Corporation ("Republic"), New York, New York, increasing thereby TDHH's direct ownership and TDFNA's indirect ownership of Republic's voting shares from approximately 22 percent to between 62 and 69 percent. Republic is a bank holding company that owns all the voting shares, except directors' qualifying shares, of Republic National Bank of New York ("Bank"), New York, New York.

Notice of the applications, 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 applications and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

These applications are essentially for a reorganization of existing ownership interests in Republic. TDFNA is a wholly-owned subsidiary of Trade Development Bank Holding S.A. ("TDBH"), Luxembourg, Luxembourg, a foreign bank holding company registered under the Act by virtue of its indirect ownership of 62 percent of Bank.[1] Upon approval of these applications, TDHH will acquire approximately 40 percent of the shares of Republic from two wholly-owned subsidiaries of TDBH. It will purchase approximately 27 percent of Republic's shares from Trade Development Bank, Geneva, Switzerland, and approximately 13 percent from Trade Development Europe Holding B.V., Amsterdam, The Netherlands. These transactions will result in direct ownership by TDHH and indirect ownership by TDFNA of approximately 62 percent of Republic's shares. The indirect interest of TDBH and its parent corporation, Saban S.A., Panama, Panama, which is also a registered bank holding company, will be unaffected. An additional seven percent of Republic's shares, however, may be purchased by TDBH from unaffiliated persons and transferred to TDHH under Applicants' proposal. Since Applicants' proposal represents essentially a reorganization of existing intermediate interests among TDBH's subsidiaries, and does not affect ultimate control or beneficial ownership of Bank, consummation of the proposal would not eliminate banking competition or increase the concentration of banking resources. Thus, competitive considerations are consistent with approval of the applications.

The financial and managerial resources and future prospects of Applicants and Bank are regarded as generally satisfactory and consistent with approval of the applications. Although there will be no immediate change in the services offered by Bank as a result of consummation of the proposal, convenience and needs considerations are also consistent with approval of the applications. Therefore, it is the Board's judgment that the proposed transactions should be approved.

As part of their applications, Applicants have contended that they should be considered foreign bank holding companies. Under sections 2(h) and 4(c)(9) of the Act and § 225.4(g) of Regulation Y, foreign bank holding companies are entitled to greater regulatory freedom than domestic bank holding companies with regard to their foreign investments and foreign activities. Applicants are in the process of submitting to the Board information required to clarify their claim of foreign bank holding company status under § 225.4(g)(1) of the Board's Regulation Y, but have asked the Board not to delay action on the present applications pending a determination of their status.[2] The significance of foreign bank holding company status under the Act and Regulation Y relates principally to exemptions from the nonbanking prohibitions of section 4 of the Act.[3] For bank acquisitions under section 3 of the Act, the factors that the Board must consider under section 3(c) of the Act apply equally to both domestic and foreign companies. Since, as discussed below, it appears that only one existing foreign investment of Applicants may be affected by the ultimate determination of Applicants' status as foreign or domestic bank holding companies and since it further appears that this investment does not bear significantly on the factors that the Board must consider under § 3(c) of the Act, the Board does not view the current inquiry regarding Applicants' status as an impediment to approval of these applications.[4] Accordingly, Applicants shall be deemed to be domestic bank holding companies unless they later establish by satisfactory evidence their entitlement under § 225.4(g) of Regulation Y to a different status.

Upon consummation of the proposed acquisitions, Applicants must conform their investments and activities to those provisions of the Act applicable to domestic bank holding companies. Specifically, Applicants will be required by law to divest their voting shares of Trade Development Bank (France) S.A., Paris, France, in excess of five percent, within two years after the date on which they become bank holding companies, unless within that time the Board determines Applicants to be foreign bank holding companies or approves their retention of those shares under section 4(c)(13) of the Act.

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[1] Voting for this action: Chairman Burns and Governors Gardner, Wallich, Jackson, Partee and Lilly. Absent and not voting: Governor Coldwell.

[1] Bank is the fourteenth largest commercial bank in the Metropolitan New York Market, and holds $1.6 billion in consolidated deposits, or 0.7 percent of the deposits in commercial banks in the market. All banking data are as of December 31, 1976. Market data are as of June 30, 1975. The Metropolitan New York banking market is approximated by the five boroughs of New York City, plus Nassau, Putnam, Rockland, and Westchester Counties, and western Suffolk County, all in New York State, as well as the northern two-thirds of Bergen County and eastern Hudson County in New Jersey and southwestern Fairfield County in Connecticut.

[2] Incident to Applicants' request for expedited processing of these applications, Applicants' counsel has advised them to undertake no activities and make no investments except in accordance with rules applicable to domestic bank holding companies.

[3] Bank holding companies that do not qualify as foreign bank holding companies under section 225.4(g) of Regulation Y must apply to retain or acquire shares of foreign companies under section 225.4(f) of Regulation Y which implements section 4(c)(13) of the Act. In general, under section 225.4(f) of Regulation Y domestic bank holding companies are limited to owning and controlling shares of foreign companies that are engaged in international or foreign banking and other foreign or international financial operations. In contrast, under section 4(c)(9) a foreign bank holding company can own and control shares of any foreign company, regardless of the activities the company is engaged in, so long as it is only engaged in incidental activities in the United States.

[4] For some companies, domestic bank holding company status could entail a significant divestiture of interests in foreign companies, and this requirement could materially affect the financial resources and future prospects of the companies under section 3 of the Act. In connection with the present applications, however, domestic bank holding company status will not necessarily involve any significant divestiture by either Applicant.

On the basis of the record, the applications are approved for the reasons summarized above. The transactions shall not be made before the thirtieth calendar day following the effective date of this Order, or later than three months after the effective date of this Order, unless such period is extended for good cause by the Board or by the Federal Reserve Bank of New York pursuant to delegated authority.

By order of the Board of Governors,[2] effective June 20, 1977.

RUTH A. REISTER,
Assistant Secretary of the Board.

[FR Doc.77-18096 Filed 6-23-77;8:45 am]

[Docket No. TCR 76-105]

WACHOVIA CORP.

Prior Certification Pursuant to the Bank Holding Company Tax Act of 1976

The Wachovia Corporation, Winston-Salem, North Carolina ("Wachovia"), has requested a prior certification pursuant to § 6158(a) of the Internal Revenue Code (the "Code"), as amended by § 3(a) of the Bank Holding Company Tax Act of 1976 (the "Tax Act"), that the sale on August 31, 1976, of all the 10 issued and outstanding shares of common stock of North Carolina Title Company, Winston-Salem, North Carolina ("Title Company"), held by Wachovia Mortgage Company, Winston-Salem, North Carolina ("Mortgage"), a wholly owned subsidiary of Wachovia, to Chicago Title Insurance Company, Chicago, Illinois ("Chicago Title"), for $600,000 cash, was necessary or appropriate to effectuate § 4 of the Bank Holding Company Act (12 U.S.C. § 1843) ("BHC Act").[1]

In connection with this request, the following information is deemed relevant for purposes of issuing the requested certification: [2]

1. Wachovia is a corporation organized under the laws of the State of North Carolina on September 19, 1968, to acquire and hold all the shares of Wachovia Bank and Trust Company, N.A. ("Bank").

2. On December 31, 1968, Wachovia acquired ownership and control of all the outstanding voting shares (less directors' qualifying shares) of Bank.

3. Wachovia became a bank holding company on December 31, 1970, as a result of the 1970 Amendments to the BHC Act, by virtue of its ownership and control at that time of more than 25 percent of the outstanding voting shares of Bank, and it registered as such with the Board on January 20, 1972. Wachovia would have been a bank holding company on July 7, 1970, if the BHC Act Amendments of 1970 had been in effect on such date, by virtue of its ownership and control on that date of more than 25 percent of the voting shares of Bank. Wachovia presently owns and controls 100 percent (less directors' qualifying shares) of the outstanding voting shares of Bank.

4. Title Company is a corporation organized under the laws of the State of North Carolina on January 1, 1969, as a wholly owned subsidiary of Mortgage. Title Company engaged in the business of acting as agent for the sale of title insurance policies insuring the title to real property, which policies were underwritten by Chicago Title. Mortgage is a corporation organized under the laws of the State of North Carolina on January 1, 1969, as a wholly owned subsidiary of Wachovia. On August 31, 1976, Mortgage owned and controlled 10 shares of common stock, representing 100 percent of the issued and outstanding voting shares, of Title Company, all of which were acquired by it before July 7, 1970.

5. Wachovia did not file an application with the Board, or otherwise obtain the Board's approval, pursuant to § 4(c)(8) of the BHC Act to retain the shares of Title Company or engage in the activities carried on by Title Company,[3] and the disposition of the shares of Title Company was necessary or appropriate to effectuate § 4 of the BHC Act if Wachovia were to be a bank holding company beyond December 31, 1980.

6. On August 31, 1976, Wachovia and Mortgage sold the shares of Title Company to Chicago Title for cash.

On the basis of the foregoing information it is hereby certified that:

(A) At the time of the sale by Mortgage of its shares of Title Company, Wachovia was a qualified bank holding corporation, within the meaning of § 6158(f)(1) and subsection (b) of section 1103 of the Code, and satisfied the requirements of that section, and Mortgage was a subsidiary of Wachovia within the meaning of §§ 6158(f)(1), 1103(b)(2)(A), and 1103(a)(1)(B) of the Code and § 2(d) of the BHC Act;

(B) The shares of Title Company that Mortgage sold to Chicago Title were "prohibited property" within the meaning of §§ 6158(f)(2) and 1103(c) of the Code; and

(C) The sale of the shares of Title Company by Mortgage was necessary or appropriate to effectuate § 4 of the BHC Act.

This certification is based upon the representations made to the Board by Wachovia and upon the facts set forth above. In the event the Board should hereafter determine that facts material to this certification are otherwise than as represented by Wachovia, or that Wachovia has failed to disclose to the Board other material facts, it may revoke this certification.

By order of the Board of Governors acting through its General Counsel, pursuant to delegated authority (12 CFR § 265.2(b)(3)), effective June 17, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-18095 Filed 6-23-77;8:45 am]

[2] Voting for this action: Vice Chairman Gardner and Governors Wallich, Coldwell, Jackson, Partee and Lilly. Absent and not voting: Chairman Burns.

[1] Pursuant to § 3(e)(2) of the Tax Act, in the case of any sale that takes place on or before December 31, 1976 (the 90th day after the date of the enactment of the Tax Act), the certification described in § 6158(a) shall be treated as made before the sale, if application for such certification was made before the close of December 31, 1976. Wachovia's application for such certification was received by the Board on November 19, 1976.

[2] This information derives from Wachovia's correspondence with the Board concerning its request for this certification, Wachovia's Registration Statement filed with the Board pursuant to the BHC Act and other records of the Board.

[3] It does not appear that Title Company's activities would qualify for approval by the Board had an application been filed. Although § 225.4(a)(9) of Regulation Y, 12 CFR § 225.4(a)(9) permitted certain insurance agency activities by bank holding companies, the scope of that provision was narrowed substantially by a decision of the United States Court of Appeals for the Fifth Circuit. *Alabama Association of Insurance Agents* v. *Board of Governors of the Federal Reserve System*, 522 F. 2d 224 (1976), vacated in part and modified in part, 544 F. 2d 572 (1977).

GENERAL ACCOUNTING OFFICE

REGULATORY REPORTS REVIEW

Receipt of Report Proposal

The following request for clearance of a report intended for use in collecting information from the public was received by the Regulatory Reports Review Staff, GAO, on June 20, 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 the 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 July 12, 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 Regulatory Reports Review Staff, 202-275-3532.

FEDERAL ENERGY ADMINISTRATION

The FEA requests clearance of a new single-time form, Historical Survey of No. 2 Heating Oil, FEA-P137-S-0. This mandatory form contains the same data elements as the form FEA-P131-S-1, Survey of Sellers of No. 2 Heating Oil. However, this proposed form covers a different time period. FEA has determined that it is necessary to hold hearings in each of its 10 regions and nationally, beginning July 11 and ending July 18, 1977, to determine why heating oil prices exceeded the FEA monitoring system index prices and what actions may be appropriate for the next heating season. In preparation for these hearings, the FEA needed the additional information required on the form FEA-

P131–S–1 which collects data for June 1976 and January 1977. The proposed form FEA–P137–S–0 will require the 546 companies included in the reporting sample for the form FEA–P112–M–1 (excluding the 54 refiners) plus 200 companies selected from outside that sample to file data elements for June 1975 and January 1976. In addition, the large sellers of No. 2 heating oil (FEA–P112–M–1 Stratum 1 firms with annual sales of 10,000,000 gallons or more, excluding the 54 refiners) would be required to file data elements for June 1974 and January 1975. The data collected on the form FEA–P137–S–0 will be used in conjunction with the information filed on the various versions of the form P131 and the testimony to be made during the upcoming hearings in the decisionmaking process as to what actions may be required for the upcoming 1977/78 heating season. Due to the familiarity of all firms with the FEA regulations in effect during the time periods requested, the data required on form FEA–P137–S–0 should be readily available. The FEA estimates that an average of 6 hours will be required per response.

NORMAN F. HEYL,
Regulatory Reports Review Officer.

[FR Doc.77–18078 Filed 6–23–77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

CONFERENCE ON TOXIC SUBSTANCES

Carcinogenicity Testing Methods

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: A conference on toxic substances is to be held at the National Center for Toxicological Research, Jefferson, Arkansas, on August 22 and 23, 1977.

DATES: Submissions for panel members, July 10, 1977; requests for oral presentation by July 20, 1977.

FOR FURTHER INFORMATION CONTACT:

Ruth S. Magee, National Center for Toxicological Research (HFT–100), Jefferson, Arkansas 72079, (501–541–4000).

SUPPLEMENTARY INFORMATION: Subject areas for discussion at the conference are as follows: Potential industrial carcinogens and mutagens; hierarchial (tier) approach to testing; biochemical parameters to predict carcinogenicity; carcinogenicity long-term bioassay testing; and carcinogenicity risk assessment techniques.

Each session will be followed by a panel discussion and critique.

Persons wishing to be considered as panel members should submit a curriculum vitae by July 10, 1977.

Persons who wish to submit written remarks for panel discussion, or who wish to present oral summary remarks, should submit their request and subject of comments to be made no later than July 20, 1977. Oral comments should be limited to 5 minutes.

Dated: June 17, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.77–17851 Filed 6–23–77;8:45 am]

OBSTETRICAL AND GYNECOLOGICAL DEVICE CLASSIFICATION PANEL

Nominations for Nonvoting Representative of Consumer Interests

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This document invites nominations for a nonvoting consumer representative to serve on the Obstetrical and Gynecological Device Classification Panel of the Bureau of Medical Devices. Nominations will be accepted for the vacancy that currently exists.

DATE: Nominations by July 25, 1977.

ADDRESS: Written submissions to the Director, Office of Consumer Programs (HFG–1), Office of Professional and Consumer Programs, Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Anne Brilliant, Office of Professional and Consumer Programs (HFG–1), Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20857 (301–443–5006).

SUPPLEMENTARY INFORMATION: The function of this committee is to review and evaluate available data concerning the safety and effectiveness of devices currently in use and advise the Commissioner of Food and Drugs regarding recommended classification of these devices into one of three regulatory categories; recommend the assignment of a priority for the application of regulatory requirements for devices classified in the standards or premarket approval category; advise on any possible risks to health associated with the use of devices; advise on formulation of product development protocols and review premarket approval applications for those devices classified in the premarket approval category; review classification of devices to recommend changes in classification as appropriate; recommend exemption for certain devices from the application of portions of the Medical Device Amendments of 1976 (Pub. L. 94–295); advise on the necessity to ban a device; and respond to requests from FDA to review and make recommendations on specific issues or problems concerning the safety and effectiveness of devices.

Section 513 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360c) provides that each medical device classification panel shall include as nonvoting members, one representative of consumer interests and one representative of interests of the device manufacturing industry.

The nominations for and selection of the nonvoting member to represent consumer interests on the committee identified in this notice shall be made pursuant to § 14.84 (21 CFR 14.84, formerly § 2.332, prior to recodification published in the FEDERAL REGISTER of March 22, 1977 (42 FR 15553)).

Any interested person may nominate one or more qualified persons as a nonvoting member for this committee. Although nominations from individuals will be accepted, individuals are encouraged to submit their nominations through consumer organizations as defined in § 14.84(c)(3).

Nominations shall state that the nominee is aware of the nomination, is willing to serve as a member of the advisory committee, and appears to have no conflict of interest. A complete curriculum vitae of each nominee shall be included.

After the time for receipt of nominations has expired, the curriculum vitae for each nominee will be sent to each of the consumer organizations listed by the Director, Office of Consumer Programs, pursuant to § 14.84(c)(3), together with a ballot that must be filled out and returned to the Office of Professional and Consumer Programs, at the address given above, within 30 days. The nominee receiving the most votes shall be selected as the nonvoting member. In the event of a tie, the Commissioner shall select the nonvoting member by lot from among those tied with the most votes.

This notice is issued under the Federal Advisory Committee Act (86 Stat. 770–776 (5 U.S.C. App. I)) and Part 14 (21 CFR Part 14) relating to advisory committees.

Dated June 17, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.77–17852 Filed 6–23–77;8:45 am]

ORAL CAVITY PANEL

Advisory Committee Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). This notice also sets forth a summary of the procedures governing committee meetings and methods by which interested persons may participate in open public hearings conducted by the 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 meeting is announced:

Committee name	Date, time, and place	Type of meeting and contact person
Oral Cavity Panel	July 20 and 21, 9 a.m., conference room C, Parklawn Bldg., 5600 Fishers Lane, Rockville, Md.	Open public hearing July 20, 9 a.m. to 10 a.m.; open committee discussion July 20, 10 a.m. to 4:30 p.m.; July 21, 9 a.m. to 4:30 p.m.; John T. McElroy (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.

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 (formerly Subpart D of Part 2, prior to recodification published in the FEDERAL REGISTER of March 22, 1977 (42 FR 15553)).

Dated: June 20, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.77-18203 Filed 6-23-77;8:45 am]

Health Care Financing Administration

PUBLIC ASSISTANCE RESEARCH AND DEMONSTRATION GRANTS

Withdrawal of Grants; Availability of Grants and Extension of Submittal Date

In FR Document No. 77-10350 published on April 7, 1977, (42 FR 18452), the Office of Planning, Research, and Evaluation (OPRE) gave notice of the availability of Fiscal Year 1977 funds for public assistance research and demonstration (R&D) grants. The grants are authorized under Section 426 of Title IV, and Sections 1110 and 1115 of Title XI of the Social Security Act for domestic research and demonstrations supportive of the Public Assistance programs funded under Titles IV, XIX, and XX of the Act, and under Section 222 of Pub. L. 92-248 (as amended by 222(b) of Pub. L. 92-603) for experiments and demonstration projects under Title XIX of the Social Security Act.

Notice is hereby given of the withdrawal of the following projects included in the April 7, 1977 Notice:

1. INCOME MAINTENANCE, R. & D.

Project "(b) demonstration of simplified sampling for improved AFDC-QC management to determine how valid AFDC-QC sampling can be undertaken by States with reduced manpower assigned to sampling tasks." The project is withdrawn due to inherent conceptual and technical problems. Also withdrawn is project "(d) assessment of the effectiveness of State work requirements and job development programs for AFDC recipients." Withdrawal of this project is due to administrative changes in the income maintenance (R. & D.) work plan.

2. HEALTH SERVICES, R. & D.

The projects included in this area are withdrawn with the exception of "(a) innovative approaches to hospital reimbursement, including 'prudent buyer' techniques, prospective reimbursement, reimbursement by diagnosis or other case-specific charcteristics." Withdrawal of these projects is due to administrative changes in the health services R. & D. work plans.

3. SOCIAL SERVICES, R. & D.

Project "(d) development and testing of a model for Regional Office provision of technical assistance to States for contracting for social services" which was included under research to improve the effectiveness and efficiency of program administration in item 3. The Administration has decided to develop guidelines for models for providing such technical assistance within the agency.

Notice is also hereby given of the addition of the following projects to those included in the April 7, 1977, Notice:

1. INCOME MAINTENANCE, R. & D.

(e) A Study of international income maintenance which will review and analyze income maintenance policy and programs in comparable industrial countries;

(f) A study which will analyze causes of fair hearings in several States to pinpoint AFDC administrative needs; and

(g) A study which will analyze child and/or family allowance alternatives from international and theoretical sources and relate the same to United States needs.

2. HEALTH SERVICES, R. & D.

(b) Exploration of community-based centralized social and health care services as alternatives to more costly and unnecessary long-term institutional care; and

(c) Devise alternative methods for reimbursement to encourage more effective early and periodic screening, diagnosis and treatment (EPSDT) services to children.

3. SOCIAL SERVICES, R. & D.

In the area of research to improve the effectiveness and efficiency of program administration the following is added:

(e) Demonstration of an improved child abuse and neglect (CAN) tracking system and development of a costing system so that relative cost-effectiveness of various treatments can be determined.

General policy considerations, review procedures, project requirements, application procedures and grant policies are the same as stated in the April 7, 1977, Notice. The new deadline for all applications except those which were due

May 15 is July 18, 1977. All applications must be received at the Division of Project Grants Administration (DPGA): HEW, Room 4200-C, Switzer Building, 330 C Street SW., Washington, D.C. 20201 under the same conditions as stated in the April 7, 1977, Notice.

(Catalog of Federal Domestic Assistance Program No. 13.766—Public Assistance Research.)

Dated:

DON WORTMAN,
Acting Administrator, Health Care Financing Administration.

[FR Doc.77-18026 Filed 6-23-77;8:45 am]

Office of Education

ADVISORY COUNCIL ON ENVIRONMENTAL EDUCATION

Meeting

AGENCY: Advisory Council on Environmental Education, HEW/OE.

ACTION: Notice.

SUMMARY: This notice sets forth the schedule and proposed agenda of forthcoming meeting of the Advisory Council on Environmental 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: July 11-12, 1977, 9 a.m. to 4:30 p.m.

ADDRESS: HEW North Building, 330 Independence Avenue SW., Washington, D.C. 20201, Room 3173.

FOR FURTHER INFORMATION CONTACT:

Mr. Walter Bogan, Office of Education, Office of Environmental Education, Room 2025, FOB No. 6, 400 Maryland Avenue SW., Washington, D.C. 20202 (202-245-9231).

SUPPLEMENTARY INFORMATION: The Advisory Council on Environmental Education is established under (20 U.S.C. 1532) Environmental Education Act, Pub. L. 91-516, Section 3 (84 Stat. 1312), as amended by Pub. L. 93-278 (88 Stat. 121). The Council is directed to:

(A) Advise the Commissioner and the Office concerning the administration of, preparation of general regulations for, and operation of preparation of general regulations for, and operation of programs assisted under the Environmental Education Act;

(B) Make recommendations to the Office with respect to the allocation of funds appropriated pursuant to section 7 among the purposes set forth in paragraph (2) of subsection (b) of the Environmental Education Act and the criteria to be used in approving applications, which criteria shall insure an appropriate geographical distribution of approved programs and projects throughout the Nation;

(C) Develop criteria for the review of applications and their disposition; and

(D) Evaluate programs and projects assisted under the Environmental Education Act and disseminate the results thereof.

The meeting of the Council shall be open to the public. The meetings on July 11-12 will begin at 9 a.m. and end at 4:30 p.m. The meeting will be held at the HEW North Building, 330 Independence Avenue SW., Room 3173, Washington, D.C. 20201.

The proposed agenda includes:

(1) Review of interim reports of the Council committees on Implementation, Rationale, and Evaluation.

(2) General Council business for 1977.

Records shall be kept of all Council proceedings and shall be available for public inspection at the Office of the Advisory Council on Environmental Education located in Room 2025, Federal Office Building No. 6, 400 Maryland Avnue SW., Washington, D.C. 20202.

Signed at Washington, D.C., on June 21, 1977.

WALTER J. BOGAN, Jr.,
Director of Office of Environmental Education.

[FR Doc.77-18045 Filed 6-23-77;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AA-12404]

ALASKA

Proposed Withdrawal and Reservation of Lands

JUNE 17, 1977.

The U.S. Army, Corps of Engineers, on September 7, 1976, filed application, Serial No. AA-12404, for the withdrawal of the following described lands from settlement, sale, location, or entry, under all of the general land laws, including the mining and mineral leasing laws, subject to valid existing rights:

A tract of land located in section 8, T. 22 S. R. 12 E., Fairbanks Meridian, Alaska, and more specifically described as follows:

Commencing at a point on the center line of the Richardson Highway, right-of-way 300 feet, from which the junction of the Denali Highway (M.P. 185.5) bears N. 10°24'30" E., 150 feet to the true point of beginning for this description; thence N. 10°35'30" W., 150 feet; thence N. 79°24'30" E., 100 feet; thence S. 15°21'19" E., 356.23 feet; thence S. 79°24'30" W., 129.58 feet; thence N. 10°35'30" W., 205 feet, more or less, to the true point of beginning.

Containing 0.93 acres, more or less.

The applicant agency desires that the lands be withdrawn and reserved for the continued use of the Paxson Lake maintenance annex, a vehicle maintenance facility.

All persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned authorized officer of the Bureau of Land Management on or before July 30, 1977.

Pursuant to section 204(h) of the Federal Land Policy and Management Act of 1976, notice is hereby given that an opportunity for a public hearing is afforded in connection with the proposed withdrawal. All interested persons who desire to be heard on the proposed withdrawal must submit a written request for a hearing to the State Director, Bureau of Land Management, 555 Cordova Street, Anchorage, Alaska 99501, on or before July 30, 1977. Notice of the public hearing will be published in the FEDERAL REGISTER giving the time and place of such hearing. The public hearing will be scheduled and conducted in accordance with BLM Manual, Sec. 2351.16 B.

The Department of the Interior's regulations provide that the authorized officer of the BLM will undertake such investigations as are necessary to determine the existing and potential demands for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of assuring that the area sought is the minimum essential to meet the applicant's needs, providing for the maximum concurrent utilization of the lands for purposes other than the applicant's, and reaching agreement on the concurrent management of the lands and their resources.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn and reserved as requested by the applicant agency. The determination of the Secretary on the application will be published in the FEDERAL REGISTER. The Secretary's determination shall, in a proper case, be subject to the provisions of section 204(c) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2752. The above-described lands are temporarily segregated from the operation of the public land laws, including the mining and mineral leasing laws, to the extent that the withdrawal applied for, if and when effected, would prevent any form of disposal or appropriation under such laws. Current administrative jurisdiction over the segregated lands will not be affected by the temporary segregation. The segregative effect of this proposed withdrawal shall terminate on October 20, 1991, unless sooner terminated by action of the Secretary of the Interior.

All communications (except for public hearing requests) in connection with this proposed withdrawal should be addressed to the Chief, Branch of Lands and Minerals Operations, Alaska State Office, Bureau of Land Management, Department of the Interior, 555 Cordova Street, Anchorage, Alaska 99501.

ROBERT W. ARNDORFER,
Acting State Director.

[FR Doc.77-18135 Filed 6-23-77;8:45 am]

[ES 17504]

FLORIDA

Proposed Withdrawal and Reservation of Land

The National Park Service, Department of the Interior, on May 23, 1977, filed application, Serial No. ES 17504, for the withdrawal of the following described land and settlement, sale, location, or entry, under all of the general land laws, including the mining laws, subject to valid existing rights:

All that tract or parcel of land lying and being on Santa Rosa Island, Okaloosa County, Florida, more particularly described as follows:

Beginning at a concrete monument which is 5,280 feet, more or less, East of the South end of Brooks Bridge, on the Eastern boundary of a tract of land conveyed to Okaloosa County, Florida, by deed dated May 22, 1950, and recorded in Deed Book 63, page 312, of the records in the Office of the Clerk of the Circuit Court of Okaloosa County, Florida, on the Northern right-of-way line of U.S. Highway No. 98, and at ordinate position East 1,343,313.95 feet based on Lambert Conformal Projection, Florida North Zone, and on the boundary of a tract of land owned by the United States of America at Eglin Air Force Base;

Thence due North along the boundary of said Okaloosa County tract, which is along the boundary of said United States tract, 725 feet, more or less, to the shoreline of Choctawatchee Bay;

Thence Easterly along the meanders of Choctawatchee Bay a distance of 1,525 feet, more or less, to a point which is 1,500 feet East of the Eastern boundary of said Okaloosa County tract, and at ordinate position East 1,344,813.95 feet;

Thence due South 395 feet, more or less, to a concrete monument on the Northern right-of-way line of said Highway No. 98;

Thence Westerly along the Northern right-of-way line of said Highway No. 98, a distance of 1,500 feet, more or less, to the point of beginning.

Containing 19.25 acres, more or less, and being a part of Tract A of the Eglin Air Force Base Military Reservation.

The applicant agency desires that the land be withdrawn and reserved for inclusion in the Gulf Islands National Seashore. The land is presently withdrawn by Proclamation No. 2659 of August 13, 1945, for military purposes. The effect of this proposed withdrawal would be to transfer administrative jurisdiction over the land to the National Park Service.

On or before August 3, 1977, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management.

Pursuant to Section 204(h) of the Federal Land Policy and Management Act of 1976, notice is hereby given that an opportunity for a public hearing is afforded in connection with the proposed withdrawal. All interested persons who desire to be heard on the proposed withdrawal must submit a written request for a hearing to the undersigned officer of the Bureau of Land Management on or before August 3, 1977. Notice of the public hearing will be published in the FEDERAL REGISTER giving the time and place of such hearing. The public hearing will be scheduled and conducted in accordance with BLM Manual, Sec. 2351.16B.

The Department of the Interior's regulations provide that the authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demands for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of assuring that the area sought is the minimum essential to meet the applicant's needs, providing for the maximum concurrent utilization of the lands for purposes other than the applicant's, and reaching agreement on the concurrent management of the lands and their resources.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior, who will determine whether or not the lands will be withdrawn and reserved as requested by the applicant agency. The determination of the Secretary on the application will be published in the FEDERAL REGISTER. The Secretary's determination shall, in a proper case, be subject to the provisions of section 204(c) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2752. The above described lands are temporarily segregated from the operation of the public land laws, including the mining laws and the mineral leasing laws, to the extent that the withdrawal applied for, if and when effected, would prevent any form of disposal or appropriation under such laws. Current administrative jurisdiction over the segregated lands will not be affected by the temporary segregation. The segregative effect of this proposed withdrawal shall terminate on October 20, 1991, unless sooner terminated by action of the Secretary of the Interior.

All communications in connection with this proposed withdrawal should be addressed to the Director, Eastern States Office, Bureau of Land Management, 7981 Eastern Avenue, Silver Spring, Maryland 20910.

LOWELL J. UDY,
Director, Eastern States.

[FR Doc.77-18136 Filed 6-23-77;8:45 am]

Bureau of Land Management

[NM 30909]

NEW MEXICO

Application

JUNE 14, 1977.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Four Corners Pipe Line Company has applied for one 22-inch oil pipeline right-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 26 N., R. 12 W.,
Sec. 17, W½SE¼ and SE¼SW¼;
Sec. 19, E½SE¼;
Sec. 20 E½NW¼ SW¼NW¼ and NW¼SW¼;
Sec. 30, N½NE¼, SW¼NE¼, E½SW¼ and NW¼SE¼;
Sec. 31, Lots 1, 2 and NE¼NW¼.
T. 25 N., R. 13 W.,
Sec. 1, Lot 2 and SW¼NE¼.
T. 26 N., R. 13 W.,
Sec. 36, E½SE¼.

This pipeline will convey oil across 4.38 miles of public lands in San Juan County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, New Mexico 87107.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-17901 Filed 6-23-77;8:45 am]

[NM 30914 and 30915]

NEW MEXICO

Applications

JUNE 16, 1977.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Northwest Pipeline Corporation has applied for two 4½-inch natural gas pipeline rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 29 N., R. 5 W.,
Sec. 6, lot 2.
T. 30 N., R. 5 W.,
Sec. 31, NW¼NE¼.

These pipelines will convey natural gas across 0.106 miles of public lands in Rio Arriba County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, New Mexico 87107.

RAUL E. MARTINEZ,
Acting Chif, Branch of Lands and Minerals Operations.

[FR Doc.77-17903 Filed 6-23-77;8:45 am]

[NM 30919, 30920, 30921, 30922, 30923, and 30924]

NEW MEXICO

Applications

JUNE 17, 1977.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Company has applied for six 4½-inch natural gas pipeline rights-of-way across the following lands:

NEW MEXICO PRINICPAL MERIDIAN, NEW MEXICO

T. 29 N., R. 8 W.,
Sec. 9, SE¼NE¼ and N½SE¼;
Sec. 10, SW¼SW¼;
Sec. 11, SE¼SE¼;
Sec. 12, SW¼SW¼;
Sec. 15, NW¼NW¼.
T. 32 N., R. 11 W.,
Sec. 28, SE¼NW¼, NE¼SW¼, and NW¼SE¼.
T. 27 N., R. 12 W.,
Sec. 36, NE¼NE¼, SE¼NW¼, and NE¼SW¼.

These pipelines will convey natural gas across 1.988 miles of public lands in San Juan County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, New Mexico 87107.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-17900 Filed 8-4-77;8:45 am]

[NM 30801]

NEW MEXICO

Application

JUNE 14, 1977.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Transwestern Pipeline Company has applied for two 4-inch and 6-inch natural gas pipeline rights-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 20 S., R. 28 E.,
Sec. 20, SE¼SE¼;
Sec. 21, W½NE¼, E½NW¼, N½SW¼ and SW¼SW¼;
Sec. 29, N½NE¼, SE¼NE¼, N½SE¼, SW¼SE¼ and SE¼SW¼.

These pipelines will convey natural gas across 2.2835 miles of public land in Eddy County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, New Mexico 88201.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-17902 Filed 6-23-77;8:45 am]

National Park Service

[INT DES 77-19]

PROPOSED MASTER PLAN, LASSEN VOLCANIC NATIONAL PARK, CALIFORNIA

Availability of Draft Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act, the Department of the Interior has prepared a draft environmental statement for the Proposed Master Plan, Lassen Volcanic National Park, California.

The draft environmental statement considers measures to guide park development and management. Major features of the plan include the removal and relocation of facilities in the Manzanita Lake area; expansion of the Lassen Ski area; acquisition of inholdings within the park; and coordinated planning with the Forest Service to provide visitor facilities both north and south of the park.

Written comments on the environmental statement are invited and will be accepted for a period of 60 days following publication of this notice. Comments should be addressed to the Superintendent, Lassen Volcanic National Park.

Copies of the draft statement are available from or for inspection at the following locations:

Western Regional Office, National Park Service, 450 Golden Gate Avenue, San Francisco, California 94102.
Los Angeles Field Office, National Park Service, Room 2202, New Federal Building, Los Angeles, California 90012.
Lassen Volcanic National Park, Mineral, California 96063.

Dated: June 9, 1977.

HEATHER L. ROSS,
Acting Deputy Assistant Secretary of the Interior.

[FR Doc.77-18023 Filed 6-23-77;8:45 am]

INTERNATIONAL TRADE COMMISSION

[TA-203-3]

STAINLESS STEEL AND ALLOY TOOL STEEL

Notice of Investigation and Hearing

Investigation instituted. Following receipt on May 25, 1977, of a request from the Special Representative for Trade Negotiations, the United States International Trade Commission on June 17, 1977, instituted an investigation under section 203(i)(2) of the Trade Act of 1974 (19 U.S.C. 2253(i)(2)) for the purpose of advising the President of its judgment as to the probable economic effect on the domestic industry concerned if the relief provided by Proclamation 4445 of June 11, 1976, as modified by Proclamation 4477 of November 16, 1976, were to be reduced or terminated by (1) excluding from the quantitative restrictions imposed thereby any of the steel covered by items 923.20, 923.21, 923.22, 923.23, or 923.26 of the Appendix to the Tariff Schedules of the United States (TSUS); or (2) increasing the quantitative restrictions for the second and third restraint periods for any of the steel covered by the aforementioned five TSUS items. The letter from the Special Trade Representative requesting the investigation is attached hereto and made a part thereof.[1]

Public hearing. A public hearing in connection with this investigation will be held in the Commission's Hearing Room, United States International Trade Commission Building, 701 E Street NW., Washington, D.C., beginning at 10 a.m., e.d.t., on Tuesday, August 2, 1977. All interested parties will be given an opportunity be present, to produce evidence, and to be heard at such hearing. Requests to appear at the public hearing should be received by the Secretary of the Commission at his office in Washington, D.C., not later than noon, Thursday, August 18, 1977.

Issued: June 20, 1977.

By order of the Commission.

KENNETH R. MASON,
Secretary.

[FR Doc.77-18019 Filed 6-23-77;8:45 am]

DEPARTMENT OF JUSTICE

UNITED STATES CIRCUIT JUDGE NOMINATING COMMISSION, DISTRICT OF COLUMBIA PANEL

Meeting

Chairman: Joseph Tydings.

The first scheduled meeting of the nominating panel for the District of Columbia Circuit of the United States Circuit Judge Nominating Commission is as follows:

(1) The first meeting will be held on Monday, June 27, 1977, at 9:30 a.m., 1120 Connecticut Avenue NW., Washington, D.C. The morning session will be an orientation session dealing with procedures; it will be open to the public. The afternoon session will be given to a discussion of candidates and will be closed to the public pursuant to Pub. L. 92-463, Section 10(D) as amended. (CF. 5 U.S.C. 552b(c)(6).)

JOSEPH A. SANCHES,
Advisory Committee Management Officer.

JUNE 21, 1977.

[FR Doc.77-18077 Filed 6-23-77;8:45 am]

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[1] The letter was filed as part of the original document.

DEPARTMENT OF LABOR

Employment and Training Administration

EMPLOYMENT TRANSFER AND BUSINESS COMPETITION DETERMINATIONS UNDER 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 Street NW., Washington, D.C. 20213.

Signed at Washington, D.C., this 21st day of June 1977.

ERNEST G. GREEN,
Assistant Secretary for Employment and Training.

Applications received during the week ending June 17, 1977

Name of applicant	Location of enterprise	Principal product or activity
Manchang Corp	Manchang, Mass	Polystyrene foam products.
Seneca Foods Corp	Dundee, N.Y	Manufacture of bottled fruit juices.
RecTech, Inc	Mifflin County, Pa	Disposal of refuse.
Penn Bangor, Inc	Bangor, Pa	Sheet metal fabrication of grain handling and conveying equipment.
Geyer Systems, Inc	Timonium, Md	Manufacture of custom hot stamped wire and cable markers.
Great Lakes Corp. (tenant of city of Morganton).	Morganton, N.C	Manufacture of graphite electrodes.
Impact Plastics, Inc	Gastonia, N.C	Molding and fabricating plastic products.
K&B Slaughter House	Lucedale, Miss	Slaughter and sell meats.
Mt. Olive Pickle Co., Inc	Mt. Olive, N.C	Manufacture and selling of pickles and pickled products.
Manteo Motel Corp	Manteo, N.C	Motel and restaurant.
Inmont Corp. (tenant of city of Morganton)	Morganton, N.C	Manufacture of industrial finishes.
Today's Tuffers, Inc	Chatsworth, Ga	Commission tufting of carpet.
Better Backers, Inc	do	Application of secondary backing to tufted textiles (carpet).
D-lectric Specialties Co. (tenant of the town of Bremen).	Bremen, Ind	An electrical wiring assembly business.
Ebsing Manufacturing Co	McAlester, Okla	Manufacture of ladies' wear.
Gulf States Oil Transportation Co., Inc	Kaplan, La	Towing and barge transportation services.
Forked Island Shipyard, Inc	Kaplan, La	Shipbuilding and repairs.
West Bank Ford, Inc	Donaldsonville, La	Automobile sales.
Frierson Timber Co., Inc	Frierson, La	Produces pulpwood.
Mid-Continent Oil Co	Sheridan, Wyo	Distributor of gas, propane, oil, TBA & related materials.

[FR Doc.77-18069 Filed 6-23-77;8:45 am]

FEDERAL SUPPLEMENTAL BENEFITS (EMERGENCY UNEMPLOYMENT COMPENSATION)

Notice of Ending of Federal Supplemental Benefit Period in Arkansas

This notice announces the ending of the Federal Supplemental Benefit Period in the State of Arkansas, effective June 18, 1977.

BACKGROUND

The Emergency Unemployment Compensation Act of 1974 (Pub. L. 93-572, enacted December 31, 1974) (the Act) created a temporary program of supplementary unemployment benefits (referred to as Federal Supplemental Benefits) for unemployed individuals who have exhausted their rights to regular and extended benefits under State and Federal unemployment compensation laws. Federal Supplemental Benefits are payable during a Federal Supplemental Benefit Period in a State which has entered into an Agreement under the Act with the United States Secretary of Labor. A Federal Supplemental Benefit Period is triggered on in a State when unemployment in the State or in the State and the nation reaches the high levels set in the Act. During a Federal Supplemental Benefit Period the maximum amount of Federal Supplemental Benefits which are payable to eligible individuals is up to 13 weeks. A Federal Supplemental Benefit Period commenced in the State of Arkansas on December 26, 1976.

The Act also provides that a Federal Supplemental Benefit Period in a State will trigger off when the rate of insured unemployment in the State averages less than 5 percent over a period of thirteen consecutive calendar weeks. The benefit period actually terminates at the end of the third week after the week for which there is an "off" indicator, if the benefit period will have been in effect for a minimum duration of 13 weeks.

DETERMINATION OF "OFF" INDICATOR

The employment security agency of the State of Arkansas has determined under the Act and 20 CFR 618.19(b) (published in the FEDERAL REGISTER on March 23, 1976, at 41 FR 12151, 12157) that the average rate of insured unemployment in the State for the period consisting of the week ending on May 28, 1977, and the immediately preceding twelve weeks, was less than 5 percent.

Therefore, I have determined in accordance with the Act and 20 CFR 618.19(b), and as authorized by the Secretary of Labor's Order 4-75, dated April 16, 1975 (published in the FEDERAL REGISTER on April 28, 1975, at 40 FR 18515), that there was a Federal Supplemental Benefit "off" indicator in the State of Arkansas for the week ending May 28, 1977, and that the Federal Supplemental Benefit Period in that State terminated on June 18, 1977.

INFORMATION FOR CLAIMANTS

Any individual to whom Federal Supplemental Benefits for Federal-State Extended Benefits were payable in the State (whether or not any payment actually was made), for any portion of the last week of the Federal Supplemental Benefit Period, will have an additional eligibility period beginning immediately following the end of the Federal Supplemental Benefit Period. During the additional eligibility period the individual will be entitled to Federal Supple-

mental Benefits to the same extent as if the Federal Supplemental Benefit Period continued to be in effect. The additional eligibility period will have a duration of 13 weeks, unless it is terminated sooner by reason of the beginning of a new Federal Supplemental Benefit Period in the State.

Individuals currently filing claims for Federal Supplemental Benefits will receive written notices from the Arkansas Department of Labor of the end of the Federal Supplemental Benefit Period in that State and its effect on their entitlement to Federal Supplemental Benefits. The notice to any individual who will have an additional eligibility period following the Federal Supplemental Benefit Period will include information concerning potential entitlement to Federal Supplemental Benefits during the additional eligibility period.

Although the Federal Supplemental Benefit Period has terminated, an Extended Benefit Period will continue in effect in the State due to the National "on" indicator for the Federal-State Extended Benefit Program, as announced in a notice published in the FEDERAL REGISTER on February 21, 1975, at 40 FR 4722. Therefore, Federal-State Extended Benefits will continue to be payable to eligible individuals in the State unless that program subsequently triggers off in the State.

Persons who wish information about their rights to Federal Supplemental Benefits or Federal-State Extended Benefits in the State of Arkansas should contact the nearest State Employment Office of the Arkansas Department of Labor in their locality.

Signed at Washington, D.C., on June 20, 1977.

ERNEST G. GREEN,
Assistant Secretary for Employment and Training.

[FR Doc.77-18102 Filed 6-23-77;8:45 am]

FEDERAL SUPPLEMENTAL BENEFITS (EMERGENCY UNEMPLOYMENT COMPENSATION)

Notice of Ending of Federal Supplemental Benefit Period in North Dakota

This notice announces the ending of the Federal Supplemental Benefit Period in the State of North Dakota, effective June 25, 1977.

BACKGROUND

The Emergency Unemployment Compensation Act of 1974 (Public Law 93-572, enacted December 31, 1974) (the Act) created a temporary program of supplementary unemployment benefits (referred to as Federal Supplemental Benefits) for unemployed individuals who have exhausted their rights to regular and extended benefits under State and Federal unemployment compensation laws. Federal Supplemental Benefits are payable during a Federal Supplemental Benefit Period in a State which has entered into an Agreement under the Act with the United States Secretary of Labor. A Federal Supplemental Benefit Period is triggered on in a State when unemployment in the State or in the State and the nation reaches the high levels set in the Act. During a Federal Supplemental Benefit Period the maximum amount of Federal Supplemental Benefits which are payable to eligible individuals is up to 13 weeks. A Federal Supplemental Benefit Period commenced in the State of North Dakota on February 27, 1977.

The Act also provides that a Federal Supplemental Benefit Period in a State will trigger off when the rate of insured unemployment in the State averages less than 5.0 percent over a period of thirteen consecutive calendar weeks. The benefit period actually terminates at the end of the third week after the week for which there is an "off" indicator, if the benefit period will have been in effect for a minimum duration of 13 weeks.

DETERMINATION OF "OFF" INDICATOR

The employment security agency of the State of North Dakota has determined under the Act and 20 CFR 618.19(b) (published in the FEDERAL REGISTER on March 23, 1976, at 41 FR 12151, 12157) that the average rate of insured unemployment in the State for the period consisting of the week ending on June 4, 1977, and the immediately preceding twelve weeks, was less than 5.0 percent.

Therefore, I have determined in accordance with the Act and 20 CFR 618.19 (b), and as authorized by the Secretary of Labor's Order 4-75, dated April 16, 1975 (published in the FEDERAL REGISTER on April 28, 1975, at 40 FR 18515), that there was a Federal Supplemental Benefit "off" indicator in the State of North Dakota for the week ending June 4, 1977, and that the Federal Supplemental Benefit Period in that State terminates on June 25, 1977.

INFORMATION FOR CLAIMANTS

Any individual to whom Federal Supplemental Benefits or Federal-State Extended Benefits were payable in the State (whether or not any payment actually was made), for any portion of the last week of the Federal Supplemental Benefit Period, will have an additional eligibility period beginning immediately following the end of the Federal Supplemental Benefit Period. During the additional eligibility period the individual will be entitled to Federal Supplemental Benefits to the same extent as if the Federal Supplemental Benefit Period continued to be in effect. The additional eligibility period will have a duration of 13 weeks, unless it is terminated sooner by reason of the beginning of a new Federal Supplemental Benefit Period in the State.

Individuals currently filing claims for Federal Supplemental Benefits will receive written notices from the North Dakota Employment Security Bureau of the end of the Federal Supplemental Benefit Period in that State and its effect on their entitlement to Federal Supplemental Benefits. The notice to any individual who will have an additional eligibility period following the Federal Supplemental Benefit Period will include information concerning potential entitlement to Federal Supplemental Benefits during the additional eligibility period.

Although the Federal Supplemental Benefit Period has terminated, an Extended Benefit Period will continue in effect in the State due to the National "on" indicator for the Federal-State Extended Benefit Program, as announced in a notice published in the FEDERAL REGISTER on February 21, 1975, at 40 FR 4722. Therefore, Federal-State Extended Benefits will continue to be payable to eligible individuals in the State unless that program subsequently triggers off in the State.

Persons who wish information about their rights to Federal Supplemental Benefits or Federal-State Extended Benefits in the State of North Dakota should contact the nearest Employment Office of the North Dakota Employment Security Bureau in their locality.

Signed at Washington, D.C., on June 17, 1977.

ERNEST G. GREEN,
Assistant Secretary for Employment and Training.

[FR Doc.77-18103 Filed 6-23-77;8:45 am]

Office of the Secretary

[TA-W-1574]

AMBOY MANUFACTURING CO.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1574: 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 17, 1977 in response to a worker petition received on that date which was filed on behalf of workers and former workers producing girls' coats at Amboy Manufacturing Company, Perth Amboy, New Jersey.

The Notice of Investigation was published in the FEDERAL REGISTER on January 28, 1977 (42 FR 5447). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Amboy Manufacturing Company, its customers, the American Textile Manufacturers Institute, the National Cotton Council of America, 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 incerased 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 of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Average employment of production workers increased 5 percent in 1975 compared to 1974, and decreased 6 percent in 1976 compared to 1975. Amboy Manufacturing Company closed permanently in December, 1976 when all workers were terminated from employment.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Company production decreased 19 percent in 1976 compared to 1975.

Production ceased in December, 1976 when the plant was permanently closed.

INCREASED IMPORTS

Imports of women's, misses' and children's coats and jackets increased in quantity absolutely, but decreased relative to domestic production in 1973 compared to 1972, decreased both absolutely and relatively in 1974 compared to 1973, then increased both absolutely and relatively in 1975 compared to 1974. The ratio of imports to domestic production increased from 30.9 percent in 1974 to 31.1 percent in 1975. These imports increased absolutely from 1,517 thousand dozen in 1975 to 2,252 thousand dozen in 1976.

CONTRIBUTED IMPORTANTLY

Amboy Manufacturing Company was a contractor only for one manufacturer. Some customers of that manufacturer who were surveyed stated that they had switched purchases from the company to imports. The manufacturer did not contract work offshore.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with girls' coats produced by Amboy Manufacturing Company, Perth Amboy, New Jersey contributed importantly to the total or partial separation of the workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Amboy Manufacturing Company, Perth Amboy, New Jersey, who became totally or partially separated from employment on or after August 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 15th day of June 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-18104 Filed 6-23-77;8:45 am]

AMERICAN FINISH & CHEMICAL 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 11, 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 July 5, 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 adddess shown below, not later than July 5, 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 14th day of June 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 Finish & Chemical Co. (workers).	Chelsea, Mass.	June 13, 1977	June 9, 1977	TA-W-2,147	Cleaners and adhesives for the shoe industry.
Arthur Richards, Ltd. (workers).	New York, N.Y.	do.	June 11, 1977	TA-W-1,148	Men's clothing.

[FR Doc.77-17763 Filed 6-23-77;8:45 am]

[TA-W-1413]

AMERON STEEL AND WIRE DIVISION, AMERON, INC.

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-1413: 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 that date which was filed on behalf of workers and former workers producing steel at Ameron Steel and Wire Division of Ameron, Inc., Etiwanda, California.

The notice of investigation was published in the FEDERAL REGISTER on January 4, 1977 (42 FR 868). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Ameron Steel and Wire Division, 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 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,

(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 criteria has not been met with respect to rods, the first and second criteria have not been met with respect to wire, and the first and fourth criteria have not been met with respect to rebars.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Employment at Ameron Steel and Wire increased 22.4 percent in 1976 compared to 1975. Employment increased in four consecutive quarters from the fourth quarter of 1975 to the third quarter of 1976 before declining less than three percent in the fourth quarter of 1976. Compared to the same quarter of the previous year, employment increased 22 percent, 44 percent, and 30 percent in the second, third, and fourth quarters of 1976.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Sales by Ameron Steel and Wire increased 43.7 percent in value in 1974 compared to 1973. Total sales decreased 35.0 percent in value in 1975 compared to 1974, and increased 15.5 percent in value in 1976 compared to 1975.

Quarterly sales increased during the second, third and fourth quarters of 1976 compared to the same quarters of 1975.

Net tons of rebar produced increased 104.0 percent in 1975 compared to 1974, and decreased 45.5 percent in 1976 when compared to 1975. Net tons of rod produced decreased 48.5 percent in 1976 compared to 1974 and increased 56.4 percent in 1976 compared to 1975.

Net tons of wire produced decreased 59.4 percent in 1975 compared to 1974 and increased 86.1 percent in 1976 compared in 1975. Production of wire increased in each quarter of 1976 compared to the same quarter of 1975.

INCREASED IMPORTS

Imports of carbon steel wire increased from 349.6 thousand tons in 1975 to 371.8 thousand tons in 1976. Imports of carbon steel wire decreased relative to domestic production in 1976, from 22.0 percent in 1975 to 19.9 percent in 1976.

Imports of concrete reinforcing bar increased from 141.9 thousand tons in 1975 to 192.2 thousand tons in 1976. Imports of concrete reinforcing bar increased relative to domestic production, from 3.9 percent in 1975 to 5.0 percent in 1976.

Imports of carbon steel rod increased from 1,027.6 thousand tons in 1975 to 1,032.9 thousand tons in 1976. Imports of carbon steel rod decreased relative to domestic production in 1976, from 65.1 percent in 1975 to 35.7 percent in 1976.

CONTRIBUTED IMPORTANTLY

Customers of rebar produced by Ameron Steel and Wire Division indicated that they did not increase purchases of imported rebar. A customer cited increased domestic competition as a reason for decreased purchases of rebar from Ameron.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with steel products produced at Ameron Steel and Wire, Etiwanda, California, did not contribute importantly to total or partial separations of workers at that firm.

Signed at Washington, D.C. this 16th day of June 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-18105 Filed 6-23-77;8:45 am]

[TA-W-1703]

ANN MICHELE DRESS 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-1703: Investigation regarding certification eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on March 3, 1977 in response to a worker petition received on February 28, 1977 which was filed on behalf of workers and former workers producing dresses at the Philadelphia, Pennsylvania plant of Ann Michele Dress Company.

The notice of investigation was published in the FEDERAL REGISTER on March 11, 1977 (42 FR 13628). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Ann Michele Dress Company, 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 fourth criterion has not been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

The average number of workers of Ann Michele Dress Company decreased by 14.0 percent from 1975 to 1976 and the average number of hours per week declined by 13.7 percent from 1975 to 1976.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Production at Ann Michele Dress Company decreased by 34.7 percent in value (adjusted) from 1975 to 1976.

INCREASED IMPORTS

Imports of women's and misses' dresses have increased by 2.2 percent from 1975 to 1976, from 645,000 dozen to 659,000 dozen. The ratios of imports to domestic production and consumption have remained steady, at 4.5 and 4.3, respectively.

CONTRIBUTED IMPORTANTLY

The investigation revealed that customers of the manufacturer for whom Ann Michele Dress Company does contracting work did not shift purchases from the manufacturer to foreign suppliers.

The manufacturer which contracts Michele Dress for cutting and sewing women's dresses does not manufacture outside the United States and does not import finished products. Sales and production of this manufacturer increased in 1976 compared to 1975. The manufacturer decreased its contract work with Michele Dress while increasing its work with other domestic contractors.

CONCLUSION

It is concluded that imports of articles like or directly competitive with women's and misses' dresses produced at the Ann Michele Dress Company in Philadelphia, Pennsylvania 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 17th day of June 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-18106 Filed 6-23-77;8:45 am]

ARKAY PANTS 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 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 July 5, 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 July 5, 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 13th day of June 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
Arkay Pants Co. (ACTWU).	Fall River, Mass.	June 10, 1977	June 1, 1977	TA-W-2,137	Men's and boys' outerwear.
Burlington Industries (workers).	Tarboro, N.C.	June 13, 1977	June 7, 1977	TA-W-2,138	Cloth made of cotton and polyester blends for the clothing industry.
Carter Rubber Co. (workers).	Wilkes-Barre, Pa.	June 9, 1977	May 23, 1977	TS-W-2,139	Vulcanized rubber shoes (sneakers).
Columbian Cutlery Co., Inc. (USWA).	Reading, Pa.	June 13, 1977	May 15, 1977	TA-W-2,140	Hand tools.
Edinburg Manufacturing Corp. (workers).	Petersburg, W. Va.	do.	June 8, 1977	TA-W-2,141	Ladies' sportswear and dresses.
Jirak Machine Co., Inc. (workers).	East Aurora, N.Y.	do.	June 9, 1977	TA-W-2,142	TV component parts.
K-D Tool, Inc. (USWA).	Lancaster, Pa.	June 9, 1977	May 15, 1977	TA-W-2,143	Hand tools for auto industry.
Prints Almo, Inc. (workers).	Brooklyn, N.Y.	do.	June 4, 1977	TA-W-2,144	Printed fabrics for men's and women's outerwear, swimwear, underwear and leisurewear.
RCA Corp. (Radio Communications Assemblers Union, Inc.).	Clark, N.J.	June 6, 1977	June 1, 1977	TA-W-2,145	Warehouse and office for RCA products.
Royal Shoe Manufacturing Co. (USWA).	McCrory, Ark.	June 9, 1977	June 3, 1977	TA-W-2,146	Women's boots and sandals.

[FR Doc.77-17762 Filed 6-23-77;8:45 am]

[TA-W-1244]

BERNARD SCREEN PRINTING CORP. AND HYDE PARK FABRIC CORP.

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 February 8, 1977 the Department of Labor issued a certification of eligibility to apply for adjustment assistance applicable to workers and former workers of Bernard Screen Printing Corporation (TA-W-1244).

The Notice of Certification was published in the FEDERAL REGISTER on February 25, 1977 (42 FR 11081).

Subsequent to the publication of the original determination, the Office of Trade Adjustment Assistance received an inquiry on behalf of workers at New Hyde Park Corporation, New York, New York, a subsidiary of Bernard Screen Printing Corporation. Further investigation revealed that these workers were engaged in employment related to the printing of textiles and should have been included in the original certification as eligible to apply for adjustment assistance.

The subject workers were not identified in the initial investigation or the original certification because the company maintained separate records and ledgers for these workers in other locations.

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 Bernard Screen Printing Corporation, New Hyde Park, New York who became totally or partially separated on or after October 28, 1975, including employees at its subsidiary, New Hyde Park Corporation, New York, New York, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 15th day of June 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-18107 Filed 6-23-77;8:45 am]

[TA-W-1706]

BIRMINGHAM STOVE AND RANGE COMPANY, BIRMINGHAM, ALABAMA

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-1706: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on March 3, 1977 in response to a worker petition received on March 3, 1977 which was filed by the United Steelworkers of America on behalf of workers and former workers producing cast-iron stoves, cast-iron cooking ware and cast-iron fireplace grates at the Birmingham, Alabama plant of the Birmingham Stove and Range Company.

The notice of investigation was published in the Federal Register on March 11, 1977 (42 FR 13628). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Birmingham Stove and Range Company, 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;

(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 the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

The average number of production workers declined 31.3 percent in 1976 compared to 1975. Production workers are used interchangeably on all product lines.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Plant sales of cast-iron stoves represented approximately 70 percent of sales in 1976. Plant sales in quantity of cast-iron stoves declined 47.9 percent in 1976 compared to 1975.

Plant sales of cast iron cooking wear represented approximately 25 percent of sales in 1976. Plant sales of cast-iron cooking ware, in quantity, declined 44.0 percent in 1975 compared to 1974 and declined 0.8 percent in 1976 compared to 1975.

Plant sales of cast-iron fireplace grates, in quantity, declined 4.4 percent in 1976 compared to 1975.

INCREASED IMPORTS

U.S. imports of cast-iron stoves increased to 75 thousand units in 1974 and to 233 thousand units in 1975 and then decreased to 170 thousand units in 1976.

The ratio of imported cast-iron stoves to domestic production was 46.3 percent in 1974 and increased to 95.5 percent and 128.8 percent, respectively, in 1975 and 1976.

U.S. imports of cast-iron cooking ware declined from 1,496 thousand piece in 1973 to 1,257 thousand pieces in 1974. U.S. imports of cast-iron cooking ware increased to 2,059 thousand pieces and 8,391 thousand pieces, respectively, in 1975 and 1976.

The ratio of imported cast-iron cooking ware to domestic production was 23.0 percent in 1974 and increased to 55.4 percent and 224.7 percent, respectively, in 1975 and 1976.

U.S. imports of cast-iron fireplace grates increased in each year from 1972, when imports totalled 198 thousand units, through 1975, when imports totalled 463 thousand units.

The ratio of imported cast-iron fireplace grates to domestic production was 112.2 percent in 1973 and increased in each year through 1976 when the ratio of imports to domestic production was 208.8 percent.

CONTRIBUTED IMPORTANTLY

A survey of customers purchasing cast-iron stoves, cast-iron cooking ware and cast-iron grates from the Birmingham Stove and Range Company indicated these customers have increased their purchases of imported cast-iron stoves, cast-iron cooking ware and cast-iron fireplace grates while decreasing their purchases from the Birmingham Stove and Range Company because of lower prices.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increased imports of cast-iron stoves, cast-iron cooking ware and cast-iron fireplace grates have contributed importantly to the total or partial separation of the workers at the Birmingham, Alabama plant of the Birmingham Stove and Range Company. On accordance with the provision of the Act, I make the following certification:

All employees at the Birmingham, Alabama plant of the Birmingham Stove and Range Company who became totally or partially separated from employment on or after March 7, 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 14th day of June 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-17765 Filed 6-23-77;8:45 am]

[TA-W-2036]

CANTEEN CORP.

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-2036: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on May 2, 1977 in response to a worker petition received on that date which was filed on behalf of workers and former workers providing food services at the Springfield, Ohio facility of Canteen Corporation, Chicago, Illinois.

The notice of investigation was published in the FEDERAL REGISTER on May 13, 1977 (42 FR 24346). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Canteen Corporation 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 of proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separted, 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.

If any of the above criteria is not satisfied a negative determination must be made.

Canteen Corporation is a wholly owned subsidiary of TWA, New York, New York. Headquarters for Canteen are in Chicago, Illinois. The company operates food service facilities throughout the country. The Springfield, Ohio facility of Canteen provides food services to the Springfield, Ohio plant of International Harvester Corporation.

Canteen Corporation does not produce an article within the meaning of Section 222(3) of the Act and this Department has already determined that the performance of services are not covered by the adjustment assistance program. See Notice of Determination in Pan American, World Airways, Incorporated (TA-W-153, 40 FR 54639). The only question in this case is whether International Harvester, i.e., a firm which produces an article, namely automobiles and trucks and for whom the service is provided can be considered the "workers' firm".

The Department has also previously determined that an independent firm for which such services are provided cannot be considered the "workers' firm". See Notice of Determination in Nu-Car Driveway, Incorporated (TA-W-393, 41 FR 12749).

The Springfield, Ohio facility of Canteen has a contract to provide food services at International Harvester's Springfield, Ohio plant. Canteen's workers run a cafeteria at the International Harvester plant.

Neither International Harvester on the one hand, nor Canteen Corporation on the other, have any capital or financial investment in the other.

The workers on whose behalf this petition was filed were hired and are paid by Canteen. They are supervised by and subject to the control of Canteen personnel only. All employment benefits which they enjoy are provided by and maintained by the Canteen Corporation.

CONCLUSION

After careful review of the issues and facts involved, I have determined that services of the kind provided by the Springfield, Ohio facility of Canteen Corporation are not "articles" within the meaning of Section 222(3) of the Trade

Act of 1974 and that International Harvester cannot be considered the "workers' firm". The petition for trade adjustment assistance is, therefore, denied.

Signed at Washington, D.C., this 16th day of June 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[Doc.77-18108 Filed 6-23-77;8:45 am]

[TA-W-1985]

CHIPPEWA SHOE 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-1985: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on April 18, 1976 in response to a worker petition received on April 18, 1976 which was filed by the United Shoe Workers of America on behalf of workers and former workers producing men's footwear at the Chippewa Falls, Wisconsin plant of the Chippewa Shoe Company.

The Notice of Investigation was published in the FEDERAL REGISTER on April 29, 1977 (42 FR 21872). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from the Chippewa Shoe Company and the United Shoe Workers of America.

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 (1) has not been met.

The Chippewa Falls plant of the Chippewa Shoe Company produces men's footwear.

Evidence developed in the Department's investigation revealed that no involuntary separations occurred from April 4, 1976, one year prior to the signature date of the petition, to the present.

Sales increased 8 percent in quantity and production increased 11 percent in quantity in 1976 compared to 1975. Production increased 3 percent in quantity in the 1st quarter of 1977 compared to the same quarter in 1976. No threat of total or partial separation is evident.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that a significant number or proportion of the workers at the Chippewa Falls, Wisconsin plant of the Chippewa Shoe Company have not become totally or partially separated, or threatened to become separated, as required in Section 222 of the Trade Act of 1974.

Signed at Washington, D.C., this 16th day of June 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-18109 Filed 6-23-77;8:45 am]

[TA-W-2068]

HALCO INDUSTRIES, INC.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2068: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on May 12, 1977 in response to a worker petition received on that date which was filed on behalf of workers and former workers producing eyeglass frames and parts at Halco Industries, Incorporated, Glendale, California.

The notice of investigation was published in the FEDERAL REGISTER on May 24, 1977 (42 FR 26482). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Halco Industries, 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 all of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

For the period ending April 30, 1976, the average total employment of Halco was 32 percent below the level for the comparable period ending April 30, 1975. Employment continued to decline in 1976 and to date in 1977.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Halco's total sales, in terms of value, declined 18 percent in the 11 month period ending April 30, 1976 compared to the same period in the previous year. At the same time, total quantity produced and sold declined 19 percent in the 11 month period ending in 1976 compared to the same period in 1975.

INCREASED IMPORTS

Imports of frames and mountings increased by 16 percent for the 11-month period ending April 30, 1976, compared to the similar period ending April 30, 1975, from 1.4 million dozen pairs to 1.6 million pairs. In terms of value, imports of frames and mountings and parts thereof increased from $47 million to $58 million during the same time periods, or 25 percent.

CONTRIBUTED IMPORTANTLY

Halco's customers indicated that their reduced purchases fom Halco were import-related. Customers were faced with their own declining sales due to their inability to compete with imports.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with eyeglass frames and parts produced at Halco Industries, Incorporated, Glendale, California contributed importantly to the total or partial separation of the workers at that plant. In accordance with the provisions of he Act, I make the following certification:

All workers at Halco Industries, Incorporated who became totally or partially separated from employment on or after May 3, 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 16th day of June 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-18110 Filed 6-23-77;8:45 am]

[TA-W-1721]

HARRIS STRUCTURAL STEEL COMPANY, INC., PISCATAWAY, NEW JERSEY

Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1721: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on March 3, 1977 in response to a worker petition received on February 28, 1977 which was filed by the United Steelworkers of America on behalf of the workers and former workers producing fabricated structural steel at the Piscataway, New Jersey plant of Harris Structural Steel Co., Inc.

The notice of investigation was published in the FEDERAL REGISTER (42 FR 14185) on March 15, 1977. No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Harris Structural Steel Company, Inc., the U.S. International Trade Commission, the U.S. Department of Commerce, 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 while the first three criteria have been met, criterion (4) has not been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Average annual employment of production workers at Harris Structural Steel Company, Inc. increased 18.9 percent in 1975 compared to 1974. Average employment declined 33.5 in 1976 compared to 1975.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Annual production at the Harris Structural Steel Company, Inc. increased 17.1 percent in quantity in 1975 compared to 1974. Production declined 29.7 percent in 1976 compared to 1975.

INCREASED IMPORTS

Imports of fabricated structural steel shapes declined from 139.1 tons in 1972 to 131.5 tons in 1973 and further declined to 104.0 tons in 1974. Imports increased to 107.7 tons in 1975. Imports increased to 114.3 tons in 1976, a 6.1 percent increase from 1975. The ratio of imports to domestic shipments of fabricated structural steel shapes decreased from 2.1 percent in 1972 to 1.9 percent in 1973. The ratio decreased to 1.6 percent in 1974. The ratio of imports to domestic shipments increased from 2.0 percent in 1975 to 2.2 percent in 1976.

CONTRIBUTED IMPORTANTLY

Harris bids against other companies on contracts calling for the fabrication of steel for specific construction projects. During the period 1974-1976 Harris was the successful bidder on about 7 percent of the tonnage bid on. The companies which underbid Harris were all domestic U.S. corporations which were fabricating the steel in the United States.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with fabricated structural steel produced by Harris Structural Steel Company, Inc., Piscataway, New Jersey have not contributed importantly to the total or partial separation of workers at that plant as required for certification in Section 222 of the Trade Act of 1974.

Signed at Washington, D.C. this 14th day of June 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-17769 Filed 6-23-77;8:45 am]

[TA-W-1725]

HERMAN SEGALL AND COMPANY, PHILADELPHIA, PENNSYLVANIA

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-1725: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on March 3, 1977 in response to a worker petition received on February 28, 1977 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing ladies' blouses at Herman Segall and Company, Philadelphia, Pennsylvania.

The notice of investigation was published in the FEDERAL REGISTER on March 15, 1977 (42 FR 14185). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Herman Segall and Company, its customers, the U.S. Department of Agriculture, the U.S. Department of Commerce, the U.S. International Trade Commission, the American Textile Manufacturers Institute, the International Ladies' Garment Workers' Union, the National Cotton Council of America, 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 revealed that all of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

The average number of production workers decreased 7 percent in 1975 compared to 1974, and was unchanged in 1976 compared to 1975. Employment in the January-February period of 1977 decreased 9 percent compared to the like period in 1976. Employment in the third and fourth quarters of 1976 declined 1 percent and 22 percent, respectively, compared to the same quarters in 1975.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Company sales of ladies' blouses decreased 22 percent in quantity and 9 percent in value in 1975 compared to 1974, decreased 11 percent in quantity and 5 percent in value in 1976 compared to 1975, then decreased 5 percent in quantity and 15 percent in value in the January-February period of 1977 compared to the like period in 1976.

Herman Segall and Company produces only to customer order; therefore, its production is equal to its sales.

INCREASED IMPORTS

Imports of women's, misses' and children's blouses and shirts increased absolutely each year from 1973 through 1976 compared to the previous years. These imports increased 16 percent in 1976 compared to 1975. The ratio of imports to domestic production decreased

in 1973 compared to 1972, then increased each year through 1975 compared to the previous years. The ratio of imports to domestic production increased from 56.0 percent in 1974 to 65.0 percent in 1975.

CONTRIBUTED IMPORTANTLY

Herman Segall and Company produces ladies' blouses and shirts for two major customers. One of these customers reduced purchases from Herman Segall in 1976 compared to 1975 and increased purchases of imported blouses. The proportion of this customer's total blouse purchases represented by imports increased from 1975 to 1976.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with ladies' blouses produced by Herman Segall and Company, Philadelphia, Pennsylvania contributed importantly to the separations of the workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers at Herman Segall and Company, Philadelphia, Pennsylvania who became totally or partially separated from employment on or after June 24, 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 14th day of June 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-17770 Filed 6-23-77;8:45 am]

[TA-W-1784]

HUNT FOR CHEVROLETS, INCORPORATED, BUFFALO, NEW YORK

Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1784: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on March 10, 1977 in response to a worker petition received on March 9, 1977 which was filed on behalf of workers and former workers engaged in the sale and servicing of automobiles at Hunt for Chevrolets, Inc., Buffalo, New York.

The notice of investigation was published in the FEDERAL REGISTER on March 25, 1977 (42 FR 1600). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Hunt for Chevrolets, Inc., 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;

(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.

If any of the above criteria is not satisfied, a negative determination must be made.

Hunt for Chevrolets, Inc., does not produce an article within the meaning of Section 222(3) of the Act and this Department has already determined that the performance of services are not covered by the adjustment assistance program. See Notice of Determination in Pan American World Airways, Incorporated (TA-W-153, 40 FR 54639). The only question in this case is whether General Motors Corporation, i.e., a firm which produces an article, namely automobiles, and for whom the service is provided, can be considered the "workers' firm." See Notice of Determination in Nu-Car Driveaway, Incorporated (TA-W-393, 41 FR 12749).

Hunt for Chevrolets is a franchised Chevrolet sales and service dealership. It is engaged in the selling and servicing of automobiles. General Motors has no capital or financial investment in Hunt for Chevrolets, Inc. and has no control over its operation.

The workers upon whose behalf this petition was filed were hired and are paid by Hunt for Chevrolets, Inc. They are supervised by Hunt for Chevrolet personnel only. All employment benefits which they receive are provided by Hunt for Chevrolets, Inc.

CONCLUSION

After careful review of the issues and facts involved, I have determined that services of the kind provided by Hunt for Chevrolet, Incorporated are not "articles" within the meaning of Section 222 (3) of the Trade Act of 1974, and that the General Motors Corporation cannot be considered the "workers' firm." The petition for trade adjustment assistance is, therefore, denied.

Signed at Washington, D.C. this 14th day of June 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-17771 Filed 6-23-77;8:45 am]

[TA-W-1817]

INTERNATIONAL SHOE CO.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1817: investigation regarding certification of eligibility to apply for adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on March 21, 1977 in response to a worker petition received on March 8, 1977 which was filed by three workers on behalf of workers and former workers producing women's shoes at the Belle, Missouri plant of the International Shoe Company.

The notice of investigation was published in the FEDERAL REGISTER on April 4, 1977 (42 FR 18158). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of International Shoe Co., its customers, the Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

On September 9, 1976, the Labor Department issued a Notice of Negative Determination for all workers at the Belle, Missouri plant of the International Shoe Company, (TA-W-925), pursuant to a worker petition filed on June 7, 1976.

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 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 of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Employment of production workers remained at the same level from 1973 to 1974, declined 8 percent from 1974 to 1975 and then increased 20 percent from 1975 to 1976. Employment increased 33 percent in the first quarter of 1977 compared to the same quarter of 1976. The average number of hours worked declined 5.2 per-

cent from 1974 to 1975 and increased 11.2 percent from 1975 to 1976. The average number of hours worked declined 21.9 percent in the first quarter of 1977 compared to the first quarter of 1976. All workers were laid-off from January 31, 1977 to February 4, 1977.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Sales data is not maintained at the plant, since all shoes are transferred to a central warehouse of International for final distribution.

Production of women's shoes declined 4 percent in quantity from 1973 to 1974, declined 9 percent in quantity from 1974 to 1975, and remained at the same level in 1976 as in 1975. Production declined 35 percent in quantity in the first quarter of 1977 compared to the first quarter of 1976.

INCREASED IMPORTS

Imports of women's and misses' nonrubber footwear, except athletic, increased absolutely from 1972 to 1973, declined from 1973 to 1974, and then increased each year from 1974 to 1976. Imports increased absolutely by 4.8 millions of pairs from 1975 to 1976. The ratio of imports to domestic production declined from 114.1 percent in 1975 to 106.3 percent in 1976.

CONTRIBUTED IMPORTANTLY

Evidence developed during the course of the investigation revealed that retail customers of International Shoe shifted purchases of women's shoes from International to imports from 1975 to 1976. The International Trade Commission recently concluded that the extremely high penetration of imported shoes is the most important cause of injury to the domestic footwear industry.

As a result of the negative import influence on production at the Belle, Missouri plant there was a 21.9 percent reduction in the average number of hours worked in the first quarter of 1977 compared to the first quarter of 1976. The workforce, however, increased during the same period of comparison because the plant switched production to a more complicated shoe style, which required additional workers to produce each shoe.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with women's shoes produced at the Belle, Missouri plant of the International Shoe Company contributed importantly to the total or partial separation of the workers of that plant. In accordance with the provisions of the Act, I make the following certification:

All workers engaged in employment related to the production of women's shoes at the Belle, Missouri plant of the International Shoe Company who became totally or partially separated from employment on or after January 1, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 15th day of June 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-18111 Filed 6-23-77;8:45 am]

[TA-W-1731]

JERSEY DYE AND FINISHING CO.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1731: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on March 3, 1977 in response to a worker petition received on February 22, 1977 which was filed by the Machine Printers and Engravers Association on behalf of workers and former workers printing and finishing fabric at the Jersey Dye and Finishing Company, Paterson, New Jersey.

The Notice of Investigation was published in the FEDERAL REGISTER on March 15, 1977 (42 FR 14185). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Jersey Dye, 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 all of the above criteria have been met for Jersey Dye and Finishing Company.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Employment of production workers increased 13 percent from 1974 to 1975, then decreased 20 percent from 1975 to 1976.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

The sales in value of the printing and finishing performed on greige goods by Jersey Dye increased 22 percent from 1974 to 1975, then decreased 53 percent from 1975 to 1976.

The production in yards of the printing and finishing performed on greige goods by Jersey Dye increased 25 percent from 1974 to 1975, then decreased 53 percent from 1975 to 1976.

INCREASED IMPORTS

Imports of cotton broadwoven printcloth declined absolutely from 1972 to 1973, increased from 1973 to 1974, declined 10.5 percent from 1974 to 1975 and then increased 55.6 percent from 1975 to 1976. The ratios of imports to domestic production and consumption increased from 13.5 percent and 12.9 percent, respectively, in 1975 to 20.6 percent and 19.8 percent, respectively, in 1976.

Imports of man-made woven printed fabric declined absolutely from 1972 to 1973, increased from 1973 to 1974, declined .8 percent from 1974 to 1975 and then increased 23.5 percent from 1975 to 1976. The ratios of imports to domestic production and consumption remained less than one percent from 1972 through 1976.

CONTRIBUTED IMPORTANTLY

The petition alleges that increased imports of apparel adversely affected production and employment at Jersey Dye and Finishing Company. Converters, who are customers of Jersey Dye stated that imports of apparel have been a factor in reduced business with Jersey Dye. Imported wearing apparel cannot be considered to be like or directly competitive with printed fabric. Imports of fabric must be considered in determining import injury to workers producing printed fabric.

Customers of Jersey Dye are converters who buy greige goods and commission Jersey Dye to print and finish the fabric in accordance with apparel manufacturers' specifications. During the course of the investigation it was established that converters, in general, do not import printed or finished fabric. The Department's survey of apparel manufacturers, who are customers of the converters, revealed that manufacturers are importing printed or finished fabric for use in the production of men's and women's wearing apparel. The converters reported a growing trend towards manufacturers bypassing converters and purchasing finished fabric offshore or purchasing the imported finished fabric domestically, through foreign trading companies.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with fabric printed and finished at the Jersey Dye and Finishing Company, Paterson, New Jersey contributed importantly to the total or partial

separation of the workers of that plant. In accordance with the provisions of the Act, I make the following certification:

All workers at the Jersey Dye and Finishing Company, Paterson, New Jersey who became totally or partially separated from employment on or after February 17, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Issued at Washington, D.C. this 15th day of June 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-18112 Filed 6-23-77;8:45 am]

[TA-W-1733]

JUDE TRAWLERS, INCORPORATED BROWNSVILLE, TEXAS

Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1733: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on March 3, 1977 in response to a worker petition received on February 17, 1977 which was filed on behalf of workers and former workers engaged in the catching of shrimp with Jude Trawlers, Incorporated, Brownsville, Texas.

The Notice of Investigation was published in the FEDERAL REGISTER on March 15, 1977 (42 FR 14185). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Jude Trawlers, Incorporated, the U.S. Coast Guard, 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.

Without regard to whether the other criteria have been met, the investigation has revealed that the second criterion has not been met.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Jude Trawlers, Incorporated is a recently formed company that began to fish for shrimp in February 1977. Only one catch had been made at the time the field investigation was conducted.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that sales or production at Jude Trawlers, Incorporated, Brownsville, Texas have not decreased absolutely as required for certification under Section 222 of the Trade Act of 1974.

Signed at Washington, D.C. this 14th day of June 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-17773 Filed 6-23-77;8:45 am]

[TA-W-1976]

KENNEBEC RIVER PULP AND PAPER, INC.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1976: Investigation regarding certification of eligibility to apply for adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on April 12, 1977 in response to a worker petition received on April 11, 1977 which was filed by the International Association of Machinists and Aerospace Workers on behalf of workers and former workers producing groundwood base paper products at Kennebec River Pulp and Paper, Inc., Madison, Maine, a subsidiary of Penn-tech Papers, Inc.

The notice of investigation was published in the FEDERAL REGISTER on April 29, 1977 (42 FR 21873). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Penntech Papers, Inc., Kennebec River Pulp and Paper, Inc., its customers, the American Paper Institute, 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 necesarily more important than any other cause.

The investigation revealed that all of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Average employment of production workers decreased 5 percent in 1975 compared to 1974, and decreased 14 percent in 1976 compared to 1975.

Average employment of salaried workers increased 4 percent in 1975 compared to 1974, then decreased 15 percent in 1976 compared to 1975.

All production workers are expected to be terminated by the end of June 1977.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Company sales declined 12 percent in quantity in 1974 compared to 1973, declined 30 percent in 1975 compared to 1974, and declined 4 percent in 1976 compared to 1975.

Company production was equal to company sales, because production was to customer order. A negligible amount of finished goods inventory was maintained at the plant.

The plant closed permanently in March, 1977.

INCREASED IMPORTS

Imports of groundwood base paper products increased absolutely and relative to domestic production in 1973 and 1974 compared to the previous year, then decreased both absolutely and relatively in 1975 compared to 1974. These imports increased from 199.9 thousand short tons in 1975 to 319.1 thousand short tons in 1976. The ratio of imports to domestic production increased from 4.6 percent in 1975 to 6.8 percent in 1976.

CONTRIBUTED IMPORTANTLY

A representative sample of customers who were surveyed stated they had increased purchases of imported paper products while reducing purchases from Kennebec River Pulp and Paper, Inc.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with groundwood base paper products produced by Kennebec River Pulp and Paper, Inc. contributed importantly to the separation of the workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Kennebec River Pulp and Paper, Inc., Madison, Maine who became totally or partially separated from employment on or after April 6, 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 17th day of June 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-18113 Filed 6-23-77;8:45 am]

[TA-W-1738]

LUMURED CORP.

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-1738: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on March 3, 1977 in response to a worker petition received on February 23, 1977 which was filed on behalf of workers and former workers producing handbags at Lumured Corporation, Woodbridge, New Jersey.

The Notice of Investigation was published in the FEDERAL REGISTER on March 27, 1977 (42 FR 15477). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Lumured Corporation, 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 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 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 that any other cause.

The investigation has revealed that all of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Average employment at Lumured declined 44.8 percent from 1974 to 1975 and declined 21.9 percent from 1975 to 1976. Employment declined 34.0 percent in the first quarter of 1977 compared to the same quarter in 1976.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Total handbag sales declined 38.6 percent, in value, from 1974 to 1975 and declined 34.4 percent, in value, from 1975 to 1976. Sales declined 11.9 percent, in value, in the first quarter of 1977 compared to the same quarter in 1976.

INCREASED IMPORTS

Imports of all handbags increased 6.4 percent from 1974 to 1975 and increased 55.8 percent from 1975 to 1976. The ratios of imports to domestic production and consumption increased from 83.5 percent and 45.9 percent, respectively, in 1975 to 140.5 percent and 59.0 percent, respectively, in 1976.

Imports of non-leather, non-plastic handbags, which includes beaded handbags, increased absolutely in each year from 1972 through 1976. Imports increased 11.2 percent from 1974 to 1975 and increased 62.6 percent from 1975 to 1976.

CONTRIBUTED IMPORTANTLY

During the course of the investigation it was determined that Lumured's customers reduced purchases from Lumured both because they were buying imports and the mass market was carrying less expensive imported copies of that type of handbag.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with beaded handbags produced at Lumured contributed importantly to the total or partial separations of the workers at that plant. In accordance with the provisions of the Act, I make the following certification:

All workers at Lumured Corporation, Woodbridge, New Jersey who became totally or partially separated from employment on or after February 18, 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 16th day of June 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-18114 Filed 6-23-77;8:45 am]

[TA-W-1745]

MICHELE DRESS 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-1745: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on February 28, 1977 in response to a worker petition received on February 28, 1977 which was filed on behalf of workers and former workers producing dresses at the Philadelphia, Pennsylvania plant of Michele Dress Company.

The notice of investigation was published in the FEDERAL REGISTER on March 22, 1977 (42 FR 15477). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Michele Dress Company, 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 fourth criterion has not been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

The average number of workers of Michele Dress Company decreased by 7.6 percent from 1975 to 1976 and the average number of hours per week declined by 13.8 percent from 1975 to 1976.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Production at Michele Dress Company decreased by 20.7 percent in value (adjusted) from 1975 to 1976.

INCREASED IMPORTS

Imports of women's and misses' dresses have increased by 2.2 percent from 1975 to 1976, from 645,000 dozen to 659,000 dozen. The ratios of imports to domestic production and consumption have remained steady, at 4.5 and 4.3, respectively.

CONTRIBUTED IMPORTANTLY

The investigation revealed that customers of the manufacturer for whom Michele Dress Company does contracting work did not shift purchases from the manufacturer to foreign suppliers.

The manufacturer which contracts Michele Dress for cutting and sewing

women's dresses does not manufacture outside the United States and does not import finished products. Sales and production of this manufacturer increased in 1976 compared to 1975. The manufacturer decreased its contract work with Michele Dress while increasing its work with other domestic contractors.

CONCLUSION

It is concluded that imports of articles like or directly competitive with women's and misses' dresses produced at the Michele Dress Company in Philadelphia, Pennsylvania 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 17th day of June 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-18115 Filed 6-23-77;8:45 am]

[TA-W-1788]

PEG BANDAGE, INCORPORATED, LAS PIEDRAS, PUERTO RICO

Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1788; investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on March 10, 1977 in response to a worker petition received on February 14, 1977 which was filed on behalf of workers and former workers producing elastic bandages at the Las Piedras plant of Peg Bandage, Inc.

The Notice of Investigation was published in the FEDERAL REGISTER on March 25, 1977 (42 FR 16200). No public hearing was requested and none was held.

The information upon which the determination was made was obtained from Becton, Dickinson and Company, the U.S. International Trade Commission, the U.S. Department of Commerce, 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.

Without regard to whether any of the other criteria have been met, criterion (3) has not been met.

Peg Bandage, Inc. is a subsidiary of Becton, Dickinson and Company. Their Las Piedras, Puerto Rico plant produces elastic bandages.

Evidence developed in the Department's investigation reveals that there are no known imports of elastic bandages.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increased imports of articles like or directly competitive with elastic bandages produced at the Las Piedras, Puerto Rico plant of Peg Bandage Inc. have not increased, either absolutely or relative to domestic production, as required for certification in Section 222 of the Trade Act of 1974.

Signed at Washington, D.C., this 14th day of June 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-17774 Filed 6-23-77;8:45 am]

[TA-W-1867]

RIVERSIDE NOVELTY PRINTERS, INCORPORATED PATERSON, N.J.

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-1867: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on March 22, 1977, in response to a worker petition received on that date which was filed by the Machine Printers and Engravers Association on behalf of workers and former workers printing, dyeing, and finishing fabric at the Paterson, New Jersey, plant of Riverside Novelty Printers, Incorporated.

The notice of investigation was published in the FEDERAL REGISTER on April 5, 1977 (42 FR 18156). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Riverside Novelty Printers, Inc., 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 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 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 of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Average weekly employment of production workers at the plant increased 30 percent in 1975 from 1974, decreased 5 percent in 1976 from 1975, and 26 percent in the first quarter of 1977 compared to the first quarter of 1976.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

All work is done on a contractual basis so sales equal production.

Production and sales (in yards) increased 78 percent in 1975 from 1974 and decreased 37 percent in 1976 from 1975. Production decreased 66 percent in the first quarter of 1977 compared to the first quarter of 1976.

INCREASED IMPORTS

The petition alleges that increased imports of textiles and apparel adversely affected production and employment at Riverside Novelty Printers, Inc. Converters, who are customers of Riverside stated that imports of apparel have been a factor in reduced business with Riverside.

Important wearing apparel cannot be considered to be like or directly competitive with printed fabric. Imports of fabric must be considered in determining import injury to workers producing printed fabric.

Imports of cotton broadwoven printcloth declined absolutely from 1972 to 1973, increased from 1973 to 1974, declined 10.5 percent from 1974 to 1975 and then increased 55.6 percent from 1975 to 1976. The ratio of imports to domestic production and consumption increased from 13.5 percent and 12.9 percent, respectively, in 1975 to 20.6 percent and 19.8 percent, respectively, in 1976.

Imports of man-made woven printed fabric declined absolutely from 1972 to 1973, increased from 1973 to 1974, declined 0.8 percent from 1974 to 1975 and then increased 23.5 percent from 1975 to 1976. The ratios of imports to domestic production and consumption remained less than one percent from 1972 through 1976.

CONTRIBUTED IMPORTANTLY

Customers of Riverside are converters who buy greige goods and commission Riverside to finish and print the fabric in accordance with apparel manufacturers' specifications. Customers indicated that they have decreased purchases from Riverside and increased purchases of imported printed fabric.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with printed fabric produced at the Paterson, New Jersey, plant of Riverside Novelty Printers, Incorporated, contributed importantly to the total or partial separation of the workers of that plant. In accordance with the provisions of the Act, I make the following certification:

All workers at the Paterson, New Jersey, plant of Riverside Novelty Printers, Inc., who became totally or partially separated from employment on or after March 16, 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 15th day of June 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc.77-18116 Filed 6-23-77;8:45 am]

[TA-W-1619]

SAFT AMERICA, INCORPORATED, METUCHEN, NEW JERSEY

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-1619: Investigation regarding certification of eligibility of 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 24, 1977 which was filed by the International Union of Electrical, Radio, and Machine Workers on behalf of workers and former workers engaged in employment related to the production of storage batteries at the Metuchen, New Jersey plant of Saft America, Incorporated, a subsidiary of Saft America, Paris, France.

The notice of investigation was published in the FEDERAL REGISTER on February 18, 1977 (42 FR 10078). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Saft America, Incorporated, 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 eligibilty 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 article 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 revealed that all of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Average employment of production workers at the Metuchen, New Jersey plant of Saft America, Inc. decreased 46 percent from 1974 to 1975 and 84 percent from 1975 to 1976.

There were no workers employed at the Valdosta, Georgia plant of Saft America, Inc. in 1974. Average employment of production workers at the Valdosta, Georgia plant of Saft America, Inc. increased 69 percent from 1975 to 1976.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Sales at the Metuchen, New Jersey plant of Saft America, Inc. increased 18 percent in value in fiscal year 1975 compared to fiscal year 1974. Sales at both plants of Saft America, Inc. decreased 42 percent in value in fiscal year 1976 compared to fiscal year 1975 at the Metuchen, New Jersey plant. Sales increased 51 percent in value in fiscal year 1977 compared to fiscal year 1976 at both plants of Saft America, Inc. Production ceased at the Metuchen facility in January, 1977.

INCREASED IMPORTS

Imports of storage batteries and parts increased absolutely and relatively from 1972 to 1973, and from 1973 to 1974, then decreased both absolutely and relatively from 1974 to 1975. Imports increased 4 percent absolutely from 1975 to 1976 and the ratio of imports to domestic production remained unchanged at 1.9 percent.

CONTRIBUTED IMPORTANTLY

Company imports of storage batteries and parts increased in value 89 percent from 1973 to 1974, 13 percent from 1974 to 1975, and 11 percent from 1975 to 1976.

Saft America transferred battery and cell production from its Metuchen, New Jersey facility to Valdosta, Georgia during the second half of 1975. The plate production continued at Metuchen until January 1977. Saft relied on imports from its parent Saft America in France during the transition period to facilitate the move. In fiscal year 1976 imports constituted 21 percent of Saft America's sales, and in fiscal year 1977 imports constituted 15 percent of sales.

The Valdosta plant was constructed to produce in part batteries and cells utilizing the same type of plate design that is currently manufactured by the parent company in France. While the design of Valdosta plate differed from the type manufactured in Metuchen it was directly competitive. The Valdosta plant imported the new plate design from France beginning in the summer of 1976.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with plate produced at the Metuchen, New Jersey plant of Saft America, Incorporated, contributed importantly to the total or partial separation of the workers at that plant. In accordance with the provisions of the Act, I make the following certification:

All workers at the Metuchen, New Jersey plant of Saft America, Incorporated who became totally or partially separated from employment on or after July 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 16th day of June 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-18117 Filed 6-23-77;8:45 am]

[TA-W-1758]

TRIMFOOT COMPANY, INCORPORATED FARMINGTON, MISSOURI

Notice of Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1758: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on March 3, 1977 in response to a worker petition received on February 23, 1977 which was filed by the Boot and Shoe Workers' Union on behalf of workers and former workers producing infants' and babies' footwear at the Farmington, Missouri plant of the Trimfoot Company, Inc.

The Notice of Investigation was published in the FEDERAL REGISTER on March 22, 1977 (42 FR 15477). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Trimfoot Company, 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 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 any of the other criteria have been met, criterion (1) and (2) have not been met.

Employment of production workers at the Farmington, Missouri plant of Trimfoot increased 8 percent from 1975 to 1976.

Production at the Farmington, Missouri plant of Trimfoot increased 7.4 percent in quantity from 1975 to 1976.

Total company sales at Trimfoot increased 6.2 percent in value from 1975 to 1976.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that employment, sales, and production at the Farmington, Missouri plant of the Trimfoot Company, Inc. have not declined as required for certification under Section 222 of the Trade Act of 1974.

Signed at Washington, D.C., this 16th day of June 1977.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc.77-18118 Filed 6-23-77;8:45 am]

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

FEDERAL-STATE PARTNERSHIP ADVISORY PANEL

Meeting

Pursuant to Sec. 10(a)(2) of the Federal Advisory Committee Act (Pub. Law 92-463), notice is hereby given that a meeting of the Federal-State Partnership Advisory Panel to the National Council on the Arts will be held on July 12-13, 1977, from 9:00 a.m to 5:00 p.m. and July 14, 1977, from 9:00 a.m. to 12:00 noon, in Room 1422, Columbia Plaza Building, 2401 E Street, NW., Washington, D.C.

A portion of this meeting will be open to the public on July 12-13, from 9:00 to 5:00, on a space available basis. Accommodations are limited. The agenda will include a discussion of policy.

The remaining sessions of this meeting on July 14, from 9:00 a.m. to 12:00 noon are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the FEDERAL REGISTER March 17, 1977, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(B) of section 552(b) of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. Robert M. Sims, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6377.

ROBERT M. SIMS,
Administrative Officer, National Endowment for the Arts National Foundation on the Arts and the Humanities.

JUNE 21, 1977.

[FR Doc.77-18038 Filed 6-23-77;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 June 20, 1977 (44 USC 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

The symbol (x) identifies proposals which appear to raise no significant issues, and are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503 (202-395-4529).

NEW FORMS

FEDERAL RESERVE SYSTEM

National Survey of Consumer Credit, single time, national sample of households, Louis C. Kincannon, 395-3211.

U.S. INTERNATIONAL TRADE COMMISSION

Purchasers' Questionnaire (Pressure Sensitive Plastic Tape), single time, purchasers, Suzann K. Evinger, 395-3710.

Producers' Questionnaire (Pressure Sensitive Plastic Tape), single time, U.S. producers, Suzann K. Evinger, 395-3710.

Importers' Questionnaire (Pressure Sensitive Plastic Tape), single time, U.S. importers, Suzann K. Evinger, 395-3710.

NATIONAL ENDOWMENT FOR THE ARTS

Crafts workshops final descriptive report part A&B, NEA/CW-1A, CW-1B, annually, workshop sponsor, leaders, project directors, Human Resources Division, Warren Topelius, 395-3532.

SMALL BUSINESS ADMINISTRATION

Prebusiness workshop evaluation, single time, potential businesses, Economics and General Government Division, Warren Topelius, 395-3451.

NATIONAL SCIENCE FOUNDATION

Survey of experience and attitudes and profiles of research scientists, single time, research scientists who received Ph. D. since June 1971, Kathy Wallman, Roye L. Lowry, 395-6140.

DEPARTMENT OF AGRICULTURE

Economic research service, survey of farm production and marketing contractual arrangements, single time, farms with contract in 1974, Gaylord Worden, 395-4730.

FOOD AND NUTRITION SERVICE, Civil rights compliance review (service institution), FNS-87-1, single time, service institution officials, Human Resources Division, Kathy Wallman, 395-3532.

DEPARTMENT OF COMMERCE

Bureau of the Census, tape address register evaluation match and reconciliation card—1977 Census of Oakland, California, DH-806, single time, persons at housing structures, Maria Gonzalez, 395-6132.

DEPARTMENT OF DEFENSE

Departmental and other Armed Forces Health Professions Scholarship Program, single time, medical students, National Security Division, Richard Eisinger, 395-4734.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

National Institutes of Health, Skin Cancer Epidemiologic Survey: Telephone Questionnaire, single time, patients, Richard Eisinger, 395-6140.

Public Health Service, application for schools of medicine—Special requirements and assurances under the health professions capitation grant program, annually, schools of medicine and medical residency programs, Roye L. Lowry, 395-3772.

DEPARTMENT OF LABOR

Employment and Training Administration study on actual duration of spell of unemployment experienced by disqualified UI claimants and UI beneficiaries, ETA-2, single time, UI claimants, Arnold Strasser, 395-5867.

REVISIONS

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service, report of coupon issuance and commodity distribution for disaster relief, FNS-292, on occasion, State agency, Human Resources Division, 395-3532.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education:
ESEA Title II Financial Status Report, OE–1297, annually, SEAS, Department of Education of outlying area, BIA, Roye L. Lowry, 395–3772.

REVISIONS

Financial status and performance reports coperative education program, OE–411, –1, annually, institution of post-secondary education, Roye L. Lowry, 395–5772. NDEA Title III financial status report, OE–1298, annually, SEAS, Dept. of Education of outlying areas, BIA, Roye L. Lowry, 395–3772.

EXTENSIONS

TENNESSEE VALLEY AUTHORITY

Tennessee Valley Authority—Flood damage appraisal, industrial, commercial, and public, TVA–11028, on occasion, nonresidential flood plain occupant, Marsha Traynham, 395–4529.

DEPARTMENT OF AGRICULTURE

U.S. Forest Service, financial statement—National forest timber purchasers, 2400–15, on occasion, timber purchasers, Marsha Traynham, 395–4529.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.77–18204 Filed 6–23–77;8:45 am]

RENEGOTIATION BOARD

EXCESSIVE PROFITS AND REFUNDS

Interest Rate

Notice is hereby given that, pursuant to section 105(b)(2) of the Renegotiation Act of 1951, as amended, the Secretary of the Treasury has determined that the rate of interest applicable, for the purposes of said section 105(b)(2) and section 108 of such act, to the period beginning on July 1, 1977 and ending on December 31, 1977, is 7⅛ per centum per annum.

Dated: June 21, 1977.

GOODWIN CHASE,
Chairman.

[FR Doc.77–18076 Filed 6–23–77;8:45 am]

EXEMPTION OF FOREIGN MILITARY SALES

Rescission of Interpretation No. 80

At its meeting of June 20, 1977, the Renegotiation Board rescinded Interpretation No. 80; Exemption of foreign military sales, dated September 1, 1976. This Interpretation relates to Renegotiation Board Regulation 1453.5(b)(3).

Dated: June 2, 1977.

GOODWIN CHASE,
Chairman.

[FR Doc. 77–18075 Filed 6–23–77; 8:45 am]

DEPARTMENT OF THE TREASURY

Office of Revenue Sharing

[Administrative Ruling 77–2]

ANTIRECESSION FISCAL ASSISTANCE PROGRAM

Effective Date of Legislative Amendments and Clarification of Permissible Uses

The Office of Revenue Sharing has issued numerous opinion letters in response to requests of individual recipient governments for clarification of the interim regulations appearing at 31 Code of Federal Regulations, Part 52, published pursuant to Title II of the Public Works Employment Act of 1976, 42 U.S.C. 6721 et seq. The purpose of this Administrative Ruling is to notify all recipient governments, and the public-at-large, that:

(A) The permissible use of funds, and the civil rights sections of the Act have been amended by the Intergovernmental Antirecession Assistance Act of 1977; and

(B) The Office of Revenue Sharing has interpreted the interim regulations at 31 CFR Part 52, for the guidance of recipient governments with respect to the permissible use of the funds, the expenditure time limitation, and the budgetary procedures applicable to the expenditure of antirecession fiscal assistance funds.

A. *Amendments to the Public Works Employment Act of 1976.* The Intergovernmental Antirecession Assistance Act of 1977 amended Section 204 of the Public Works Employment Act of 1976 to prohibit the use of antirecession fiscal assistance funds for the acquisition of supplies and materials or construction, except for normal supplies or repairs necessary to maintain basic services. The term "normal supplies" means those commodities which are consumed when used or have an estimated useful life of one year or less which, in the reasonable discretion of the recipient government, are necessary to provide a basic service. Such commodities include, but are not limited to, office supplies, small hand tools, medicines and laboratory supplies, cleaning and sanitation supplies, fuel, printing and binding. The Intergovernmental Antirecession Assistance Act of 1977 prohibits the purchase of capital assets, such as equipment and motor vehicles, with antirecession fiscal assistance funds.

The term "repairs" means that the use of antirecession fiscal assistance funds for construction must be limited to expenditures which maintain a structure, or other capital asset in ordinary efficient operating condition, but which does not substantially add to the utility of the property, appreciably prolong its useful life, or make the facility adaptable to a different use. Expenditures for projects which would be classified as ordinary repairs (as opposed to capital improvements) in a commercial tax context may be financed with antirecession fiscal assistance funds.

Section 207 of the Public Works Employment Act of 1976 was also amended by the Intergovernmental Antirecession Assistance Act of 1977. The amendments incorporated the civil rights provisions of the General Revenue Sharing Program (State and Local Fiscal Assistance Amendments of 1976, Pub. L. 94–488) into the Antirecession Fiscal Assistance Program. These include the prohibition of discrimination on the basis of handicapped status and age, the administrative requirements, and the private right of a person aggrieved to bring enforcement action to remedy violations.

The amendments made by the Intergovernmental Antirecession Assistance Act to the Public Works Employment Act of 1976 shall be effective as of July 1, 1977. The appropriation or obligation of antirecession fiscal assistance funds on or after July 1, 1977, regardless of the date such funds were received by a recipient government, shall be made in accordance with the aforementioned provisions of the Intergovernmental Antirecession Assistance Act of 1977. For example, the funds may not be appropriated or obligated for capital assets, such as equipment or trucks, after July 1, 1977.

B. *Clarification of Interim Regulations, 31 CFR, Part 52.* Section 52.40(a) of the interim regulations requires recipient governments to use their antirecession fiscal assistance payments to maintain basic services customarily provided (during the current and preceding fiscal years) to persons in the area under their jurisdiction. To determine whether a specific program may be funded pursuant to § 52.40(a), a recipient government must first determine whether that program can be reasonably classified under one of the categories of basic services listed in the section of the interim regulations. Second, the recipient government must determine whether the generic basic service category under which a specific program is classified has been customarily provided to persons within its jurisdiction. Only the broad basic service category is required to have been customarily provided; specific programs may be initiated under a customarily provided basic service category. For example, if health and hospital services have been provided to persons under the jurisdiction of the recipient government, a new emergency intensive care unit program may be financed with antirecession fiscal assistance funds.

A strict interpretation of the interim regulation's test for determining whether

a basic service has been customarily provided would preclude a recipient government from funding a basic service initiated in the preceding fiscal year that had to be deleted from the current fiscal year's budget because of fiscal deficiencies. In view of the fact that one of the principal purposes of antirecession fiscal assistance is to prevent cutbacks in necessary services, the Office of Revenue Sharing will consider basic services provided during either the current or preceding fiscal years as having been customarily provided.

Interest on a general debt is one of the eligible expenditure categories included in § 52.40(a) of the interim regulations. A recipient State or local government may use antirecession fiscal assistance funds under this category to pay all or part of a governmental interest payment, provided the proceeds of the indebtedness were expended solely for purposes for which the funds may be used directly under the Act and the interim regulations.

The interim regulations do not specifically mention the use of antirecession fiscal assistance funding for principal payments. The funds may be used to pay the principal of a debt incurred by a recipient government: *Provided*, The proceeds of the indebtedness were expended for a purpose for which the antirecession fiscal assistance funds may be directly expended. Accordingly, on or after July 1, 1977, antirecession fiscal assistance funds may not be used to pay the principal or interest on a debt incurred in the purchase of a capital asset.

Section 52.40(b) provides, in part, that the use of antirecession fiscal assistance payments for construction shall be limited to structural repairs or renovations. In view of the legislative intention that the antirecession fiscal assistance funds should not be used for major construction projects, construction expenditures pursuant to the Public Works Employment Act of 1976, prior to amendment by the Intergovernmental Antirecession Assistance Act of 1977, shall be limited to expenditures made to maintain a structure, or other capital asset such as a highway, in ordinary efficient operating condition, but which do not substantially add to the utility of the property, appreciably prolong its useful life, or make the facility adaptable to a different use. Expenditures which are classified as ordinary repairs (as opposed to capital improvements) may be financed with antirecession fiscal assistance funds. It should be noted that the rule concerning the use of funds for construction is the same one provided by the amendments to the Act.

Section 52.42 of the interim regulations requires a receipient government to spend their antirecession fiscal assistance funds in accordance with the laws and procedures applicable to its own source tax revenues. Therefore, the legislative process required by State and local law to be used for the expenditure of its own source tax revenues must be followed in order to comply with § 52.42. The intent of this requirement is to require input into the expenditure decision-making process by the legislative body of the State or local recipient government. This legislative process is a necessary aspect of the antirecession fiscal assistance program due to the lack of prior approval of expenditure decisions by the Office of Revenue Sharing and the broad discretion provided by the Act to recipient governments over the use of the funds.

Dated: June 16, 1977.

BERNADINE DENNING,
Director,
Office of Revenue Sharing.

[FR Doc.77-18079 Filed 6-23-77;8:45 am]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

COASTAL ZONE MANAGEMENT ADVISORY COMMITTEE

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. I (Supp. V, 1975), notice is hereby given of the meeting of the Coastal Zone Management Advisory Committee (the "Committee") on Friday, July 15, 1977. The meeting will commence at 9:00 a.m. on July 15 in the Page Building No. 1 Penthouse, 5th Floor, 2001 Wisconsin Avenue, NW., Washington, D.C.

The meeting will be open to public observation and approximately 25 seats will be available. Interested persons are invited to attend and participate in the meeting, subject to the procedures which follow. From approximately 12 noon until 12:15 p.m. on July 15, interested persons will be permitted to make oral statements to the Committee which are relevant to topics on the agenda. The Chairman retains the prerogative to place limits on the duration of oral statements and discussions. Persons wishing to make oral statements should notify the Executive Secretary in advance of the meeting. A written version of an oral statement or a written statement may be submitted to the Executive Secretary before or after the meeting, or may be mailed within five days to: Office of Coastal Zone Management, National Oceanic and Atmospheric Administration, 3300 Whitehaven Street, NW, Washington, D.C. 20235 (Attn. Dr. Richard J. Keating, Executive Secretary, CZM Advisory Committee). All statements received in type-written form will be distributed to the Committee for consideration with the minutes of the meeting. Inquiries may be directed to Richard Keating at (202) 634-4232.

The items for Committee discussion at the meeting will include the following:

FRIDAY, JULY 15

9 a.m.—Call to Order: Approval of minutes; Report on Action Items.
9:30 a.m.—Legislative review.
10 a.m.—Review of 404 working group draft.
11 a.m.—Priorities in research and beach access.
12 M—Oral comments (if any) by interested person(s).
12:15 p.m.—Lunch.
1:30 p.m.—Discussion of September meeting agenda and activities.
2 p.m.—Report on coastal awareness activities and White House Conference.
2:30 p.m.—Preliminary comments on advisory committee functions.
2:45 p.m.—Report on outcome of coastal states organization meeting.
4:30 p.m.—Adjourn.

Dated: June 21, 1977.

T. P. GLEITER,
Assistant Administrator
for Administration.

[FR Doc.77-18212 Filed 6-23-77;8:45 am]

Office of the Secretary

PRIVACY ACT OF 1974

Adoption of New System of Records

The purpose of this notice is to adopt in final form a new system of records.

On March 28, 1977, the Department of Commerce gave notice (42 FR 16464-65) that it proposed to adopt a new system of records for the Patent and Trademark Office, Users of Public Search Room of the Patent and Trademark Office, COMMERCE/PAT-TM-14. The purpose of this system is to enable the Patent and Trademark Office to operate a new security system in the public search room. The new security system is intended to protect patent documents from unauthorized removal from the search room, which is used by the general public, by employees, and by representatives of commercial firms offering patent search services to the public. A new system report, dated March 17, 1977, was submitted to the Congress, the Office of Management and Budget, and the Privacy Protection Study Commission, as required by the Privacy Act.

Interested persons were invited to submit written data, views, or arguments on or before April 27, 1977. No comments were received in response to the notice. Therefore, and in accord with the required 60-day advance notice period, the Department adopts the new system effective May 17, 1977, which is the 61st day from the date of the new system report (March 17, 1977). Because the complete text of the new system was published in the FEDERAL REGISTER on March 28, 1977, page 16465, and the system is adopted without change, there is no need to republish at this time.

AUTHORITY: 5 U.S.C. 552a, Sec. 3, Privacy Act of 1974 (Pub. L. 93-579, 88 Stat. 1896).

Dated: June 17, 1977.

ELSA A. PORTER,
Assistant Secretary
for Administration.

[FR Doc.77-18046 Filed 6-23-77;8:45 am]

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

REPUBLIC OF KOREA

Adjusting Import Restraint Levels for Certain Cotton, Wool and Man-Made Fiber Textile Products

JUNE 22, 1977.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: (1) Granting increases for flexibility in Categories 48 (raincoats), 49 (other coats), 219 (other shirts, including blouses), 221 (knit sweaters and cardigans), 228 (blouses, not knit), 229 (coats, not knit), and 237 (suits, not knit); (2) Deducting carryforward yardage granted in Categories 116/117 (knit outerwear), 120 (men's and boys' suits), 121 (men's and boys' outercoats), 219 (other shirts, including blouses), 221 (knit sweaters and cardigans), 224 (men's and boys' suits), 229 (coats, not knit), 235 (other shirts, not knit), 237 (suits, not knit), and 238 (trousers, not knit) during the agreement year which began on October 1, 1975. (A detailed description of the categories in terms of T.S.U.S.A. numbers was published in the FEDERAL REGISTER on February 3, 1975 (40 FR 5010), as amended on December 31, 1975 (40 FR 60220), December 30, 1971 (41 FR 56881), January 21, 1977 (42 FR 3888), and March 7, 1977 (42 FR 12898).)

SUMMARY: The Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of June 26, 1975, as amended, between the Governments of the United States and the Republic of Korea, provides, among other things, for percentage increases in certain specific category ceilings for flexibility and carryforward during an agreement year. Carryforward is an amount borrowed from the level of restraint applicable to the affected category in the succeeding agreement year and is deducted from that year's level. Pursuant to paragraphs 5(b) and 7(a)(ii) of the bilateral agreement, as amended, the import restraint levels for Categories 48, 49, 116/117, 120, 121, 219, 221, 224, 228, 229, 235, 237 and 238 are being adjusted for the agreement year which began on October 1, 1976 and extends through September 30, 1977.

EFFECTIVE DATE: June 27, 1977.

FOR FURTHER INFORMATION CONTACT:

Robert C. Woods, International Trade Specialist, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230, 202-377-5423.

SUPPLEMENTARY INFORMATION: On October 1, 1976, a letter from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs was published in the FEDERAL REGISTER (41 FR 43440), which established import restraint levels for certain specified categories of cotton, wool and man-made fiber textile products, produced or manufactured in the Republic of Korea and exported to the United States during the twelve-month period which began on October 1, 1976. A correction in certain of the levels of restraint was published in the FEDERAL REGISTER on November 5, 1976 (41 FR 48765).

In the letter published below the Commissioner of Customs is directed, in accordance with the provisions of the bilateral agreement to adjust the twelve-month levels of restraint previously established for Categories 48, 49, 116/117, 120, 121, 219, 221, 224, 228, 229, 235, 237, and 238 to the designated amounts.

RONALD I. LEVIN,
Acting Chairman, Committee for the Implementation of Textile Agreements, Department of Commerce.

U.S. DEPARTMENT OF COMMERCE, THE ASSISTANT SECRETARY FOR DOMESTIC AND INTERNATIONAL BUSINESS

Washington, D.C., June 22, 1977.

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C.

DEAR MR. COMMISSIONER: On September 29, 1976, the Chairman, Committee for the Implementation of Textile Agreements, directed you to prohibit entry for consumption or withdrawal from warehouse for consumption during the twelve-month period beginning on October 1, 1976 and extending through September 30, 1977 of cotton, wool and man-made fiber textile products in certain specified categories, produced or manufactured in Korea, in excess of designed levels of restraint. The Chairman further advised you that the levels of restraint are subject to adjustment.[1]

Under the terms of the Arrangement Regarding International Trade in Textile done at Geneva on December 20, 1973, pursuant to paragraphs 5(b) and 7(a)(ii) of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of June 26, 1975, as amended, between the Governments of the United States and the Republic of Korea, and in accordance with the provisions of Executive Order 11651, you are directed to amend, effective on June 27, 1977, the twelve-month levels of restraint established in the directive of September 29, 1976 for the following categories to the amounts indicated:

Category	Amended 12-month level of restraint[2]
48	24,025 doz.
49	54,612 doz.
116/117	461,257 lbs.
120	301,221 numbers.
121	191,254 numbers.
219	4,134,520 doz.
221	2,837,106 doz.
Pt. 224[3]	33,581 doz.
228	943,223 doz.
229	762,834 doz.
235	1,407,353 doz.
237	157,111 numbers.
238	205,759 doz.

[2] The levels of restraint have not been adjusted to reflect any imports after September 30, 1976.

[3] In Category 224, only T.S.U.S.A. Numbers 380.0420 and 380.8143.

The actions taken with respect to the Government of the Republic of Korea and with respect to imports of cotton, wool and man-made fiber textile products from Korea have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

RONALD I. LEVIN,
Acting Chairman, Committee for the Implementation of Textile Agreements, U.S. Department of Commerce.

[FR Doc.77-18224 Filed 6-23-77;8:45 am]

[1] The term "adjustment" refers to those provisions of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of June 26, 1975, as amended, between the Governments of the United States and the Republic of Korea which provide, in part, that: (1) within the aggregate and applicable group limits, specified levels of restraint may be exceeded by designated percentages; (2) these same levels may be increased for carryover and carryforward up to 11 percent of the applicable category limit; (3) consultation levels may be increased within the aggregate and applicable group limits upon agreement between the two governments; and (4) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement.

INTERSTATE COMMERCE COMMISSION

Office of Hearings

[Notice No. 420]

ASSIGNMENT OF HEARINGS

JUNE 21, 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 58035 (Sub-No. 12), Trans-Western Express, Ltd., now being assigned September 20, 1977 (1 day), at Denver, Colorado, in a hearing room to be designated later.

MC 1977 (Sub-No. 26), Northwest Transport Service, Inc., now being assigned September 21, 1977 (3 days), at Denver, Colorado, in a hearing room to be later designated.

MC 118431 (Sub-No. 24), Denver Southwest Express, Inc., now being assigned September 26, 1977 (2 days), at Denver, Colorado, in a hearing room to be later designated.

AB 119 (Sub-No. 1), Forth Worth and Denver

Railway Company, Abandonment Between Sterley and Silverton in Floyd and Briscoe Counties, Texas, now being assigned September 29, 1977 (2 days), at Plainview, Texas, in a hearing room to be later designated.

MC 143013, Roger Chilton, d.b.a. Chilton Trucking Co., now being assigned October 3, 1977 (1 week), at Houston, Texas, in a hearing room to be later designated.

MC 28060 (Sub 34), Willers, Inc., d.b.a. Willers Truck Service, now being assigned July 11, 1977 (2 days), at Omaha, Nebraska, and will be held in Room 616, Union Pacific Plaza, 110 North 14th Street.

MC 129631 (Sub-No. 53), Pack Transport, Inc., now being assigned September 7, 1977 (3 days), at Seattle, Washington, in a hearing room to be later designated.

MC 143006, Dorwin Trucking Co., Inc., now being assigned September 12, 1977 (2 days), at Seattle, Washington, in a hearing room to be later designated.

MC 138875 (Sub-No. 37), Shoemaker Trucking Co., now being assigned September 14, 1977 (3 days), at Portland, Oregon, in a hearing room to be later designated.

MC-F-12921, Osborne Group, Inc.—Control—Washington-Oregon Lumber Freighters, Inc., now being assigned September 19, 1977, at Portland, Oregon, in a hearing room to be later designated.

MC 140024 (Sub 69), J. B. Montgomery, Inc., now being assigned June 21, 1977 (9 days), at Denver, Colorado, and will be held in the Court of Appeals, Division Two, U.S. Courthouse, 1961 Stout Street, and July 19, 1977 (9 days), for continued hearing at Denver, Colorado, and will be held in the Tax Court, Room 587, U.S. Federal Building and Courthouse, 1961 Stout Street.

MC 125820 (Sub-No. 8), Elk Valley Freight Line, Inc., now being assigned for continued hearing on the 6th day of July 1977 (1 day), in the Community Room, Ground Floor, United American Bank Building, Fourth Avenue North at Church Street, Nashville, Tenn.

MC 129032 (Sub-No. 30), Tom Inman Trucking, Inc., now being assigned July 26, 1977 (1 day), at St. Louis, Mo., in a hearing room to be lated designated.

MC 112304 (Sub-No. 114), Ace Doran Hauling & Rigging Company, now being assigned July 27, 1977 (1 day), at St. Louis, Mo., in a hearing room to be later designated.

MC 116325 (Sub-No. 74), Jennings Bond, d.b.a. Bond Enterprises, now being assigned July 28, 1977 (1 day), at St. Louis, Mo., in a hearing room to be later designated.

MC 4405 (Sub-No. 541), Dealers Transit, Inc., now being assigned July 29, 1977 (1 day), at St. Louis, Mo., in a hearing room to be later designated.

MC-F-12945, Bowman Transportation, Inc.—Purchase—Bringwald Transfer, Inc., now being assigned August 1, 1977 (1 week), at St. Louis, Mo., in a hearing room to be later designated.

H. G. Homme, Jr.,
Acting Secretary.

[FR Doc.77-18122 Filed 6-23-77;8:45 am]

[Notice No. 421]

ASSIGNMENT OF HEARINGS

June 21, 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.

CORRECTION [1]

MC 127042 Sub No. 187, Hagen, Inc. now being assigned June 21, 1977 (9 days) at Denver, Colorado and will be held at Court of Appeals, Division Two, U.S. Courthouse, 1961 Stout Street and July 19, 1977 (9 days) at Denver, Colorado and will be held in the Tax Court, Room 587, US Federal Building and Courthouse, 1961 Stout Street.

H. G. Homme, Jr.,
Acting Secretary.

[FR Doc.77-18123 Filed 6-23-77;8:45 am]

[No. MC-C-9698]

E-LETTER NOTICE CERTIFICATION PROCEDURES

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed adoption of certification procedures.

SUMMARY: The purpose of this document is to institute a proceeding for the purpose of adopting appropriate procedures pertaining to the certification of E-letter notices.

NOTICE OF INTENTION TO PARTICIPATE MUST BE RECEIVED ON OR BEFORE: July 11, 1977.

SCHEDULE FOR SUBMISSION OF COMMENTS AND REPLY STATEMENTS: To be set by an order to be served concurrently with issuance of the service list of participants in the proceeding.

FOR FURTHER INFORMATION CONTACT:

Philip Israel, Deputy Director, Section of Finance, Office of Proceedings, Interstate Commerce Commission, Washington, D.C. 20423, 202-275-7245.

SUPPLEMENTARY INFORMATION:

ORDER

At a General Session of the Interstate Commerce Commission, held at its office in Washington, D.C., on the 8th day of June, 1977.

[No. MC-C-9698]

E-LETTER NOTICE CERTIFICATION PROCEDURES

It is ordered, That based on the reasons set forth in the attached notice, a proceeding be, and it is hereby, instituted pursuant to 5 U.S.C. 552, 553, and 559 (the Administrative Procedure Act) and sections 5, 207, and 212 of the Interstate Commerce Act (49 USC 5, 307, and 312) for the purpose of adopting appropriate procedures regarding the certification of E-letter notices.

It is further ordered, That this is not a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969.

And it is further ordered, That notice of this order shall be given to the general public by depositing a copy of this order and the attached notice in the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., for public inspection and by delivering a copy of the attached notice to the Director, Office of the Federal Register for publication in the Federal Register as notice to interested persons.

By the Commission (Commissioner Murphy did not participate, Commissioners Hardin and Christian were absent and did not participate).

H. G. Homme, Jr.,
Acting Secretary.

[FR Doc.77-18124 Filed 6-23-77;8:45 am]

FOURTH SECTION APPLICATION FOR RELIEF

June 21, 1977.

An application, as sumarized below, has been filed requesting relief from the requirements of Section 4 of the Interstate Commerce Act to permit common carriers named or described in the application to maintain higher rates and charges at intermediate points than those sought to be established at more distant points.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the General Rules of Practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the Federal Register.

FSA No. 43387—*Newsprint Paper, Also Returned Shipments of Newsprint Paper Winding Cores from and to Points in Southwestern Territory*. Filed by Southwestern Freight Bureau, Agent (No. B-688), for interested rail carriers. Rates on newsprint paper, also returned shipments of newsprint paper winding cores, in carloads, as described in the application, from Sheldon, Texas, to points in Kansas and Missouri on the MKT.

Grounds for relief—Rate relationship and returned shipments.

Tariff—Supplement 103 to Southwestern Freight Bureau, Agent, tariff 306-F, I.C.C. No. 5104. Rates are published to become effective on July 17, 1977.

By the Commission.

H. G. Homme, Jr.,
Acting Secretary.

[FR Doc.77-18120 Filed 6-23-77;8:45 am]

[1] This notice corrects the Sub No. from 197 to 187 as published in the Federal Register of May 23, 1977, Page 26281.

Office of Proceedings

[Notice No. 81]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

JUNE 21, 1977.

Important notice: The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 531 (Sub-No. 346TA), filed June 10, 1977. Applicant: YOUNGER BROTHERS, INC., 4904 Griggs Road, P.O. Box 14048, Houston, Tex. 77021. Applicant's representative: Wray E. Hughes (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid animal feed supplements*, in bulk, in tank vehicles, from Westwego, La., to Nacogdoches, Tex., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days operating authority. Supporting shipper(s): Abbott Laboratories, 14 and Sheridan Road, North Chicago, Ill. 60064. Send protests to: John F. Mensing, District Supervisor, Interstate Commerce Commission, 8610 Federal Bldg., 515 Rusk, Houston, Tex. 77002.

No. MC 2860 (Sub-No. 161TA), filed June 9, 1977. Applicant: NATIONAL FREIGHT, INC., 71 West Park Avenue, Vineland, N.J. 08360. Applicant's representative: John P. Tucker, Jr., 1400 Candler Building, Atlanta, Ga. 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers* of less than one gallon capacity, from the manufacturing and warehouse facilities of Midland Glass Company at or near Warner Robins, Ga., to the facilities of Anheuser-Busch, Inc. at or near Williamsburg, Va., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Midland Glass Company, Inc. P.O. Box 557, Cliffwood, N.J., 07721. Send protests to: Dieter H. Harper, District Supervisor, Interstate Commerce Commission, 428 East State Street, Room 204, Trenton, N.J. 08608.

No. MC 105886 (Sub-No. 22TA), filed June 9, 1977. Applicant: MARTIN TRUCKING, INC., East Poland Avenue, P.O. Box 67, Bessemer, Pa. 16112. Applicant's representative: Henry M. Wick, Jr., Wick, Vuono & Lavelle, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement*, from Wampum, Lawrence County, Pa., to Allegany, Garrett and Washington Counties, Md., Ohio, West Virginia and points in New York on and west of U.S. Highway No. 15, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Medusa Cement Company, P.O. Box 5668, Cleveland, Ohio 44101. Send protests to: John J. England, District Supervisor, Interstate Commerce Commission, 2111 Federal Bldg., 1000 Liberty Avenue, Pittsburgh, Pa. 15222.

No. MC 106195 (Sub-No. 17TA), filed June 9, 1977. Applicant: CLARK BROS. TRANSFER, INC., P.O. Box 388, 802 N. 1st Street, Norfolk, Nebr. 68701. Applicant's representative: Michael J. Ogborn, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Carbonated beverages and materials, supplies and equipment* used in the manufacture, distribution or sale of carbonated beverages, between Norfolk, Nebr., on the one hand, and, on the other, points in Illinois, Iowa, Kansas, Minnesota, Missouri, North Dakota, South Dakota, and Wyoming for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Robert B. Pierce, General Manager, Midwest Canners Cooperative, South Highway 81, P.O. Box 1427, Norfolk, Nebr. 68701. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, Nebr. 68102.

No. MC 107515 (Sub-No. 1082TA), filed June 7, 1977. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, 3901 Jonesboro Road, S.E. Forest Park, Ga. 30050. Applicant's representative: Alan E. Serby, 3379 Peachtree Road, N.E., Suite 375, Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, in vehicles equipped with mechanical refrigeration, from the storage facilities utilized by Quaker Oats Company at points in Davidson County, Tenn., to points in the District of Columbia, Virginia, Maryland, Delaware, Pennsylvania, New Jersey, New York, Connecticut, Rhode Island, Massachusetts, Vermont, New Hampshire and Maine, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): The Quaker Oats Company, P.O. Box 2688, Jackson, Tenn. 38301. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 W. Peachtree Street, N.W. Room 546, Atlanta, Ga. 30309.

No. MC 108393 (Sub-No. 122TA), filed May 31, 1977. Applicant: SIGNAL DELIVERY SERVICE, INC., 201 E. Ogden Avenue, Room 126, Hinsdale, Ill. 60521. Applicant's representative: J. A. Kundtz, 1100 National City Bank Bldg., Cleveland, Ohio 44114. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by retail department stores and mail order houses, and in connection therewith, *equipment, materials*, and *supplies* used in the conduct of such business, (1) between points in Maine, New Hampshire, Vermont, New York, Massachusetts, Connecticut, Rhode Island, Pennsylvania, New Jersey, Maryland, Delaware, Ohio, Virginia, West Virginia, and the District of Columbia, (2) between points in Illinois, Indiana, Kentucky, Missouri, Ohio, Michigan, Wisconsin, New York, Pennsylvania, West Virginia, and Iowa; (3) between points in Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Missouri, Mississippi, North Carolina, South Carolina, Tennessee, Virginia, and West Virginia.; (4) between points in Maine, New Hampshire, Vermont, New York, Massachusetts, Connecticut, Rhode Island, Pennsylvania, New Jersey, Maryland, Delaware, Ohio, Virginia, West Virginia, District of Columbia, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, Alabama, North Carolina, South Carolina, Tennessee, Illinois, Indiana, Michigan, Wisconsin, Colorado, Iowa, Kansas, Missouri, Nebraska, Oklahoma, Wyoming and Minneapolis-St. Paul, Minn., and Dallas, Tex.; Restrictions: The service is subject to the following conditions: The operations are restricted against the transportation of commodities in bulk, in tank vehicles; the operations are restricted to shipments originating at or destined to Sears, Roebuck and Co. retail stores, catalog outlets, distribution or merchandising centers, consolidation or warehousing facilities, and TFCA facilities, the operations are limited to a transportation service to be performed. The operations in Part (4) are further restricted to shipments which move to, from, or through two or more of the following cities: Atlanta, Ga.; Boston, Mass.; Chicago, Ill.; Columbus, Ohio;

Dallas, Tex.; Greensboro, N.C.; Jacksonville, Fla.; Kansas City, Mo.; Memphis, Tenn.; Minneapolis-St. Paul, Minn.; Philadelphia, Pa.; North Bergen, New Jersey, and St. Louis, Mo. under a continuing contract or contracts with Sears, Roebuck and Co., for 180 days. Supporting shipper(s): Sears, Roebuck and Co., D. C. Johnson, National Transportation Manager, Department 754, Sears Tower, Chicago, Ill. 60684. Send protests to: Patricia A. Roscoe Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1396, Chicago, Ill. 60604.

No. MC 110420 (Sub-No. 768TA), filed June 9, 1977. Applicant: QUALITY CARRIERS, INC., P.O. Box 186, Pleasant Praire, Wis. 53158. Applicant's representative: Joseph K. Reber (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal fats and oils*, in bulk, in tank vehicles, from Whitehall, Wis., to Morris, Ill., for 180 days. Supporting shipper(s): Whitehall Packing Co., Inc., Whitehall, Wis. 54773, (Leo Carty). Send protests to: Gail Gaugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, Wis. 53202.

No. MC 111231 (Sub-No. 215TA), filed June 6, 1977. Applicant: JONES TRUCK LINES, INC., 610 East Emma Avenue, Springdale, Ark. 72764. Applicant's representative: Don A. Smith, P.O. Box 43, 510 North Greenwood, Fort Smith, Ark. 72902. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, from Benton and Washington Counties, Ark., to points in Louisiana and Mississippi, and points in Tennessee on and west of Interstate Highway 24, restricted to the transportation of shipments originating at the above-specified origins, for 180 days. Supporting shipper(s): Welch Foods, Inc. Portage Street, Westfield, N.Y. 14787. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, Ark. 72201.

No. MC 111729 (Sub-No. 706TA), filed June 8, 1977. Applicant: PUROLATOR COURIER CORP., 3333 New Hyde Park Road, New Hyde Park, N.Y. 10040. Applicant's representative: Elizabeth L. Henoch, Purolator Courier Corp., 3333 New Hyde Park Road, New Hyde Park, N.Y. 10040. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Laboratory specimens*, from Ripley, Miss., to Memphis, Tenn., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Tippah County Hospital Laboratory, Highway 15 North, Ripley, Miss. Send protests to: Maria B. Kejss Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, N.Y. 10007.

No. MC 112801 (Sub-No. 192TA) (Correction), filed April 22, 1977, published in the FEDERAL REGISTER issue of May 24, 1977, and republished as corrected this issue. Applicant: TRANSPORT SERVICE CO., 2 Salt Creek Lane, Hinsdale, Ill. 60521. Applicant's representative: Gene Smith (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Products of corn*, except feed and feed ingredients and oil, in bulk, in tank vehicles, from the plantsites and storage facilities of C.P.C. International at Argo, Ill. to points and places in the states of Connecticut, Delaware, Kentucky (except Louisville, Covington and Bellevue), Mich., (except Grand Rapids, Benton Harbor, Buchanan, Detroit, Niles, St. Joseph, Sturgis and Three Rivers), Tennessee, South Carolina, Alabama, North Carolina, and Georgia, and West Virginia; (2) *products of corn*, except feed and feed ingredients and oil, inedible, in bulk, in tank vehicles, from the plant site and storage facilities of C.P.C. International at Argo, Ill., to points and places in the states of Indiana, New York, Iowa, Ohio, New Jersey, Wisconsin, Pennsylvania, and Missouri, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): CPC International, Inc., Roger V. Haugen, Assistant Transportation Manager, International Plaza, Englewood Cliffs, N.J. 07632. Send protests to: Transportation Assistant Patricia A. Roscoe, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 S. Dearborn Street, Room 1386, Chicago, Ill. 60604. The purpose of this republication is to add West Virginia, that was previously omitted before.

No. MC 113000 (Sub-No. 5TA), filed June 7, 1977. Applicant: RICHARD A. EVAVOLD, d/b/a EVAVOLD TRUCKING, P.O. Box 166, Ashby, Minn. 56309. Applicant's representative: F. H. Kroeger, 1745 University Avenue, St. Paul, Minn. 55104. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Insulation materials*, from Underwood, Minn., to points in Colorado, Idaho, Kansas, Missouri, Montana, New Mexico and Wyoming, under a continuing contract, or contracts, with Pal-O-Pak Insulation Co., Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Pal-O-Pak Insulation Co., Inc. 547 Progress Avenue, Hartland, Wis. 53029. Send protests to: Mrs. Marion L. Cheney Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Court House, 110 S. 4th Street, Minneapolis, Minn. 55401.

No. MC 114087 (Sub-No. 13TA-, filed June 8, 1967. Applicant: DECATUR TRANSIT, INC., P.O. Box 1784, 161 1st St. NW., Decatur, Ala. 35602. Applicant's representative: D. H. Markstein, Jr., 512 Massey Building, Birmingham, Ala. 35203. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Coke*, in bulk, from the plantsite of Monsanto Company in Decatur, Ala., to the plantsite of Carborundum Corporation in Hickman, Ky., under a continuing contract, or contracts, with Monsanto Company for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Clifford W. White District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 1616, 2121 Building, Birmingham, Ala. 35203.

No. MC 116763 (Sub-No. 382TA), filed June 7, 1977. Applicant: CARL SUBLER TRUCKING, INC., North West Street, Versailles, Ohio 45380. Applicant's representative: H. M. Richters (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products*, from the plantsite and warehouse facility of the International Paper Company at or near Jay and Livermore Falls, Maine, to points in Alabama, Arizona, Arkansas, California, Colorado, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Mississippi, Missouri, Nebraska, Nevada, New Mexico, North Carolina, Ohio, Oklahoma, South Carolina, Tennessee, Texas, Utah, Virginia, West Virginia, Wisconsin, the District of Columbia, Harrisburg, Pa., points in that part of Pennsylvania on and west of U.S. Highway 15, and points in New York north of Interstate Highway 84, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Charles E. McHugh, Manager, Motor Carrier/Barge Rates, International Paper Company, Room 300, 220 E. 42nd Street, New York, N.Y. 10017. Send protests to: Paul J. Lowry, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 5514–B Federal Building, 550 Main Street, Cincinnati, Ohio 45202.

No. MC 117119 (Sub-No. 635TA), filed June 7, 1977. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, Ark. 72728. Applicant's representative: L. M. McLean, P.O. Box 188, Elm Springs, Ark. 72728. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pigments, paints, and plastic materials*, (except commodities in bulk), in vehicles equipped with mechanical refrigeration, from Glens Falls, N.Y., to points in Texas for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Hercules, Inc., 900 Life of Georgia Tower, Atlanta, Ga. 30308. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, Ark. 72201.

No. MC 118159 (Sub-No. 214TA), filed June 8, 1977. Applicant: NATIONAL REFRIGERATED TRANSPORT, INC., P.O.

Box 51366, Dawson Station, Tulsa, Okla. 74151. Applicant's representative: Warren Taylor, P.O. Box 51366, Dawson Station, Tulsa, Okla. 74151. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages and related advertising materials, and returned empty malt beverage containers*, between Ft. Worth, Tex., on the one hand, and, on the other, points in Arkansas, Colorado, Louisiana, Mississippi, New Mexico, and Oklahoma for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Miller Brewing Company, 4000 West State Street, Milwaukee, Wis. 53208. Send protests to: Joe Green, District Supervisor, Room 240, Old Post Office Building, 215 Northwest Third Street, Oklahoma, City, Okla. 73102.

No. MC 125777 (Sub-No. 191TA), filed June 7, 1977. Applicant: JACK GRAY TRANSPORT, INC., 4600 East 15th Avenue, Gary, Ind. 46403. Applicant's representative: Joel H. Steiner, 39 South LaSalle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pig iron*, in dump vehicles, from the plantsite of Empire-Detroit Steel Division, Detroit Steel Corp., at or near Portsmouth, Ohio, to points in Michigan, Wisconsin, Indiana, Illinois, Minnesota, Iowa, Missouri and Kentucky for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Empire-Detroit Steel Division, P.O. Box 247, Mansfield, Ohio 44901. Send protests to: J. H. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 343 West Wayne Street, Suite 113, Fort Wayne, Ind. 46802.

No. MC 128392 (Sub-No. 1TA) (Correction), filed April 8, 1977, published in the FEDERAL REGISTER issue of April 28, 1977, and republished as corrected this issue. Applicant: HARNER'S EXPRESS, INC., 6541 Eastern Ave., Baltimore, Md. 21224. Applicant's representative: Edward J. Kiley, 1730 M St., N.W., Suite 501, Washington, D.C. 20036. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Corrugated fiberboard boxes and corrugated fiberboard trays*, from the facilities of Container Corporation of America, at Baltimore, Md., to Eastville, Fredericksburg, Hallwood, Mappsville, Newport News, Norfolk, Nassawadox, Suffolk, Warrenton and Williamsburg, Va., under a contract with Container Corporation of America, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Robert L. Lund, Eastern Traffic Manager, Container Corporation of America, 5000 Flat Rock Road, Philadelphia, Pa. 19127. Send protests to: William L. Hughes, District Supervisor, Interstate Commerce Commission, 814-B Federal Bldg., Baltimore, Md. 21201. The purpose of this republication is to add the county of Suffolk, that was previously omitted before.

No. MC 134022 (Sub-No. 24TA), filed May 26, 1977. Applicant: RICHARD A. ZIMA, d/b/a, ZIPCO, P.O. Box 715, West Bend, Wis. 53095. Applicant's representative: Richard A. Zima (Same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alcoholic and malt beverages in containers and related advertising and promotional materials*, from Belleville, Ill., to Milwaukee, Racine, Cedarburg, Winneconne, Chippewa Falls, Madison, Janesville, Green Bay, Pulaski, and other points in Wisconsin, from Detroit, Mich., to Milwaukee, Winneconne, West Bend, Fon du Lac, Green Bay, and other points in Wisconsin, from Seacaucus, N.J., to Brown Dear, West Bend, Fond du Lac, and points in Wisconsin, Frankenmuth, Mich., to Milwaukee, Racine, Cedarburg, Chippewa Falls, Green Bay, Pulaski, and points in Wis., from Baltimore, Md., to Chippewa Falls, Green Bay, and points in Wis., from Plainfield, Ill., to Green Bay and Fon du Lac. Wis., from Newark, N.J., to Brown Deer, Green Bay and Fond du Lac, Wis., Dayton, N.J., to Fond du Lac, Green Bay, Brown Deer, Wis., Edison, N.J., to Fond du Lac, Green Bay, Brown Deer, Wis., St. Paul, Minn., to Milwaukee, Brown Deer, Winneconne, Watertown, Wis., and points in Wis., Chicago, Ill., to Winneconne, Fond du Lac, and Watertown, Green Bay, Brown Deer, and points in Wis., Dubuque, Iowa, to Milwaukee, Brown Deer, Pulaski, Winneconne, and points in Wis., Ft. Wayne, Ind., to Winneconne, Pulaski, Brown Deer and points in Wis., Louisville, Ky., to Green Bay and Fond du Lac, Wis., Lawrence, Ind., to Fond du Lac, Brown Deer and Green Bay, Wis., Pekin, Ill., to Fon du Lac and Brown Deer, Wis., Waltham, Ill., to Fond du Lac and Brown Deer, Wis., St. Louis, Mo. (except the plant site of Annhauser Bush) Winneconne, Fond du Lac, Pulaski, Brown Deer, and points in Wis., Points in N.J., Winneconne, Fond du Lac, Brown Deer, and points in Wisconsin, Points in Pa., to Winneconne, Pulaski and points in Wis., and points in N.Y., to Winneconne, Fond du Lac, Pulaski, Brown Deer, Green Bay and points in Wisconsin. Supporting shipper (S): There are 12 shippers supporting this application. For review of their statements, copies may be reviewed at the Milwaukee, Wis. office. Send protests to: Gail Daugherty Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building & Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, Wis. 53202.

No. MC 134064 (Sub-No. 6TA), filed June 8, 1977. Applicant: INTERSTATE TRANSPORT, INC., 1820 Atlanta Highway, Gainesville, Ga. 30501. Applicant's representative: Charles M. Williams, 350 Capitol Life Center, 1600 Sherman Street, Denver, Colo. 80203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Packaged petroleum products*, except in bulk, from the facilities of Industrial Terminal Systems, Inc., at or near New Kensington, Pa., to points in Alabama, Georgia, South Carolina, and Tennessee for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Quaker State Oil Refining Corporation, Box 989, Oil City, Pa. 16301. Send protests to: Sara K. Davis Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 W. Peachtree Street, N.W. Room 546, Atlanta, Ga. 30309.

No. MC 134959 (Sub-No. 9TA), filed May 12, 1977. Applicant: BEN-K TRUCKING, INC., North 6th Avenue and County Road 64, Greeley, Colo. 80631. Applicant's representative: Charles M. Williams, 1600 Sherman Street, Suite 350 Capitol Life Center, Denver, Colo. 80203. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Sodium bentonite*, bagged or in bulk, except in bulk, in tank vehicles, from the facilities of American Colloid Corporation at or near Upton, Wyo., and the facilities of Benton Clay Company and Blackhills Bentonite Co. at or near Casper, Wyo., to points in Colorado; points in Kansas on and west of U.S. Highway 281; points in Oklahoma; points in Nebraska; points in Texas on and west of U.S. Highway 283 and on and north of U.S. Highway 82; points in New Mexico on and east of a line beginning at the New Mexico-Colorado state boundary, thence along U.S. Highway 285 to its junction with U.S. Highway 85, thence along U.S. Highway 85 to the New Mexico-Texas state line; Utah and El Paso, Tex., (2) *bentonite crumbles*, bagged or in bulk, except in bulk, in tank vehicles, from the facilities of American Colloid Corporation at or near Belle Fourche, S. Dak., to points in Colorado. (3) *milk replacer*, bagged, from the facilities of Land O'Lakes at or near Minneapolis, Minn., to Denver, Colo., and Hastings, Nebr.; (4) *methionine choline chloride* (CTC-50) and *rice hulls*, in bags, from Stuttgart, Ark., and the facilities of Diamond Shamrock at or near Van Buren, Ark., to Denver, Colo., and Hastings, Nebr.; (5) *salt*, in bags, and *rabon blocks*, from the facilities of Lesley Salt at or near Salt Lake City, Utah, to Denver, Colo., and Hastings, Nebr.; under a continuing contract, or contracts, with Feed Products, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Feed Products, Inc., 1000 West 47th Avenue, Denver, Colo. 80211. Send protests to: Roger L. Buchanan District Supervisor, Interstate Commerce Commission, 721 19th Street, 492 U.S. Customs House, Denver, Colo. 80202.

No. MC 135452 (Sub-No. 3TA) (Correction), filed May 11, 1977, published in the FEDERAL REGISTER issue of May 25, 1977, and republished as corrected this

issue. Applicant: JOHN R. SHEARON & FRED D. SHEARON, individuals, doing business as SHEARON TRUCKING, P.O. Box 387, Ashland City, Tenn. 37015. Applicant's representative: Roland M. Lowell, 618 United American Bank Building, Nashville, Tenn. 37219. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Water heaters*, from Ashland City, Tenn., to Alabama, Arkansas, Florida, Georgia, Illinois, Indiana, Louisiana, Maryland, Mississippi, Missouri, Oklahoma, Ohio, Pennsylvania, Texas and West Virginia, under a continuing contract, or contracts, with State Industries, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): State Industries, Inc., Ashland City, Tenn. 37015. Send protests to: Joe J. Tate, District Supervisor, Bureau of Operations—Interstate Commerce Commission, Suite A-422—U.S. Court House, 801 Broadway, Nashville, Tenn. 37219. The purpose of this republication is to omit the states of Arizona and Minnesota, and to add Arkansas and Mississippi.

No. MC 136285 (Sub-No. 24TA), filed June 8, 1977. Applicant: SOUTHERN INTERMODAL LOGISTICS, INC., 413 Gordon Avenue, P.O. Box 143, Thomasville, Ga. 31792. Applicant's representative: William P. Jackson, Jr., 3426 North Washingtn Blvd., P.O. Box 1267, Arlington, Va. 22210. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from Savannah, Ga., to points in Florida, Georgia, North Carolina, South Carolina, Alabama, Tennessee, Kentucky, and Mississippi for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Georgia Ports Authority, 235 Peachtree Street, Suite 1200, Atlanta, Ga. 30303. D. J. Powers Co., Inc., P.O. Box 9239, Savannah, Ga. 31402. E. L. Mobley, Inc., P.O. Box 1686, Savannah, Ga. 31402. Anderson Shipping Co., Inc., 2 Whitaker Street, Savannah, Ga. 31401. Hipage, Inc., P.O. Box 1786, Savannah, Ga. 31401. John S. James, Co., P.O. Box 2166, Savannah, Ga. 31402. Send protests to: G. H. Fauss, Jr., District Supervisor, Bureau of Operations, Interstate Commerce Commission, Box 35008, 400 West Bay Street, Jacksonville, Fla. 32202.

No. MC 136384 (Sub-No. 8TA), filed June 8, 1977. Applicant: PALMER MOTOR EXPRESS, INC., P.O. Box 103, Savannah, Ga. 31402. Applicant's representative: W. W. Palmer, Jr., P.O. Box 103, Savannah, Ga. 31402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing materials*, from plant site of Johns Manville at Savannah, Ga., to points in Florida, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Johns-Manville Corp., 3300 Holcomb Bridge Road, Norcross, Ga. 30071. Send protests to: G. H. Fauss, Jr., District Supervisor, Bureau of Operations, Interstate Commerce Commisison, Box 35008, 400 West Bay Street, Jacksonville, Fla. 32202.

No. MC 136384 (Sub-No. 9TA), filed June 8, 1977. Applicant: PALMER MOTOR EXPRESS, INC., P.O. Box 103, Savannah, Ga. 31402. Applicant's representative: W. W. Palmer, Jr., P.O. Box 103, Savannah, Ga. 31402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing materials*, from the plant site of Certain Teed Corp., Savannah and Chatham County, Ga., to points in Florida, for 180 days. Supporting shipper(s): Certain Teed Corp., P.O. Box 860, Valley Forge, Pa. 19482. Send protests to: G. H. Fauss, Jr., District Supervisor, Bureau of Operations, Interstate Commerce Commission, Box 35008, 400 West Bay Street, Jacksonville, Fla. 32202.

No. MC 139274 (Sub-No. 2TA) (Correction), filed May 10, 1977, published in the FEDERAL REGISTER issue of June 8, 1977, and republished as corrected this issue. Applicant: THE DANIEL COMPANY OF SPRINGFIELD, 491 East Kearney, Springfield, Mo. 65800. Applicant's representative: Turner White or Bruce McCurry, 910 Plaza Towers, Springfield, Mo. 65804. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Commodities* distributed and manufactured by The R. T. French Co., and *materials, supplies, and equipment* used in the manufacturing, packaging, distribution, and sales of The R. T. French Co., from Springfield, Mo., and Fresno, Calif., to Safeway Stores Spice plant and warehouse facilities at or near Fremont, Calif., under a continuing contract or contracts with The R. T. French Company, for 180 days. Supporting shipper(s): The R. T. French Company, One Mustard Street, Rochester, N.Y. 14609. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, -BOp, 600 Federal Building, 911 Walnut Street, Kansas City, Mo. 64106. The purpose of this republication is to add the state of California, that was previously omitted.

No. MC 139785 (Sub-No. 2TA), filed May 31, 1977. Applicant: LIETZ TRANSPORTATION, INC., Route 1, Coloma, Wis. 54930. Applicant's representative: Rolfe E. Hanson, 121 W. Doty Street, Madison, Wis. 53703. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Frozen dog and cat foods* (not fit for human consumption) in refrigerated vehicles, (1) from the plantsite and warehouse facilities of Kickapoo Fur Food, Inc. and Lea Bros., Inc. at Iola, Viroqua, Alma Center and Cameron, Wis., to Topeka, Kans., Kansas City and St. Joseph, Mo., Allentown, Pa., and Fort Dodge, Iowa; and from Weatherford, Tex., to Iola, Viroqua, Alma Center and Cameron, Wis.; (2) from the plantsite and warehouse facilities of Wisconsin Brand, Inc. at Iowa, Viroqua, Alma Center and Cameron, Wis., to Atlanta, Albany and Jackson, Ga.; Jackson, Miss.; Kings Mills, Cleveland, Columbus, Cincinnati, Toledo, Sandusky and Sebring, Ohio; Plainfield, Conn.; Bloomington, Del.; New York City, Buffalo, Syracuse, Rochester and Utica, N.Y.; Scranton, Erie, Philadelphia and Pittsburgh, Pa.; St. Louis and Kansas City, Mo.; Bennington and Pownal, Vt.; Baltimore, Md.; Wheeling, W. Va.; Memphis and Knoxville, Tenn.; Newark, N.J.; Peoria and Chicago, Ill.; St. Paul and Minneapolis, Minn.; and Bloomington, South Bend and Evansville, Ind.; and from Weatherford, Tex., to Iola, Viroqua, Alma Center and Cameron, Wis., under a continuing contract, or contracts, with Wisconsin Brand, Inc., Kickapoo Fur Food, Inc. and Lea Bros., Inc. for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Wisconsin Brand, Inc., Route 2, Iowa, Wis. 54945. Kickapoo Fur Food, Inc., Lea Bros., Inc., Box 35, Alma Center, Wis. 54611. Send protests to: Ronald A. Morken, District Supervisor, Interstate Commerce Commission, 139 W. Wilson Street, Room 202, Madison, Wis. 53703.

No. MC 140010 (Sub-No. 11TA), filed June 6, 1977. Applicant: JOSEPH MOVING & STORAGE CO., INC., d/b/a ST. JOSEPH MOTOR LINES, 573 Dutch Valley Road, N.E., Atlanta, Ga. 30309. Applicant's representative: Richard M. Tettelbaum, 3379 Peachtree Road, N.E., Suite 375, Atlanta, Ga. 30326. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Unexposed sensitized photographic materials, equipment* used in the exposure, processing and mounting thereof, and photographic chemicals, in vehicles equipped with mechanical refrigeration (except commodities in bulk), from the facilities of E.I. du Pont de Nemours & Co., Inc., located at or near Doraville, Ga., to Corinth, Miss., and points in its commercial zone, under a continuing contract, or contracts, with E. I. du Pont de Nemours & Co., Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): E. I. du Pont de Nemours & Co., Inc. Wilmington, Del. 19898. Send protests to: Sara K. Davis Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 W. Peachtree Street, N.W. Room 546, Atlanta, Ga. 30309.

No. MC 141747 (Sub-No. 2TA), filed May 17, 1977. Applicant: DONALD ENGLE AND JAMES ENGLE, d/b/a ENGLE BROTHERS FARMS, Rural Route 1, Rector, Ark. 72461. Applicant's representative: Don Garrison, 324 North Second Street, Rogers, Ark. 72756. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Fertilizer and lime;* (2) *sand, rock and gravel*, between all points and places in Pemiscot, New Madrid, Stoddard, Bollinger, Scott, Mississippi, Butler, Cape Girardeau, Perry, Ste.

Genevieve, St. Francois, Madison, Wayne, Carter, Ripley, Oregon, Shannon, Reynolds, Dunklin, Iron, Benton, Crawford, Washington, Jefferson, Phelps and Howell Counties, Mo.; Obion, Weakley, Henry, Carroll, Henderson, Chester, Fayette, Hardeman, Haywood, Shelby, Lauderdale, Gibson, Dyer, Crockett, Madison, Tipton, McNairy and Hardin Counties, Tenn.; Alexander, Pulaski, Massac, Union, Johnson and Pope Counties, Ill.; Ballard, Carlisle, Hickman, Fulton, McCracken and Graves Counties, Ky.; Clay, Randolph, Greene, Craighead, Miss.; Poinsett, Cross, Crittenden, Saint Francis, Jackson, Lawrence, Independence, Sharp, Fulton, Woodruff, Pulaski, Stone, White, Lonoke, Jefferson, Arkansas and Phillips Counties, Ark.; DeSoto, Marshall, Tate, Tunica, Benton, Coahoma and Yazoo Counties, Miss.; Supporting shipper(s): MFA Delta Division, P.O. Box 409, Portageville, Mo. 63873. Harris Limestone Company, Inc. P.O. Box 146, Piedmont, Mo. 63757. Monsanto Ag Center, Route 1, Kennett, Mo. 63857. Carryville Co-op, 132 North Front Street, Piggott, Ark. 72454. Farmers Gin Company of Rector, Route No. 1, Box 216, Rector, Ark. 72461. S & S Gravel, P.O. Box 218, Rector, Ark. 72461. Send protests to: William H. Land, Jr. District Supervisor, 3109 Federal Office Building, 700 West Capitol, Little Rock, Ark. 72201.

No. MC 142925 (Sub-No. 2TA), filed May 25, 1977. Applicant: A.C.B. TRUCKING, INC., P.O. Box 1683, 2344 Sagamore N., Lafayette, Ind. 47902. Applicant's representative: James Robert Evans, 145 W. Wisconsin Avenue, Neenah, Wis. 54956. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Adhesives, noi, brake shock absorber of hydraulic fluid o/t petroleum; chemicals, noi, compounds; defoaming, insulating, iron or steel rust preventing o/t petroleum, leather finishing, masonry waterproofing, paint thinning and resin; grease, noi and lubricating, noi; oils o/t petroleum; lubricating or silicone emulsions, paints or varnishes, noi; plastic materials o/t expanded; articles, noi, film or sheeting o/t cellulose, flakes noi and liquid noi; rubber materials; coatings or dispersions silicone rubber, latex liquid and rubber compounds unvulcanized*, from Hemlock and Midland, Mich., to points in Arizona and California, under a continuing contract, or contracts, with Dow Corning Corp., Midland, Mich., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Dow Corning Corp., P.O. Box 1592, Midland, Mich. 48640. Send protests to: J. H. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 343 West Wayne Street, Suite 113, Fort Wayne, Ind. 46802.

No. MC 143184 (Sub-No. 1TA) (correction), filed May 3, 1977, published in the FEDERAL REGISTER issue of June 6, 1977, and republished as corrected this issue. Applicant: DARREL W. PRICE, doing business as MODULAR WEST TRANSPORT, 349 33rd Street, Ogden, Utah 84401. Applicant's representative: Frank M. Wells, 550 24th Street, Ogden, Utah 84401. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Modular buildings, commercial or residential;* buildings may contain equipment or furnishings, from 933 Wall Ave., Ogden, Utah, to all points in Wyoming, Montana, Colorado, Nevada, Idaho, Oregon, and Washington, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): First Rocky Mountain Corp., 933 Wall Ave., Ogden, Utah 84401 (Raphael Mecham, President). Send protests to: District Supervisor Lyle D. Helfer, Interstate Commerce Commission, Bureau of Operations, 5301 Federal Building, 125 South State Street, Salt Lake City, Utah 84138. The purpose of this republication is to change *modular homes* to *modular buildings*.

No. MC 143242TA, filed May 9, 1977. Applicant: MART LINE, INC., 311 17th Street, Jersey City, N.J. 07306. Applicant's representative: John P. Tynan, Bowes, Millner, Rodgers & Liberstein, P.O. Box 1409, 167 Fairfield Rd., Fairfield, N.J. 07006. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in, used by, and sold by retail department stores, (1) between storage and distribution center of Mammoth Mart, Inc., at Somerville, Mass., on the one hand, and, on the other, Kingston, Lake Mahopack, New York, N.Y.; points in New York, N.Y., commercial zone; Jersey City, N.J.; (2) between the storage and distribution center of Mammoth Mart, Inc., Somerville, Mass., on the one hand, and, on the other, stores of Mammoth Mart, Inc., located at Kingston and Lake Mahopack, N.Y.; Bel Air, Essex, Lexington Park, Odenton, Waldorf, Md.; Elizabeth City, Henderson, Hickory, Jacksonville, Lumberton, and New Bern, N.C.; and the storage and distribution center of Mammoth Mart, Inc., at Charlotte, N.C.; (3) between the consolidation and distribution center of Mammoth Mart, Inc., located at Jersey City, N.J., on the one hand, and, on the other, the stores of Mammoth Mart, Inc., located at Kingston and Lake Mahopack, N.Y.; Bel Air, Essex, Lexington Park, Odenton, and Waldorf, Md.; Elizabeth City, Henderson, Hickory, Jacksonville, Lumberton, and New Bern, N.C.; and the storage and distribution center of Mammoth Mart, Inc., at Charlotte, N.C.; (4) between the storage and distribution center of Mammoth Mart, Inc., located at Charlotte, N.C., on the one hand, and, on the other, the stores of Mammoth Mart, Inc., located at Kingston and Lake Mahopack, N.Y.; Bel Air, Essex, Lexington Park, Odenton, and Waldorf, Md.; Elizabeth City, Henderson, Hickory, Jacksonville, Lumberton, and New Bern, N.C., under a continuing contract, or contracts, with Mammoth Mart, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Mammoth Mart, Inc., 321 Manley Street, West Bridgewater, Maine 02379. Send protests to: Robert E. Johnston, District Supervisor, Interstate Commerce Commission, 9 Clinton Street, Newark, N.J. 07102.

No. MC 143276 (Sub-No. 1TA), filed June 8, 1977. Applicant: WEAVER TRANSPORTATION CO., 5452 Oakdale Road, Smyrna, Ga. 30080. Applicant's representative: James L. Brazee, Jr., 2310 Parklade Drive NE., Suite 190, Atlanta, Ga. 30345. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing asphalt*, in barrels, drums and/or packages, from the plant site of Young Refining Corp., Douglasville, Douglas County, Ga., to points in North Carolina, South Carolina, Tennessee, and Alabama for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Young Refining Corp., P.O. Box 775, Douglasville, Ga. 30133. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 West Peachtree Street NW., Rooms 546, Atlanta, Ga. 30309.

No. MC 143319 (Sub-No. 1TA), filed April 10, 1977. Applicant: IRISH RIDGE TRUCKING CO., Box 162, Philo, Ohio 43771. Applicant's representative: John A. Vuono, Wick, Vuono & Lavelle, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, from the strip operations of Irish Ridge Coal Co., Inc., at or near Philo, Ohio, to the plantsites of Dundee Cement Co., at or near Dundee, Mich., under a continuing contract, or contracts, with Irish Ridge Coal Co., Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Irish Ridge Coal Co., Inc., Suite L-5, 1125 South Cedar Crest Boulevard, Allentown, Pa. 18103. Send protests to: Frank L. Calvary, District Supervisor, Interstate Commerce Commission, 220 Federal Bldg., and U.S. Courthouse, 85 Marconi Boulevard, Columbus, Ohio 43215.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-18121 Filed 6-23-77;8:45 am]

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: Consumer Product Safety Commission.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: June 9, 1977 (42 FR 29616).

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: June 16, 1977—9:30 a.m.

CHANGES IN THE MEETING: The Commission by majority vote postponed the consideration of the asbestos matter until June 30, 1977. Also by majority vote the Commission, considered in closed session issues related to the aluminum branch circuit wiring matter.

CONTACT PERSON FOR ADDITIONAL INFORMATION:

Sheldon D. Butts, Assistant Secretary, Office of the Secretary, Suite 300, 1111 18th St. NW., Washington, D.C. 20207, telephone 202–634–7700.

[S–736–77 Filed 6–22–77;9:40 am]

2

AGENCY HOLDING THE MEETING: Federal Deposit Insurance Corporation.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 42 FR 31518, June 21, 1977.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10:30 a.m., June 27, 1977.

CHANGES IN THE MEETING: Insert: STATUS: Closed.

[S–737 Filed 6–22–77;10:11 am]

3

AGENCY HOLDING THE MEETING: Federal Deposit Insurance Corporation.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 42 F.R. 31518, June 21, 1977.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 11:00 a.m., June 27, 1977.

CHANGES IN THE MEETING: Change Status from Closed to Open.

[S–738–77 Filed 6–22–77;10:11 am]

4

AGENCY HOLDING THE MEETING: Federal Election Commission.

DATE AND TIME: Thursday, June 30, 1977 at 10:00 a.m.

PLACE: 1325 K Street, NW., Washington, D.C.

STATUS: Portions of this meeting will be open to the public and portions will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions open to the public

I. Future meetings.
II. Correction and approval of minutes.
III. Planning and management.
IV. Pending legislation.
V. Appropriations and budget.
VI. Agency job classifications.
VII. Liaison with other Federal agencies.
VIII. Routine administrative matters.

Portions closed to the public

IX. Executive session; litigation; Presidential primary audit report No. 6; compliance; personnel.

PERSON TO CONTACT FOR INFORMATION:

David Fiske, Press Officer, phone 202–523–4065.

MARJORIE W. EMMONS,
Secretary to the Commission.

[S–734–77 Filed 6–21–77;4:22 pm]

5

AGENCY HOLDING THE MEETING: Federal Home Loan Bank Board.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: Vol. 42, No. 116, page 30742, Thursday, June 16, 1977.

PREVIOUSLY ANOUNCED TIME AND DATE OF MEETING: 9:30 a.m., June 22, 1977.

PLACE: 320 First Street, NW., Room 630, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Robert Marshall, 202–376–3012.

CHANGES IN THE MEETING: The following item has been added to the agenda for the open portion of the meeting: Consideration of Request by a Proposed Association for Commitment to Insure Accounts—Upper Cumberland Savings and Loan Association, Inc., Crossville, Tennessee.

No. 36, June 16, 1977.

[S–735–77 Filed 6–22–77;8:36 am]

6

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: 9:30 a.m., June 24, 1977.

PLACE: Room 119, 701 E Street, NW., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Perrochrome (Inv. TA–201–20)—briefing.
2. Cast-Iron Stoves (Inv. TA–201–24)—briefing.
3. Cut Flowers (Inv. TA–201–22)—briefing.
4. Minutes.
5. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth R. Mason, Secretary, 202–523–016.

[S–673–77 Filed 6–14–77;2:07 pm]

7

AGENCY HOLDING THE MEETING: The Renegotiation Board.

DATE AND TIME: Monday, June 20, 1977, 12:00 Noon.

PLACE: Conference Room, 4th Floor, 2000 M Street, NW., Washington, D.C. 20446.

STATUS: Closed to public observation.

MATTERS CONSIDERED:

1. Disclosure of Information.
2. Personnel Actions:
a. Regional Board Member.
b. Director, Office of Financial Analysis.
c. Director, Office of Screening, Compliance and Exemptions.

CONTACT PERSON FOR MORE INFORMATION:

Kelvin H. Dickinson, Assistant General Counsel, Secretary, 2000 M Street, NW., Washington, D.C. 20446, 202–254–8277.

Dated: June 21, 1977.

GOODWIN CHASE,
Chairman.

[S–730–77 Filed 6–21–77;3:17 pm]

8

AGENCY HOLDING THE MEETING: The Renegotiation Board.

DATE AND TIME: Wednesday, July 6, 1977, 10:00 a.m.

PLACE: Conference Room, 4th Floor, 2000 M Street, NW., Washington, D.C. 20446.

STATUS: Matters 1 through 6 will be open to public Status is not applicable to matters 7 and 8.

MATTERS TO BE CONSIDERED:

1. Approval of Minutes of meeting held June 28, 1977, and other Board meetings, if any

2. Recommended Clearances Without Assignment (List #1877)

A. Copperweld Corporation: Fiscal year ended December 31, 1975.

A-1. Ohio Steel Tube Company: Fiscal year ended December 31, 1975.

A-2. Copperweld Steel Company: Fiscal year ended December 31, 1975.

B. Donaldson Company, Inc.: Fiscal year ended July 31, 1975.

C. KDI Corporation: Fiscal year ended December 31, 1975.

D. Viking Industries, Inc.: Fiscal year ended March 30, 1975.

E. Cramer Electronics, Inc.: Fiscal year ended September 27, 1975.

F. Paul H. Werres Company, Inc.: Fiscal year ended June 30, 1976.

G. Photo-Sonics, Inc.: Fiscal year ended August 31, 1975.

3. Request for Permission to make Late Application for Commercial Exemption: DeSoto, Inc. LPI No. 44659: Fiscal year ended December 31, 1975.

4. Application for Commercial Exemption (List No. 2995):

A. DeSoto, Inc.: Fiscal year ended December 31, 1972.

B. DeSoto, Inc.: Fiscal year ended December 31, 1973.

C. DeSoto, Inc.: Fiscal year ended December 31, 1974.

5. Request for Reconsideration of the Request for Exemption of a Portion of Contract No. DA 23-195-AMC-00391T Under Section 106(d)(2) of the Act and RBR 1455.3(c).

Contracts under which Profits can be Determined at Time Contract Price is Established: Delong Corporation, LPI No. 69597: Fiscal year ended December 31, 1969.

6. Request to file Untimely Applications for Commercial Exemption: DoAll Company, LPI No. 12282: Fiscal years ended May 31, 1975 and 1976.

7. Approval of Agenda for meeting to be held July 19, 1977.

8. Approval of Agenda for other meetings, if any:

CONTACT PERSON FOR MORE INFORMATION:

Kelvin H. Dickinson, Assistant General Counsel, Secretary, 2000 M Street, NW., Washington, D.C. 20446, 202-254-8277.

Dated: June 21, 1977.

GOODWIN CHASE,
Chairman.

[S-731-77 Filed 6-21-77;3:18 pm]

9

AGENCY HOLDING THE MEETING: Securities and Exchange Commission.

TIME AND DATE: June 23, 1977, 2:30 p.m.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

STATUS: Closed meeting.

SUBJECT: Confidential treatment request. Freedom of Information Act request. Acceleration of registration statement request.

Chairman Williams, Commissioners Loomis, Evans, and Pollack determined that Commission business required consideration of this matter and that no earlier notice thereof was possible.

JUNE 22, 1977.

[S-732-77 Filed 6-21-77;4:21 pm]

10

AGENCY HOLDING THE MEETING: Securities and Exchange Commission.

TIME AND DATE: June 23, 1977, 2:30 p.m.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

STATUS: Closed meeting.

SUBJECT: Confidential treatment request. Freedom of Information Act request. Acceleration of registration statement request.

Chairman Williams, Commissioners Loomis, Evans, and Pollack determined that Commission business required consideration of this matter and that no earlier notice thereof was possible.

JUNE 22, 1977.

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meetings during the week of June 27, 1977, in Room 825, 500 North Capitol Street, Washington, D.C.

A closed meeting will be held on Tuesday, June 28, 1977, at 10 a.m. An open meeting will be held on Thursday, June 30, 1977, at 10 a.m.

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries will attend the closed meetings. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meetings may be so considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4)(8)(9)A and (10) and 17 CFR 200.402(a)(4)(8)(9)(i) and (10).

Chairman Williams and Commissioners Loomis, Pollack, and Evans voted to hold the aforesaid meetings in closed session.

The subject matter of the closed meeting scheduled for Tuesday, June 28, 1977, will be:

Formal Orders of Investigation.

Institution of Injunctive Actions.

Institution of Administrative Proceedings.

Settlement of Administrative Proceedings.

Other litigation matters.

Referral of investigative files to Federal, State or Self Regulatory authorities.

Regulatory matters arising from or bearing enforcement implications.

Freedom of Information Act Appeal.

The subject matter of the open meeting scheduled for Thursday, June 30, 1977, at 10 a.m. will be:

1. Consideration of the re-entry application of James J. Chica, allowing him to be employed as a registered representative of a registered broker-dealer, in a non-supervisory, non-proprietary capacity, with adequate supervision.

2. Consideration of the re-entry application of Sidney Hertzberg, allowing him to be employed by a registered broker-dealer in a supervisory capacity.

3. Consideration of the re-entry application of Barry J. Margulis, allowing him to be associated with a registered broker-dealer in a supervisory capacity, other than one relating to financial operations or affairs.

4. Consideration by the Commission to issue for public comment (1) a proposed form to be used for certain applications for orders, declaring that a registered investment company has ceased to be an investment company, and (2) a proposed revision of Form N-1Q, the quarterly report for management investment companies, to require the reporting of information with respect to certain mergers and acquisitions.

5. Consideration of the transmittal of a letter to the Office of Management and Budget expressing the views of the Commission on the Department of Treasury's Draft Bill, "To amend Chapter 25 of title 18, United States Code to provide penalties for the forging of endorsements on, or fraudulently negotiating United States Treasury checks, bonds or securities of the United States, and for other purposes."

6. Consideration of proposed recission of Rule 458 under the Securities Act of 1933. Rule 458 requires registrants to submit a brief descriptive summary of the registration statement for the Commission's use with the initial filing of such statements.

7. Consideration by the Commission of requests to extend the comment period regarding Railroad Industry Disclosure Guidelines, Deferred Maintenance and Betterment Accounting until July 18, 1977.

8. Consideration of proposed Rule 14b-1 and amendments to Rule 14a-3(d), which pertain to the transmission of issuer communications to beneficial shareowners.

JUNE 21, 1977.

[S-733-77 Filed 6-21-77;4:22 pm]

11

AGENCY HOLDING THE MEETING: Civil Service Commission.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 42 FR No. 119, June 21, 1977, page 31520.

PREVIOUSLY ANNOUNCED TIME AND DATE: 9 a.m., June 28, 1977.

CHANGES IN THE MEETING: Addition of new item to the agenda. (3) Request of Social Security Administration for modification of Commission procedures in filling Administrative Law Judge positions.

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

[S-749-77 Filed 6-23-77;10:12 am]

federal register

FRIDAY, JUNE 24, 1977
PART II



DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

■

GENERAL PROVISIONS, GENERAL PERMIT PROCEDURES AND ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Prohibitions on Certain Uses of Endangered or Threatened Plants, Permits for Exceptions to Such Prohibitions, and Related Items

Title 50—Wildlife and Fisheries

CHAPTER I—UNITED STATES FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

GENERAL PROVISIONS, GENERAL PERMIT PROCEDURES AND ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Prohibitions on Certain Uses of Endangered or Threatened Plants, Permits for Exceptions to Such Prohibitions, and Related Items

AGENCY: U.S. Fish and Wildlife Service, Interior.

ACTION: Final rulemaking.

SUMMARY: This document makes changes to the regulations to protect endangered or threatened plant species. It establishes prohibitions and a permit procedure to grant exceptions to the prohibitions under certain circumstances. It also provides for treatment of non-endangered or non-threatened plants as endangered or threatened species if that treatment would enhance enforcement and provide added protection to the endangered or threatened species.

EFFECTIVE DATE: July 25, 1977.

FOR FURTHER INFORMATION CONTACT:

Dr. Richard L. Jachowski, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, D.C. 20240, telephone 202-343-9442; or, for scientific matters, Mr. Roger E. McManus or Dr. Bruce MacBryde, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, D.C. 20240, telephone 202-343-5687 or 7814.

SUPPLEMENTARY INFORMATION:

BACKGROUND

The Endangered Species Act of 1973 (87 Stat. 884; 16 U.S.C. 1531-1543) (hereinafter the Act) unlike its predecessors, applies to both the plant and the animal kingdoms. On December 28, 1973, the effective date of the Act, no lists of endangered or threatened plants had been assembled. Since that time the Director, U.S. Fish and Wildlife Service (hereinafter the Director and the Service, respectively) has published two proposed rulemakings toward listing plant taxa.

(1) In the September 26, 1975, FEDERAL REGISTER (40 FR 44329), a proposal to add those flora taxa on Appendix I of the Convention on International Trade in Endangered Species of Wild Fauna and Flora to the list of Endangered species provided for by the Act; and

(2) In the June 16, 1976, FEDERAL REGISTER (41 FR 24523), a proposal to treat over 1700 floral taxa found in several States, and elsewhere, as Endangered.

Additional plant taxa remain under consideration from two notices of review in the April 21, 1975, FEDERAL REGISTER (40 FR 17612) and the July 1, 1975, FEDERAL REGISTER (40 FR 27823). Consequently, these taxa should be considered in environmental planning.

The Service has received numerous comments about these and other plant taxa. Efforts are continuing to compile additional data on such taxa for proposals or final determinations. Comments pertinent to such determinations will be summarized at the time of final rulemaking on the taxa.

General comments on plant conservation were part of the testimony of the October, 1975, Endangered species hearing of the House Committee on Merchant Marine and Fisheries, Subcommittee on the Environment (published as Serial No. 94-17, 1976), and the May, 1976, hearing of the Senate Committee on Commerce, Subcommittee on the Environment (published as Serial No. 94-82, 1976). This information has been considered by the Service.

In the June 7, 1976, FEDERAL REGISTER (41 FR 22915), the Service proposed regulations for plants determined as Endangered or Threatened under the Act. Many comments were received concerning this proposed rulemaking. The major concern expressed was that the proposed regulations did not adequately reflect the differences between the biology of animals and plants, and that their adoption as proposed would impose a hardship on businesses dealing primarily with cultivated specimens of Endangered and Threatened plants. The most significant difference between plants and animals which is pertinent to these regulations is the usually greater ease with which plants reproduce, both naturally and artificially. In nature, there are various sexual and vegetative methods of reproduction which can occur. In particular, seeds are often produced in considerable numbers beyond the immediate needs of the species or its ecosystem. Consequently, these regulations provide less restrictive requirements to obtain a permit involving only seeds, since activity with them is more likely to enhance the propagation of the species and thus satisfy section 10(a) requirements.

In addition, the field of horticulture offers a wide range of techniques for growing plants in cultivation. Germination of seeds, establishment of seedlings, and maintenance of matured plants are all subject to diverse methods which encourage success. Furthermore, many techniques have been developed for artificially propagating plants, such as layering, cuttings, grafting, and tissue culture. By such methods, it is often possible to produce hundreds of plants from a single specimen.

Activities confined to such cultivated plants have no adverse affect on the survival of the species in the wild. Consequently, these final regulations are designed to monitor such activities minimally in a manner parallel to the Convention (which provides for artificially propagated plants an exception from the usual permit requirements by certificate).

DESCRIPTION OF THE RULEMAKING

Determination that a plant is an Endangered species would, among other things, make that species, including its seeds, roots or other parts, subject to the prohibitions of section 9(a)(2) of the Act which reads as follows:

> Except as provided in sections 6(g)(2) and 10 of this Act, with respect to any endangered species of plants listed pursuant to section 4 of this Act, it is unlawful for any person subject to the jurisdiction of the United States to:
>
> (A) Import any such species into, or export any such species from, the United States;
>
> (B) Deliver, receive, carry, transport, or ship in interstate or foreign commerce, by any means whatsoever and in the course of a commercial activity, any such species;
>
> (C) Sell or offer for sale in interstate or foreign commerce any such species; or
>
> (D) Violate any regulation pertaining to such species or to any threatened species of plants listed pursuant to section 4 of this Act and promulgated by the Secretary pursuant to authority provided by the Act.

Threatened plant species would be subject to these same prohibitions under authority of section 4(d) of the Act, unless otherwise specified in a special rule.

It should be noted that these regulations impose no restrictions upon the "taking" of an Endangered or Threatened plant; the intrastate sale of such plants; or the interstate movement of such plants unless such movement is in the course of a commercial activity involving a change in ownership of the plant. In this context, the term "commercial activity" is defined in section 3(1) of the Act as follows:

> The term 'commercial activity' means all activities of industry and trade, including, but not limited to, the buying or selling of commodities and activities conducted for the purpose of facilitating such buying and selling.

The terms "industry and trade," as used in the above definition, are defined in the September 26, 1975, FEDERAL REGISTER (40 FR 44416) as follows:

> 'Industry or trade' in the definition of 'commerical activity' in the Act means the actual or intended transfer of wildlife or plants from one person to another person in the pursuit of gain or profit.

In the case of Endangered species of plants, section 10 of the Act and these regulations provide for the issuance of permits to carry out otherwise prohibited activities under certain circumstances. Such permits are available for scientific purposes or to enhance the propagation or survivial of the species. In some instances, permits may be issued during a specified period of time to relieve undue economic hardship which would be suffered if such relief were not available. For Threatened species of plants, permits are similarly provided pursuant to section 4(d) of the Act.

This rulemaking amends Parts 10, 13, and 17 of Subchapter B of Chapter I of Title 50 of the U.S. Code of Federal Regulations as described below.

(1) The title of Subchapter B is amended to make clear its applicability to certain plants as well as wildlife.

(2) Section 10.12 is amended by adding a definition of "Plant" to the existing list of definitions.

(3) Sections 13.3 and 13.12 are amended to include references to Endangered plant permits in addition to Endangered wildlife permits.

(4) Section 13.21(b)(4) is amended to require the Director to consider, when deciding whether to issue any permit pursuant to Part 13, whether any action authorized by such permit would pose any threat to any population of any plant or wildlife.

(5) Section 13.42 is amended to provide for the placement of specific, relevant information on the face of a permit authorizing certain activities relative to Endangered or Threatened plants as presently is the case for such permits involving wildlife.

(6) Section 13.46 is amended to specify the records that must be maintained by persons receiving permits to carry out activities involving Endangered or Threatened plants obtained from the wild.

(7) Section 13.47 is amended to allow the Director's agent, at any reasonable hour, to enter the premises where any Endangered or Threatened plant is maintained for the purposes of inspecting any such plant or to inspect, audit or copy any permits, books or records the permittee is required to maintain which relate to the plant in question.

The following comments pertain to amendments of Part 17. The current version of these regulations was published in the September 26, 1975, FEDERAL REGISTER (40 FR 44411).

(1) A new § 17.12 is added which explains the format and layout of the list of Endangered and Threatened plants. The format and layout of this list have been made as similar to those of the list of Endangered and Threatened wildlife (§ 17.11) as possible. This similarity should enable persons familiar with the list of Endangered and Threatened wildlife to more readily comprehend the list of Endangered and Threatened plants and vice versa.

(2) Section 17.50 is amended to make the similarity of appearance provisions of section 4(e) of the Act applicable to plants as well as wildlife.

(3) Section 17.51 is amended to authorize the treatment of any species of plant listed pursuant to § 17.50 as if it were an Endangered or Threatened species, as appropriate.

(4) Section 17.52 is amended to provide authority to issue permits for species of plants which have been listed pursuant to § 17.50 and are being treated as Endangered or Threatened species.

(5) A new Subpart F is provided which sets forth those prohibitions that apply to Endangered species of plants; delineates the procedures to apply for permits for exceptions to those prohibitions; outlines the criteria used in evaluating such applications; prescribes conditions which may be attached to the issuance of any such permit and specifies the duration for which such permits may be valid.

(6) A new Subpart G is provided which sets forth similar considerations for Threatened species of plants as are provided in Subpart F for Endangered species of plants.

SUMMARY OF CONTENTS

As has been previously discussed, the Service has published two proposed rulemakings and two notices of review concerning the listing of floral taxa under the Act. In addition, the Service published nearly concurrently proposed rulemakings for regulations to implement the Convention, and plant regulations for the Act. Many of the comments received discussed more than one of the proposed rulemakings or reviews. Included in those comments up to November 30, 1976, were over one hundred which specifically addressed the proposed plant regulations in the June 7, 1976, FEDERAL REGISTER (41 FR 22915). About fourteen of these were submitted by conservation groups, twenty-three by commercial enterprises and associations, four by private organizations, nineteen by Federal agencies, twenty-four by State and local agencies, and forty-seven by individuals (including professional biologists). Two individuals and representatives of twenty groups submitted testimony relevant to the plant regulations at the four public hearings announced in the July 2, 1976, FEDERAL REGISTER (41 FR 27381). Excerpts of testimony from the public hearings were featured in the September 1976 issue of the Service's Endangered Species Technical Bulletin.

The deadline for written comments was stated as August 9, 1976, in the proposed rulemaking; however, as numerous individuals submitted comments after the deadline, most additional comments received by April 30, 1977, were considered. This includes many comments that were not sent to the legal address designated in the proposed rulemaking. Any further questions or comments concerning these regulations should be addressed to the Director, U.S. Fish and Wildlife Service, Washington, D.C. 20420. The Service intends to review and, if necessary, revise these regulations in the future.

The Service responded to many comments received and those responses often resulted in a further exchange of ideas. Efforts made by the Service to elicit information from the public include dispersal of over 3500 copies of the proposal, announcements in the July and September 1976 issues of the Endangered Species Technical Bulletin, and presentations by Service botanists to professional and amateur organizations. In addition, the Service has conducted some studies to ascertain the degree of trade in many of the U.S. species likely to be determined as Endangered or Threatened under the Act.

In the June 16, 1976 FEDERAL REGISTER (41 FR 24367) regulations for the Convention on International Trade in Endangered Species of Wild Fauna and Flora (hereinafter, the Convention) were proposed. On page 24377 therein it was stated that: "When final rules are published, implementing the Convention, the lists of wildlife and plants in §§ 17.11 and 17.12 will be revised to include species listed in the Appendices to the Convention."

This statement was erroneously interpreted by many readers as meaning that those plants listed in Appendices I, II, and III of the Convention automatically would become listed as Endagered or Threatened under the Act. In consequence, all species which are listed in the Convention, such as orchids and cacti, would have been subject to the proposed regulations for the Act. Concern was expressed that regulations suitable for monitoring plants under the Act were in some cases inappropriate for the differing requirements of the Convention.

In developing regulations for the Convention, the Service never intended to automatically treat Convention plants as Endangered or Threatened under the Act. The Act does not allow such a listing procedure. Any designation of a taxon as Endangered or Threatened under the Act follows a well-outlined procedure that requires a proposed and final rulemaking (cf. House Committee on Merchant Marine and Fisheries, Serial No. 94–17, pp. 11 and 12, 1976). As the comments that were generated by this misinterpretation are relevant to the proposed regulations for the Convention these comments are addressed in the final regulations for the Convention, which were published in the February 22, 1977, FEDERAL REGISTER (42 FR 10461).

Several comments stated that the regulations proposed on June 7, 1976, were patterned after the existing regulations for animals (40 FR 44411). It was suggested that the proposal did not provide for the differences in the biology of plants and animals (including the ease of propagation of many plants) and that plants should, in certain cases, receive different treatment in their regulations under the Act. The Detroit Cactus and Succulent Society in a detailed comment dated August 4, 1976, expressed the opinion that there appeared to be "* * * inappropriate concern as to the comfort of the plant." As an example the Society cited § 17.72(a)(6)(iv) of the proposed regulations where detailed requirements concerning the description of containers and care of plants during transport or storage were proposed.

It was often suggested that, for plants, the types and amount of information required to obtain a permit were in many cases in appropriate or excessive. One commercial cactus nursery, in a letter dated July 9, 1976, stated that "* * * nurseries are forced, not by pages and pages of regulations, but by economic necessity to produce healthy well cared for plants in order to survive in the highly competitive business." In addition, it was mentioned that the mandatory requirement of detailed reports on the permittee's activities were often unnecessary and would yield no usable or meaningful data. Groups such as the Greater New York Orchid Society also expressed concern that the current system for issuing permits for animals was too slow to be acceptable for the probable greater number of transactions involving plants.

The Service recognizes that the care and shipping of many plants often require less complicated and more uniform procedures and facilities than those for animals. As a result, such requirements have been modified in the final regulations to more adequately reflect the needs of plants. These and other modifications of the regulations discussed below should provide the Service with the

information necessary to provide for the expedient issuance of permits for plants.

A large number of comments expressed concern about the lack of any provisions in the proposed regulations to prohibit the destruction of the habitat of Endangered and Threatened plants. Although this problem was not appropriate for the proposed regulations relating to section 9(a)(2) and section 4(d) prohibitions on interstate and foreign commerce, and import and export of such plants, there are provisions in the Act for the conservation of the ecosystems upon which these plants depend. Determination that a plant is an Endangered or Threatened species also would make it eligible for the protection provided by section 7 of the Act, which reads as follows:

> The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act. All other Federal departments and agencies shall, in consultation with and with the assistance of the Secretary, utilize their authorities in furtherance of the purposes of this Act by carrying out programs for the conservation of endangered species and threatened species listed pursuant to section 4 of this Act and by taking such action necessary to insure that actions authorized, funded, or carried out by them do not jeopardize the continued existence of such endangered species and threatened species or result in the destruction or modification of habitat of such species which is determined by the Secretary, after consultation as appropriate with the affected States, to be critical.

There was little indication in the comments that the public is aware of such provisions in the Act. Regulations were proposed in the January 26, 1977, FEDERAL REGISTER (42 FR 4868 and 42 FR 4873), to assist Federal agencies in complying with section 7 and include the procedures for determining Critical Habitat. The Critical Habitats for two plant taxa were proposed in the February 8, 1977, FEDERAL REGISTER (42 FR 7972).

In addition, many comments questioned the lack of any taking prohibition in the proposed regulations, and some suggested that the lack of such a prohibition may be a reason for keeping information on the localities of some taxa secret. The "taking" of plants is not prohibited by section 9(a)(2) of the Act and, therefore, cannot be included within these regulations. However, the "taking of plants is sometimes regulated by local, State, or Federal agencies under other legislation, and the Federal responsibilities under section 7 apply if taking of individual plants would jeopardize the continued existence of the Endangered or threatened species.

Both private citizens and commercial firms stated that the regulations would inhibit normal activities involving interstate and international commerce in endangered and threatened plants. Most such comments recommended prohibition of commercial activities based on the taking of such wild plants; however, it was stated that the exchange of seeds and cultivated specimens of such plants would result in little adverse impact on the populations in the wild. In fact, it was emphasized that such activities were generally beneficial. The Service is aware that they relieve collecting pressure on wild populations, serve as a reservoir for the reintroduction of such species into the wild, and encourage the survival of the germplasm of the species at least in cultivation. An example cited among others by the Men's Garden Clubs of America in a letter dated August 4, 1976, was the reintroduction of *Peperomia humilis* into a former habitat in Florida after the wild population was destroyed by a hurricane. Fortunately, plants were in cultivation and available for the reintroduction. As indicated earlier, the Service recognizes the beneficial and educational aspects of activities with seeds and cultivated plants, which generally enhance the propagation of the species, and therefore would satisfy permit requirements under the Act. The Service intends to monitor the interstate and foreign commerce and import and export of endangered and threatened plants in a manner which will not inhibit such activities, providing the activities do not represent a threat to the survival of the species in the wild. In this regard, seeds of cultivated specimens of threatened species will not be regulated (except by special rule), provided that it is indicated they are of cultivated origin.

Several comments, including one from the Sierra Club dated August 5, 1976, suggested that intrastate sale be prohibited for endangered and threatened plants. The Act does not provide for such a prohibition, although it may be addressed in State law.

Concern also was expressed that the proposed regulations would inhibit scientific research, including the exchange of herbarium specimens. The Missouri Botanical Garden in a statement dated August 6, 1976, noted that many herbarium specimens cannot be identified until proper facilities are available. In such cases a botanist would not be able to guarantee that such collections imported into the United States did not contain preserved specimens of endangered or threatened plants. Recognizing this problem, herbarium specimens, and other preserved, dried and embedded museum specimens, are regulated minimally herein in a manner parallel to the Convention. Furthermore, the activity in such specimens can promote scientific purposes which may ultimately benefit the species. In addition, permits are available for the import or export of live endangered or threatened plants used for scientific research when such activities do not conflict with the purposes and policy of the Act. As the Act does not prohibit all taking of such plants nor their noncommercial interstate transport, the Service does not believe these regulations will have an adverse impact on scientific research.

Finally, some concern was expressed regarding the intended use of the "Similarity of Appearance" provision. Designating a species as Endangered or Threatened under this provision requires a proposal and a final rulemaking in the FEDERAL REGISTER. The proposal would reflect the continuing difficulty experienced by enforcement personnel in attempts to differentiate similar species after full consultation with specialists. Following the proposal is a 60-day comment period. A final rulemaking listing such species as endangered or threatened will only be made after full consideration of the comments received and the criteria in section 4(e) of the Act.

There were several requests for a longer comment period and more public hearings. The Service has evaluated the many additional comments that were received in the several months since the legal deadline, and has taken additional steps to solicit comments and data. As a result, these final regulations more fully address the regulatory consequences of the differences between the biology of plants and animals and should not inhibit the continuance of activities which do not endanger the survival of endangered and threatened species in the wild. Because of this extensive review and the resultant modifications, the Service does not feel additional hearings are necessary. However, the Service welcomes any questions or additional comments on these regulations and their implementation.

EFFECTS OF THE RULEMAKING

This rulemaking implements certain sections of the Endangered Species Act of 1973 for plants. The principal effect of the rulemaking upon any person subject to the jurisdiction of the United States is to establish the procedures required for the application and issuance of permits to allow certain activities which are otherwise prohibited for endangered and threatened species of plants.

It is illegal, except by permit, to import or export, or to deliver, receive, carry, transport, or ship in interstate or foreign commerce in the course of a commercial activity, or to sell or offer for sale in interstate or foreign commerce, any such plant. In the case of endangered species, such permits are available for scientific purposes or to enhance the propagation or survival of the species. In some instances, permits may be issued for a specified time to relieve undue economic hardship which would be suffered if such relief were not available. In the case of threatened species, permits may be issued for scientific purposes, enhancement of propagation or survival of the species, economic hardship, botanical or horticultural exhibition, educational purposes, or other activities consistent with the purposes and policy of the Act.

It should be recalled that these regulations impose no restrictions upon the "taking" of endangered or threatened plants, their intrastate sale, nor their interstate movement when such movement is not in the course of a commercial activity involving a change in ownership of the plant in the pursuit of gain or profit. Additionally, for the reasons indicated in the summary of comments, application requirements differ for the issuance of a permit for activities dealing with such plants obtained from the wild (excluding

seeds), seeds and cultivated plants, and herbarium specimens. The permit may authorize a single activity or a series of activities over a specified period of time.

This rulemaking is issued under the authority contained in the Endangered Species Act of 1973 (16 U.S.C. 1531–1543; 87 Stat. 884). The Service has reviewed the National Environmental Policy Act and the Council on Environmental Quality's Guidelines on the Preparation of Environmental Impact Statements, and has determined that these procedural regulations are not a major Federal action significantly affecting the human environment. Therefore, an environmental impact statement is not required. Considering the long period during which the proposal on these regulations has been available, and that no plants currently are listed as endangered or threatened species, these amendments will become effective in one month, as indicated earlier. This rulemaking was prepared primarily by Dr. Bruce MacBryde and Mr. Roger E. McManus, Office of Endangered Species.

NOTE.—The Department of the Interior 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: May 10, 1977.

LYNN A. GREENWALT,
Director,
Fish and Wildlife Service.

Accordingly, Parts 10, 13 and 17, Subchapter B, Chapter 1 of Title 50, Code of Federal Regulations are amended as follows:

PART 10—GENERAL PROVISIONS

The title of Subchapter B is changed by adding "and Plants" to read "Subchapter B—Taking, Possession, Transportation, Sale, Purchase, Barter, Exportation, and Importation of Wildlife and Plants."

§ 10.12 [Amended]

In § 10.12 the following definition is added between the definitions of "Person" and "Possession."

"'Plant' means any member of the plant kingdom, including seeds, roots and other parts thereof."

PART 13—GENERAL PERMIT PROCEDURES

§ 13.3 [Amended]

In § 13.3 "and Plants" is added to the phrase "Endangered Wildlife" to read "Endangered Wildlife and Plants."

§ 13.12 [Amended]

§§ 13.12(a)(2) and 13.12(a)(6) "or plants" is inserted after the word "wildlife."

In the list of permits in § 13.12(b) the entry under "Endangered wildlife permits" is changed to read as follows:

Endangered wildlife and plant permits:	
Similarity of appearance	17.52
Scientific, propagation, or survival for wildlife	17.22
Scientific, propagation, or survival for plants	17.62
Economic hardship for wildlife	17.23
Economic hardship for plants	17.63
Threatened wildlife and plant permits:	
Similarity of appearance	17.52
General for wildlife	17.32
General for plants	17.72
Captive self-sustaining populations (wildlife only)	17.33

§ 13.21 [Amended]

In § 13.21(b)(4) "or plant" is inserted between the words "wildlife" and "population" to read: "The authorization requested potentially threatens a wildlife or plant population, or * * *"

§ 13.42 [Amended]

In § 13.42 "or plants" is inserted between the word "wildlife" and the comma that follows to read "* * * dates, places, methods of taking, numbers and kinds of wildlife or plants, location of activity, * * *"

§ 13.46 [Amended]

In § 13.46 insert "plants obtained from the wild or" between the words "of" and "wildlife" in the first sentence. Substitute the words "plant obtained from the wild or wildlife" for the word "wildlife" in the second sentence. The amended portions of these sentences then would read:

"* * * shall maintain complete and accurate records of any taking, possession, transportation, sale, purchase, barter, exportation, or importation of plants obtained from the wild (excluding seeds) or wildlife pursuant to such permit." and,

"* * * persons with whom any plant obtained from the wild (excluding seeds) or wildlife has been purchased, sold, * * *" respectively.

§ 13.47 [Amended]

In § 13.47 "or plant" is inserted between the words "wildlife" and "held" to read: "* * * enter his premises at any reasonable hour to inspect any wildlife or plant held or to inspect, audit, * * *"

PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

The previously "reserved" § 17.12 should now be added to read as follows:

§ 17.12 Endangered and threatened plants.

(a) The list in this section contains all species of plants which are determined by the Director to be Endangered or Threatened. It also contains species of plants treated as Endangered or Threatened because they are similar in appearance to an Endangered or Threatened species (see Subpart E).

(b) The column entitled "Scientific name" defines the "species" of plants within the meaning of the Act. The prohibitions in the Act and in this Part 17 apply to all specimens of the "species" listed, wherever they are found, and to their progeny. Although common names often are included in the "Common name" column, they cannot be relied upon for identification of any specimen, since such names vary greatly in local usage.

(c) If the "Status" column has an "E," that species is thereby designated as Endangered. If the "Status" column has a "T," that species is thereby designated as Threatened. The addition of the letters "(S/A)" indicates that the reason for treating the species as Endangered or Threatened is its similarity of appearance (see Subpart E).

(d) The "Known distribution" column will indicate the normal, known distribution of a species. This column does not imply any limitation on the application of the prohibitions in the Act and in this Part 17. Such prohibitions apply to all specimens of the species, wherever found.

(e) The Act requires that the species must be Endangered or Threatened over all or a significant portion of its range in order to be listed. The column entitled "Portion of the range where Endangered or Threatened" designates that portion of the range of the species over which it is Endangered or Threatened. When a species is listed because it is similar in appearance to an Endangered or Threatened species, this requirement does not apply. Therefore, the notation "N/A" (not applicable) will appear in this column.

(f) The "When listed" column provides a footnote reference to the FEDERAL REGISTER publication actually listing the species. That publication will include a statement indicating the basis for the current status.

(g) The "Special rules" column is a reference to any special rules. The notation "N/A" (not applicable) appearing in this column indicates that there are no such special rules which apply to that species; however, all other appropriate rules in this Part 17 still apply to that species. In addition, there may be other rules in this Subchapter B that also relate to such plants. It is not intended that the references in the "Special rules" column list all the regulations of the Service or other Federal, State or local agencies which might apply to the plant in question.

(h) The listing of a particular taxonomic group (taxon) includes all its lower taxonomic groups. Example: If the genus *Lewisia* were listed, all species, subspecies and varieties of that genus would be considered to be listed. If the species *Lewisia columbiana* were listed, all its varieties would be considered to be listed.

Subpart E—Similarity of Appearance

Sections 17.50, 17.51 and 17.52 are amended to read as follows:

§ 17.50 General.

(a) Whenever a species which is not Endangered or Threatened closely resembles an Endangered or Threatened species, such species may be treated as either Endangered or Threatened if the Director makes such determination in accordance with Section 4(e) of the Act and the criteria of paragraph (b) of this

section. After the Director has made such determination in accordance with the notification procedures specified in the Act, such species shall appear in the list in § 17.11 (Wildlife) or § 17.12 (Plants) with the notation "(S/A)" (similarity of appearance) in the "Status" column, following either a letter "E" or a letter "T" to indicate whether the species is being treated as Endangered or Threatened.

(b) In determining whether to treat a species as Endangered or Threatened due to similarity of appearance the Director shall consider the criteria in Section 4 (e) of the Act, as indicated below:

(1) The degree of difficulty enforcement personnel would have in distinguishing the species, at the point in question, from an Endangered or Threatened species (including those cases where the criteria for recognition of a species are based upon geographical boundaries);

(2) The additional threat posed to the Endangered or Threatened species by the loss of control occasioned because of the similarity of appearance; and

(3) The probability that so designating a similar species will substantially facilitate enforcement and further the purposes and policy of the Act.

Example 1. The ABC sparrow is Endangered wildlife. The ABD sparrow is a subspecies that is so similar to the ABC sparrow that the two cannot readily be distinguished by enforcement personnel. After following the proper procedures, the ABD sparrow is listed in § 17.11 as follows:

Species and range

Common name	Scientific name	Population	Known distribution	Portion of range where endangered or threatened	Status	When listed	Special rules
ABC sparrow	*ABCus*	NA	North America	Entire	E	7	NA
ABD sparrow	*ABDus*	NA	do	NA	E(S/A)	7	NA

Example 2.—Suppose the ABC sparrow is listed as Endangered in only a portion of its range. Within the meaning of the Act, the ABC sparrow as defined by geographic boundaries is a species. The ABC sparrow which occurs beyond those boundaries is a different species, even though it is identical, except in location, to the listed species. If the criteria of this section were met, the two species would be listed as follows:

Species and range

Common name	Scientific name	Population	Known distribution	Portion of range where endangered or threatened	Status	When listed	Special rules
ABC sparrow	*ABCus*	Idaho	Idaho	Entire	E	7	NA
Do	do	NA	United States	NA	E(S/A)	7	NA

Example 3. The XY cactus has been determined to be an Endangered species. The XZ cactus so closely resembles the XY cactus that enforcement personnel cannot distinguish between the two. The Endangered XY cactus could be illegally sold as the non-endangered XZ species, thus posing an additional threat to the Endangered species. After following the proper procedures, the XZ cactus would be placed on the list and treated as though it was an Endangered species. This entry would appear as follows:

Species and range

Scientific name	Common name	Known distribution	Portion of range where endangered or threatened	Status	When listed	Special rules
XYus	XY cactus	Arizona	Entire	E	7	NA
XZus	do	Arizona and Mexico	NA	E(S/A)	8	NA

§ 17.51 Treatment as endangered or threatened.

(a) Any species listed in § 17.11 or § 17.12 pursuant to § 17.50, shall be treated as Endangered or Threatened as indicated in the "Status" column.

(b) All of the provisions of Subparts C (Endangered Wildlife), D (Threatened Wildlife), F (Endangered Plants) or G (Threatened Plants), as appropriate, shall apply to any such species.

§ 17.52 Permits—similarity of appearance.

Upon receipt of a complete application and unless otherwise indicated in a special rule, the Director may issue permits for any activity otherwise prohibited with a species treated as Endangered or Threatened due to its similarity of appearance. Such a permit may authorize a single transaction, a series of transactions, or a number of activities over a specified period of time.

(a) *Application requirements.* An application for a permit under this section must be submitted to the Director by the person who wishes to engage in the prohibited activity. The permit for activities involving interstate commerce of plants must be obtained by the seller; in the case of wildlife, the permit must be obtained by the buyer. The application must be submitted on an official application form (Form 3-200) provided by the Service, or must contain the general information and certification required by § 13.12(a) of this subchapter. It must include as an attachment all of the following information: documentary evidence, sworn affidavits, or other information to show species identification and the origin of the wildlife or plant in question. This information may be in the form of hunting licenses, hide seals, official stamps, export documents, bills of sale, certification, expert opinion, or other appropriate information.

(b) *Issuance criteria.* Upon receiving an application completed in accordance with paragraph (a) of this section, the Director will decide whether or not a permit should be issued. In making his decision, the Director shall consider the general criteria in § 13.21(b) of this subchapter and the following factors:

(1) Whether the information submitted by the applicant appears reliable;

(2) Whether the information submitted by the applicant adequately identifies the wildlife or plant in question so as to distinguish it from any Endangered or Threatened wildlife or plant.

(c) *Permit conditions.* In addition to the general conditions set forth in Part 13 of this subchapter, every permit issued under this section shall be subject to the following special conditions:

(1) If indicated in the permit, a special mark, to be specified in the permit, must be applied to the wildlife or plant, and remain for the time designated in the permit;

(2) A copy of the permit or an identification label, which includes the scientific name and the permit number, must accompany the wildlife or plant or its container during the course of any activity subject to these regulations.

(d) *Duration of permit.* The duration of a permit issued under this section shall be designated on the face of the permit.

Add a new Subpart F, consisting of §§ 17.61, 17.62, and 17.63 and reading as follows:

Subpart F—Endangered Plants

§ 17.61 Prohibitions.

(a) Except as provided in a permit issued pursuant to § 17.62 or § 17.63, it is unlawful for any person subject to the jurisdiction of the United States to commit, to attempt to commit, to solicit another to commit, or to cause to be committed, any of the acts described in paragraphs (b) through (d) of this section in regard to any Endangered plant.

(b) *Import or export.* It is unlawful to import or to export any Endangered plant. Any shipment in transit through the United States is an importation and an exportation, whether or not it has entered the country for customs purposes.

(c) *Interstate or foreign commerce.* It is unlawful to deliver, receive, carry, transport, or ship in interstate or foreign commerce, by any means whatsoever, and in the course of a commercial activity, an endangered plant.

(d) *Sale or offer for sale.* (1) It is unlawful to sell or to offer for sale in interstate or foreign commerce any endangered plant.

(2) An advertisement for the sale of any endangered plant which carries a warning to the effect that no sale may be consummated until a permit has been obtained from the Service, shall not be

considered an offer for sale within the meaning of this subsection.

§ 17.62 Permits for scientific purposes or for the enhancement of propagation or survival.

Upon receipt of a complete application the Director may issue a permit authorizing any activity otherwise prohibited by § 17.61, in accordance with the issuance criteria of this section, for scientific purposes or for enhancing the propagation or survival of endangered plants. (See § 17.72 for permits for threatened plants.) Such a permit may authorize a single transaction, a series of transactions, or a number of activities over a specified period of time.

(a) *Application requirements.* An application for a permit under this section must be submitted to the Director by the person who wishes to engage in the prohibited activity. The permit for activities involving interstate commerce must be obtained by the seller if the plants are derived from cultivated stock, and by the buyer if the plants are taken from the wild. The application must be submitted on an official application form (Form 3–200) provided by the Service, or must contain the general information and certification required by § 13.12(a) of this subchapter. Requirements differ for the issuance of a permit for activities dealing with plants obtained from the wild (excluding seeds), seeds and cultivated plants, or herbarium specimens. The applicant must provide in an attachment the information required below and any other information that is requested by the Director.

(1) For activities involving plants obtained from the wild (excluding seeds), provide the following information:

(i) The scientific names of the plants sought to be covered by the permit;

(ii) The estimated number of specimens sought to be covered by the permit;

(iii) The year, country, and approximate place where taking occurred or will occur;

(iv) The name and address of the institution or other facility where the plant sought to be covered by the permit will be used or maintained;

(v) A brief description of the applicant's expertise and facilities as related to the proposed activity;

(vi) A statement of the applicant's willingness to participate in a cooperative propagation program, and to maintain or contribute data relating to such efforts; and

(vii) A statement of the reasons why the applicant is justified in obtaining the permit, including:

(A) The activities sought to be authorized by the permit and the relationship of such activities to scientific purposes or enhancing the propagation or survival of the species; and

(B) The planned disposition of such plant upon termination of the activities sought to be authorized.

(2) For activities involving seeds and cultivated plants, provide the following information:

(i) The scientific names of the plants sought to be covered by the permit;

(ii) A statement of the applicant's willingness to participate in a cooperative propagation program, and to maintain or contribute data relating to the success of such efforts;

(iii) A justification of the activities sought to be authorized by the permit and the relationship of such activities to scientific purposes or enhancing the propagation or survival of the species; and

(iv) If the activities would involve seeds obtained from the wild, additional information to evaluate the effects of such taking upon the reproductive potential of the species where the taking will occur.

(3) For importation or exportation involving the non-commercial loan, exchange, or donation of herbarium or other preserved, dried, or embedded museum specimens of any endangered species between scientists or scientific institutions, provide the following information:

(i) The name and address of the institution or other facility where the plants sought to be covered by the permit will be used or maintained; and

(ii) A justification of the activities sought to be authorized by the permit and the relationship of such activities to scientific purposes or enhancing the propagation or survival of the species.

(4) If the activity sought to be authorized is with a species also regulated by the Convention on International Trade in Endangered Species of Wild Fauna and Flora, additional requirements as indicated in § 23.15(c) of Part 23 of this subchapter must be met. For the convenience of the applicant, § 23.15 (c) is repeated here:

Applications for permits or certificates under this section must be submitted to the Director by any person subject to the jurisdiction of the United States who wishes to engage in the activity. Each application must be submitted on an official application form (Form 3–200) provided by the Service, or must contain the general information and certification required by § 13.12(a) of this subchapter, and must include, as an attachment, as much of the following information as relates to the purpose for which the applicant is requesting a permit or certificate.

(1) The scientific and common names of the species (or taxa to the rank listed in Appendix I, II, or III) sought to be covered by the permit, the number of wildlife or plants, and the activity sought to be authorized (such as importing, exporting, re-exporting, etc.);

(2) A statement as to whether the wildlife or plant, at the time of application, (i) is living in the wild, (ii) is living but is not in the wild, or (iii) is dead;

(3) A description of the wildlife or plant, including (i) size, (ii) sex (if known), and (iii) type of goods, if it is a part or derivative;

(4) In the case of living wildlife or plants, (i) a description of the type, size and construction of any container the wildlife or plant will be placed in during transportation; and (ii) the arrangements for watering and otherwise caring for the wildlife or plant during transportation;

(5) The name and address of the person in a foreign country to whom the wildlife or plant is to be exported from the United States, or from whom the wildlife or plant is to be imported into the United States;

(6) The country and place where the wildlife or plant was or is to be taken from the wild;

(7) In the case of wildlife or plants listed in Appendix I to be imported into the United States, (i) a statement of the purposes and details of the activities for which the wildlife or plant is to be imported; (ii) a brief resume of the technical expertise of the applicant or other persons who will care for the wildlife or plant; (iii) the name, address and a description, including diagrams or photographs, of the facility where the wildlife or plant will be maintained; and (iv) a description of all mortalities, in the two years preceding the date of this application, involving any wildlife species covered in the application (or any species of the same genus or family) held by the applicant, including the causes and steps taken to avoid such mortalities; and

(8) Copies of documents, sworn affidavits or other evidence showing that either (i) the wildlife or plant was acquired prior to the date the Convention applied to it, or (ii) the wildlife or plant was bred in captivity or artificially propagated, or was part of or derived therefrom, or (iii) the wildlife or plant is an herbarium specimen, other preserved, dried or embedded museum specimen, or live plant material to be imported, exported or re-exported as a non-commercial loan, donation or exchange between scientists or scientific institutions.

(b) *Issuance criteria.* Upon receiving an application completed in accordance with paragraph (a) of this section, the Director will decide whether or not a permit should be issued. In making his decision, the Director shall consider, in addition to the general criteria in § 13.21 (b) of this subchapter, the following factors:

(1) Whether the purpose for which the permit is requested will enhance the survival of the species in the wild;

(2) Whether the purpose for which the permit is requested will enhance the propagation of the species;

(3) The opinions or views of scientists or other persons or organizations having expertise concerning the plant or other matters germane to the application; and

(4) Whether the expertise, facilities, or other resources available to the applicant appear adequate to successfully accomplish the objectives stated in the application.

(c) *Permit conditions.* In addition to the general conditions set forth in Part 13 of this subchapter, every permit issued under this section shall be subject to the following special conditions:

(1) If requested, the permittee shall submit to the Director a written report of the activities authorized by the permit. Such report must be postmarked by the date specified in the permit or otherwise requested by the Director.

(2) A copy of the permit or an identification label, which includes the scientific name, the permit number, and a statement that the plant is of "wild origin" or "cultivated origin" must accompany the plant or its container during the course of any activity subject to these regulations, unless the specimens meet the special conditions referred to in paragraph (c)(3) of this subsection.

(3) In the case of plants that are herbarium specimens, or other preserved, dried or embedded museum specimens to be imported or exported as a noncommercial loan, exchange or donation between scientists or scientific institutions, the names and addresses of the consignor and consignee must be on each package or container. A description such as "herbarium specimens" and the code letters assigned by the Service to the scientists or scientific institution must be entered on the Customs declaration form affixed to each package or container If the specimens are of taxa also regulated by the Convention on International Trade in Endangered Species of Wild Fauna and Flora, the letters "CITES" (acronym for the Convention) also must be entered on the Customs declaration form, as indicated in § 23.15(e)(3) of Part 23 of this subchapter.

(d) *Duration of permit.* The duration of a permit issued under this section shall be designated on the face of the permit.

§ 17.63 Economic hardship permits.

Upon receipt of a complete application, the Director may issue a permit authorizing any activity otherwise prohibited by § 17.61, in accordance with Section 10(b) of the Act and the issuance criteria of this section, in order to prevent undue economic hardship. No such exemption may be granted for the importation or exportation of a species also listed in Appendix I of the Convention on International Trade in Endangered Species of Wild Fauna and Flora, if the specimen would be used in a commercial activity.

(a) *Application requirements.* An application for a permit under this section must be submitted to the Director by the person allegedly suffering undue economic hardship because his desired activity is prohibited. The application must be submitted on an official application form (Form 3–200) provided by the Service, or must contain the general information and certification required by § 13.12 (a) of this subchapter. It must include, as an attachment, all of the information required in § 17.62 plus the following additional information.

(1) The possible legal or economic alternatives to the activity sought to be authorized by the permit.

(2) A full statement, accompanied by copies of all relevant correspondence, showing the applicant's involvement with the plant sought to be covered by the permit (as well as his involvement with similar plants). The applicant should include information on that portion of his income derived from activities involving such plants in relation to the balance of his income during the calendar year immediately preceding either the FEDERAL REGISTER notice of review of the status of the species or proposed rulemaking to list the species as Endangered, whichever is earlier.

(3) Where applicable, proof of a contract or other binding legal obligation which:

(i) Deals specifically with the plant sought to be covered by the permit;

(ii) Became binding prior to the date of the FEDERAL REGISTER notice of review of the status of the species or proposed rulemaking to list the species as endangered, whichever is earlier; and

(iii) Will cause monetary loss of a given dollar amount if the permit sought under this section is not granted.

(b) *Issuance criteria.* Upon receiving an application completed in accordance with paragraph (a) of this section, the Director will decide whether or not a permit should be issued for economic hardship, as defined in Section 10(b) of the Act. In making his decision, the Director shall consider, in addition to the general criteria in § 13.21(b) of this subchapter, the following factors:

(1) Whether the purpose for which the permit is requested will significantly affect the survival of the species in the wild;

(2) The economic, legal, or other alternatives or relief available to the applicant;

(3) The amount of evidence that the applicant was in fact party to a contract or other binding legal obligation which:

(i) Deals specifically with the plant sought to be covered by the permit; and

(ii) Became binding prior to the date of the FEDERAL REGISTER notice of review of the status of the species or proposed rulemaking to list the species as endangered, whichever is earlier;

(4) The severity of economic hardship which the contract or other binding legal obligation referred to in paragraph (b)(3) of this subsection would cause if the permit were denied;

(5) Where applicable, the portion of the applicant's income which would be lost if the permit were denied, and the relationship of that portion to the balance of his income.

(c) *Permit conditions.* In addition to the general conditions set forth in Part 13 of this subchapter, every permit issued under this section may be subject to any of the following special conditions:

(1) If requested, the permittee shall submit to the Director a written report of the activities authorized by the permit. Such report must be postmarked by the date specified in the permit or otherwise requested by the Director.

(2) If requested, the permittee shall report to the Service's office designated in the permit the death, destruction or loss of all living plants covered by the permit. Such report must be postmarked by the date specified in the permit or otherwise requested by the Director.

(d) *Duration of permit.* The duration of a permit issued under this section shall be designated on the face of the permit. No permit issued under this section shall be valid for more than one year from the date of a FEDERAL REGISTER notice of review of the status of the species or proposed rulemaking to list the species as endangered, whichever is earlier.

Add a new Subpart G, consisting of §§ 17.71 and 17.72 and reading as follows:

Subpart G—Threatened Plants

§ 17.71 Prohibitions.

(a) Except as provided in Subpart A of this part, or in a permit issued under this subpart, all of the provisions in § 17.61 shall apply to Threatened plants, with the following exception. Seeds of cultivated specimens of species treated as threatened shall be exempt from all the provisions of § 17.61, provided that a statement that the seeds are of "cultivated origin" accompanies the seeds or their container during the course of any activity otherwise subject to these regulations.

(b) Whenever a special rule in §§ 17.73 to 17.78 applies to a threatened species, none of the provisions of paragraph (a) of this section will apply. The special rule will contain all the applicable prohibitions and exceptions. If indicated by special rule, the exception for seeds in paragraph (a) of this section shall not apply to the threatened species.

§ 17.72 Permits—general.

Upon receipt of a complete application, the Director may issue a permit authorizing any activity otherwise prohibited with regard to threatened plants. The permit shall be governed by the provisions of this section unless a special rule applicable to the plant is provided in §§ 17.73 to 17.78. A permit issued under this section must be for one of the following: scientific purposes, the enhancement of the propagation or survival of the threatened species, economic hardship, botanical or horticultural exhibition, educational purposes, or other activities consistent with the purposes and policy of the Act. Such a permit may authorize a single transaction, a series of transactions, or a number of activities over a specified period of time.

(a) *Application requirements.* An application for a permit under this section must be submitted to the Director by the person who wishes to engage in the prohibited activity. The permit for activities involving interstate commerce must be obtained by the seller if the plants are derived from cultivated stock, and by the buyer if the plants are taken from the wild. The application must be submitted on an official application form (Form 3–contain the general information and 200) provided by the Service or must contain the general information and certification required by § 13.12(a) of this subchapter. Requirements differ for the issuance of a permit for activities dealing with plants obtained from the wild (excluding seeds), seeds obtained from the wild and cultivated plants, or herbarium specimens. The applicant must provide in an attachment the information required below and any other information that is requested by the Director.

(1) For activities involving plants obtained from the wild (excluding seeds), provide the following information:

(i) The scientific names of the plants sought to be covered by the permit;

(ii) The estimated number of specimens sought to be covered by the permit;

(iii) The year, country, and approximate place where taking occurred or will occur;

(iv) A brief description of the applicant's expertise and facilities as related to the proposed activity;

(v) A justification of the activities sought to be authorized by the permit and the relationship of such activities to scientific purposes, enhancing the propagation or survival of the species, or other objectives consistent with the purposes and policy of the Act; and

(vi) A statement of the applicant's willingness to participate in a cooperative propagation program, and to maintain or contribute data relating to such efforts.

(2) For activities involving seeds obtained from the wild and cultivated plants, provide the following information:

(i) The scientific names of the plants sought to be covered by the permit;

(ii) A statement of the applicant's willingness to participate in a cooperative propagation program, and to maintain or contribute data relating to the success of such efforts; and

(iii) A justification of the activities sought to be authorized by the permit and the relationship of such activities to scientific purposes, enhancing the propagation or survival of the species, or other objectives consistent with the purposes and policy of the Act.

(3) For importation or exportation involving the non-commercial loan, exchange or donation of herbarium or other preserved, dried or embedded museum specimens of all threatened species between scientists or scientific institutions, provide the following information:

(i) The name and address of the institution or other facility where the plants sought to be covered by the permit will be used or maintained; and

(ii) A justification of the activities sought to be authorized by the permit and the relationship of such activities to scientific purposes, enhancing the propagation or survival of the species, or other objectives consistent with the purposes and policy of the Act.

(4) If the activity sought to be authorized is with a species also regulated by the Convention on International Trade in Endangered Species of Wild Fauna and Flora, additional requirements as indicated in § 23.15(c) of Part 23 of this subchapter must be met. For the convenience of the applicant, § 23.15 (c) is repeated here:

Applications for permits or certificates under this section must be submitted to the Director by any person subject to the jurisdiction of the United States who wishes to engage in the activity. Each application must be submitted on an official application form (Form 3-200) provided by the Service, or must contain the general information and certification required by § 13.12(a) of this subchapter, and must include, as an attachment, as much of the following information as relates to the purpose for which the applicant is requesting a permit or certificate.

(1) The scientific and common names of the species (or taxa to the rank listed in Appendix I, II or III) sought to be covered by the permit, the number of wildlife or plants, and the activity sought to be authorized (such as importing, exporting, reexporting, etc.);

(2) A statement as to whether the wildlife or plant, at the time of application, (i) is living in the wild, (ii) is living but is not in the wild, or (iii) is dead;

(3) A description of the wildlife or plant, including (i) size, (ii) sex (if known), and (iii) type of goods, if it is a part or derivative;

(4) In the case of living wildlife or plants, (i) a description of the type, size and construction of any container the wildlife or plant will be placed in during transportation; and (ii) the arrangements for watering and otherwise caring for the wildlife or plant during transportation;

(5) The name and address of the person in a foreign country to whom the wildlife or plant is to be exported from the United States, or from whom the wildlife or plant is to be imported into the United States;

(6) The country and place where the wildlife or plant was or is to be taken from the wild;

(7) In the case of wildlife or plants listed in Appendix I to be imported into the United States, (i) a statement of the purposes and details of the activities for which the wildlife or plant is to be imported; (ii) a brief resume of the technical expertise of the applicant or other persons who will care for the wildlife or plant; (iii) the name, address and a description, including diagrams or photographs, of the facility where the wildlife or plant will be maintained; and (iv) a description of all mortalities, in the two years preceding the date of this application, involving any wildlife species covered in the application (or any species of the same genus or family) held by the applicant, including the causes and steps taken to avoid such mortalities; and

(8) Copies of documents, sworn affidavits, or other evidence showing that either (i) the wildlife or plant was acquired prior to the date the Convention applied to it, or (ii) the wildlife or plant was bred in captivity, or artificially propagated, or was part of or derived therefrom, or (iii) the wildlife or plant is an herbarium specimen, other preserved, dried, or embedded museum specimen, or live plant material to be imported, exported, or re-exported as a non-commercial loan, donation, or exchange between scientists or scientific institutions.

(b) *Issuance criteria.* Upon receiving an application completed in accordance with paragraph (a) of this section, the Director will decide whether or not a permit should be issued. In making his decision, the Director shall consider, in addition to the general criteria in § 13.21(b) of this subchapter, the following factors:

(1) Whether the purpose for which the permit is requested will enhance the survival of the species in the wild;

(2) Whether the purpose for which the permit is requested will enhance the propagation of the species;

(3) The opinions or views of scientists or other persons or organizations having expertise concerning the plant or other matters germane to the application; and

(4) Whether the expertise, facilities, or other resources available to the applicant appear adequate to successfully accomplish the objectives stated in the application.

(c) *Permit conditions.* In addition to the general conditions set forth in Part 13 of this subchapter, every permit issued under this section shall be subject to the following special conditions:

(1) If requested, the permittee shall submit to the Director a written report of the activities authorized by the permit. Such report must be postmarked by the date specified in the permit or otherwise requested by the Director.

(2) A copy of the permit or an identification label, which includes the scientific name, the permit number, and a statement that the plant is of "wild origin" or "cultivated origin" must accompany the plant or its container during the course of any activity subject to these regulations, unless the specimens meet the special conditions referred to in paragraph (c)(3) of this subsection.

(3) In the case of plants that are herbarium specimens, or other preserved, dried, or embedded museum specimens to be imported or exported as a non-commercial loan exchange or donation between scientists or scientific institutions, the names and addresses of the consignor and consignee must be on each package or container. A description such as "herbarium specimens" and the code letters assigned by the Service to the scientist or scientific institution must be entered on the Customs declaration form affixed to each package or container. If the specimens are of taxa also regulated by the Convention on International Trade in Endangered Species of Wild Fauna and Flora, the letters "CITES" (acronym for the Convention) also must be entered on the Customs declaration form as indicated in § 23.15(e)(3) of Part 23 of this subchapter.

(d) *Duration of permit.* The duration of a permit issued under this section shall be designated on the face of the permit.

§§ 17.73–17.78 [Reserved]

[FR Doc.77-17817 Filed 6-23-77;8:45 am]

federal register

FRIDAY, JUNE 24, 1977

PART III



DEPARTMENT OF LABOR

Pension and Welfare Benefit Programs

DEPARTMENT OF THE TREASURY

Internal Revenue Service

■

EMPLOYEE BENEFIT PLANS

Exemption for Transactions Involving Insurance Agents, Brokers, Pension Consultants, Insurance and Investment Companies, and Principal Underwriters; Proposal To Adopt Additional Conditions With Respect to Prohibited Transaction Exemption 77-9

Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

SUBCHAPTER D—MISCELLANEOUS EXCISE TAXES

[T.D. 7491]

PART 54—PENSION, ETC., EXCISE TAXES

Exemptions for the Provision of Services or Office Space to Employee Benefit Plans, the Investment of Plan Assets in Bank Deposits, the Provision of Bank Ancillary Services to Plans, and the Transitional Rule for the Provision of Services to Plans

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to the provision of services or office space to certain employee benefit plans, the investment of plan assets in bank deposits, the provision of ancillary services by banks or similar financial institutions to plans, and the transitional rules for the provision of services to plans. Changes in the applicable tax law were made by the Employee Retirement Income Security Act of 1974. These regulations provide necessary guidance to the public for compliance with the law, and affect all employees who are entitled to receive retirement benefits under certain employer plans, their employers, persons providing services to such plans, and banks or similar financial institutions, as well as other persons who enter into transactions with such plans.

DATE: The regulations are effective for taxable years ending after December 31, 1974.

FOR FURTHER INFORMATION CONTACT:

Mr. Larry E. Smith of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224 (Attention: CC:LR:T), 202-566-3909 (Not a toll-free call).

SUPPLEMENTARY INFORMATION:

BACKGROUND

On July 30, 1976, the FEDERAL REGISTER published proposed amendments to the Pension Excise Tax Regulations (26 CFR Part 54) under section 4975 of the Internal Revenue Code of 1954 (the Code). 41 FR 31838. The amendments were proposed to conform the regulations to section 2003 of the Employee Retirement Income Security Act of 1974 (the Act) (88 Stat. 971). On December 29, 1976, the FEDERAL REGISTER published a notice of hearing which contained additional material relating to the proposed amendments. 41 FR 56758. A public hearing was held on February 14, 1977. After consideration of all comments regarding the proposed amendments, those amendments are adopted as modified by this Treasury decision.

By notice appearing in the same issue of the FEDERAL REGISTER, the Department of Labor (the Department) announced that it had under consideration a proposal to adopt similar regulations. By notice appearing in this issue of the FEDERAL REGISTER, the Department has announced the adoption of similar regulations.

Sections 4975 (a) and (b) impose excise taxes on disqualified persons who engage in transactions with employee benefit plans which constitute prohibited transactions as defined in section 4975 (c)(1). Section 4975(d) contains exemptions from these prohibited transaction provisions. Section 2003(c)(2) of the Act contains transitional rules which delay the effective date of section 4975 for certain transactions. These regulations explain certain of the exemptions and transitional rules which relate to the provision of office space or services to plans by disqualified persons, the investment of plan assets in deposits of a bank or similar financial institution, and the provision of ancillary services by banks or similar financial institutions to plans.

EXEMPTION FOR OFFICE SPACE OR SERVICES

Under the notices, the exemption for the provision of office space or services applied to those kinds of services which are "necessary for the establishment or operation of the plan". § 54.4975-6(b)(1)(i) (§ 2550.408b-2(b)(1)(i)).[1] A service was interpreted as being necessary "if it is of a type which is customarily furnished to plans of the kind in question in the ordinary course of their being established or operated." § 54.4975-6(b)(2) (§ 2550.408b-2(b)(2)).

This interpretation was criticized in various comments on the grounds that it would permit an improper service so long as the service was customary prior to the adoption of the Act. On the other hand, many comments noted that what is customary varies with the size and kind of plan as well as with the geographical region in which the plan is located, and that the proposed interpretation might not permit recognition of new kinds of services which may be developed in the future. Several comments stated that the services should be considered "necessary" only if they were essential to plan operation. The proposed interpretation of what constitutes a necessary service has been revised in light of these comments.

The notices provided that the service must be furnished under a contract or arrangement which is reasonable. § 54.4975-6(b)(1)(ii) (§ 2550.408b-2(b)(1)(ii)). Under the notices a contract is not reasonable unless the contract may be terminated by the plan "* * * without penalty to the plan on reasonably short notice under the circumstances * * *." § 54.4975-6(b)(3) (§ 2550.408b-2(b)(3)).

The length of the notice period as compared to the length of the lease was proposed as a factor to be considered in determining reasonableness.

Objections were made to the use of this factor on the grounds that it does not bear a sufficient relationship to commercial practice. Clarification was also requested as to whether a provision for a minimum fee or other provision which is designed to permit recoupment of start-up costs would be a "penalty" under the proposed amendments. These provisions in the proposed amendments have been revised in response to the comments.

The exemption does not apply if the arrangement for services or office space involves fiduciary conflicts of interest described in section 4975(c)(1)(E) or (F). In this regard, the notices provided a description of a "safe harbor" as follows:

> Thus, a person who is a fiduciary with respect to a plan may not provide additional services to the plan and receive any compensation or other consideration in connection therewith, unless such provision of services is arranged and approved on behalf of the plan by a fiduciary who is independent of and unrelated to the fiduciary providing such services, who is not a party to such arrangement for the provision of services, who does not receive any compensation or other consideration with respect to such provision of services, and who has no other interest with respect to the transaction that might affect the exercise of such fiduciary's best judgment as a fiduciary.

§ 54.4975-6(b)(1) (§ 2550.4089b-2(b)(1)).

Many comments were received criticizing the ambiguity of the above quoted provision. Further clarification was provided in the notice of hearing published on December 29, 1976, in the FEDERAL REGISTER. This notice was also criticized in various comments as being ambiguous with respect to the applicability of the "safe harbor" in certain common situations.

In response to these comments, this portion of the proposed amendments has been extensively revised to provide better guidance as to the circumstances under which the provision of services does or does not involve an act of self-dealing under section 4975(c)(1)(E).

INVESTMENT IN DEPOSITS OF BANKS OR SIMILAR FINANCIAL INSTITUTIONS

Under the notices, investments in the deposits of a fiduciary bank or similar financial institution in some circumstances must meet certain requirements as to express authorization. § 54.4975-6(c)(2)(ii) and (iii) (§ 2550.408b-4(b)(2) and (3)).

Several comments objected that a requirement of express authorization in plan instruments of the specific investment would necessitate amending hundreds of plans, a procedure which the commentators stated would be administratively burdensome. Further clarification was requested as to the exact language which would constitute a sufficient authorization under the regulations and whether retroactive amendment of plan instruments would be permitted. Consequently, these requirements have been clarified.

[1] References are to the parallel provisions of the proposed amendments issued by the Service and the Department, 26 and 29 CFR respectively. Reference to the parallel regulations of the Department are contained in the parentheses.

ANCILLARY SERVICES BY BANKS OR SIMILAR FINANCIAL INSTITUTIONS

In the notices, attention was called to the proposed regulations dealing with the exemption in section 4975(d)(6) of the Code and section 408(b)(6) of the Act for the provision to a plan of ancillary services by a bank or similar financial institution which is a fiduciary with respect to the plan. The Code and the Act require that such ancillary services be provided subject to specific guidelines determined by the agents after consultation with Federal and State supervisory authorities. The requirements for the specific guidelines were reserved in the notices, and comments were requested as to what provisions the guidelines should contain.

Section 54.4975–6(c)(3) has been reserved pending development of such guidelines. When such guidelines have been developed, a separate notice of proposed rule making will be prepared containing proposed § 54.4975–6(c)(3).

The notice proposed to require that ancillary services be furnished under an agreement which binds the bank or similar financial institution to comply with the guidelines for the furnishing of such ancillary services. § 54.4975–6(d)(2)(iv) (§ 2550.408b–6(b)(4)). Comments were received objecting to this condition on the grounds that it would involve unnecessary cost to plans and that compliance with the guidelines could be required by regulations. This requirement has been omitted.

TRANSITIONAL RULE FOR SERVICES

The notices directed attention to alternative interpretations of identical language contained in Act sections 414(c)(4) and 2003(c)(2)(D) for the transitional rule relating to the provision of services. In § 53.4941(d)–4(c) (relating to acts of self-dealing involving private foundations), the Treasury interpreted similar language to mean that, in certain circumstances, a lease or loan must be renegotiated by the parties even though the terms of the pre-existing contract do not permit either party to insist upon an adjustment of the contract terms. The Service proposed to adopt a similar interpretation under Act section 2003(c)(2)(D). However, the Department did not propose to require renegotiation until renewal if the terms of the pre-existing contract did not permit an adjustment of the contract terms.

Because parallel provisions appear in both Act sections 414(c)(4) and 2003(c)(2)(D), the two agencies proposed to review public comments on these alternative interpretations and to adopt a uniform rule. After reviewing the public comments, the agencies have decided to adopt the interpretation in the notice issued by Department, because of substantial differences in the operation of private foundations and employee benefit plans under their respective transitional rules.

OTHER MATTERS

These final regulations replace information releases issued by the Service relating to the matters dealt with in these regulations, e.g., T.I.R. No. 1329 (December 31, 1974), T.I.R. No. 1396 (July 24, 1975), and T.I.R. No. 1399 (August 13, 1975). In addition to other changes, various stylistic and clarifying changes have been made from the notices.

DRAFTING INFORMATION

The principal author of this regulation was Mr. Larry E. Smith of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service, the Treasury Department and the Department of Labor participated in developing the regulation, both on matters of substance and style.

ADOPTION OF AMENDMENTS TO THE REGULATIONS

Accordingly, 26 CFR Part 54 is amended as follows:

PARAGRAPH 1. Section 54.4975–6 is inserted in the appropriate place to read as follows:

§ 54.4975–6 Statutory exemptions for office space or services and certain transactions involving financial institutions.

(a) *Exemption for office space or services.*—(1) *In general.* Section 4975(d)(2) exempts from the excise taxes imposed by section 4975 payment by a plan to a disqualified person, including a fiduciary, for office space or any service (or a combination of services), if (i) such office space or service is necessary for the establishment or operation of the plan; (ii) such office space or service is furnished under a contract or arrangement which is reasonable; and (iii) no more than reasonable compensation is paid for such office space or service. However, section 4975(d)(2) does not contain an exemption for acts described in section 4975(c)(1)(E) (relating to fiduciaries dealing with the income or assets of plans in their own interest or for their own account) or acts described in section 4975(c)(1)(F) (relating to fiduciaries receiving consideration for their own personal account from any party dealing with a plan in connection with a transaction involving the income or assets of the plan). Such acts are separate transactions not described in section 4975(d)(2). See §§ 54.4975–6(a)(5) and 54.4975–6(a)(6) for guidance as to whether transactions relating to the furnishing of office space or services by fiduciaries to plans involve acts described in section 4975(c)(1)(E).

Section 4975(d)(2) does not contain an exemption from other provisions of the Code, such as section 401, or other provisions of law which may impose requirements or restrictions relating to the transactions which are exempt under section 4975(d)(2). See, for example, the general fiduciary responsibility provisions of section 404 of the Employee Retirement Income Security Act of 1974 (the Act) (88 Stat. 877). The provisions of section 4975(d)(2) are further limited by the flush language at the end of section 4975(d) (relating to transactions with owner-employees and related persons).

(2) *Necessary service.* A service is necessary for the establishment or operation of a plan within the meaning of section 4975(d)(2) and § 54.4975–6(a)(1)(i) if the service is appropriate and helpful to the plan obtaining the service in carrying out the purposes for which the plan is established or maintained. A persons providing such a service to a plan (or a person who is disqualified person solely by reason of a relationship to such a service provider described in section 4975(e)(2)(F), (G), (H), or (I)) may furnish goods which are necessary for the establishment or operation of the plan in the course of, and incidental to, the furnishing of such service to the plan.

(3) *Reasonable contract or arrangement.* No contract or arrangement is reasonable within the meaning of section 4975(d)(2) and § 54.4975–6(a)(1)(ii) if it does not permit termination by the plan without penalty to the plan on reasonably short notice under the circumstances to prevent the plan from becoming locked into an arrangement that has become disadvantageous. A long-term lease which may be terminated prior to its expiration (without penalty to the plan) on reasonably short notice under the circumstances is not generally an unreasonable arrangement merely because of its long term. A provision in a contract or other arrangement which reasonably compensates the service provider or lessor for loss upon early termination of the contract, arrangement or lease is not a penalty. For example, a minimal fee in a service contract which is charged to allow recoupment of reasonable start-up costs is not a penalty.

Similarly, a provision in a lease for a termination fee that covers reasonably foreseeable expenses related to the vacancy and reletting of the office space upon early termination of the lease is not a penalty. Such a provision does not reasonably compensate for loss if it provides for payments in excess of actual loss or if it fails to require mitigation of damages.

(4) *Reasonable compensation.* Section 4975(d)(2) and § 54.4975–6(a)(1)(iii) permit a plan to pay a disqualified person reasonable compensation for the provision of office space or services described in section 4975(d)(2). Paragraph (e) of this section contains regulations relating to what constitutes reasonable compensation for the provision of services.

(5) *Transactions with fiduciaries.*—(i) *In general.* If the furnishing of office space or a service involves an act described in section 4975(c)(1)(E) or (F) (relating to acts involving conflicts of interest by fiduciaries), such as act constitutes a separate transaction which is not exempt under section 4975(d)(2). The prohibitions of sections 4975(c)(1)(E) and (F) supplement the other prohibitions of section 4975(c)(1) by imposing on disqualified persons who are fiduciaries a duty of undivided loyalty to the plans for which they act. These prohibitions are imposed upon fiduciaries to

deter them from exercising the authority, control, or responsibility which makes such persons fiduciaries when they have interests which may conflict with the interests of the plans for which they act. In such cases, the fiduciaries have interests in the transactions which may affect the exercise of their best judgment as fiduciaries. Thus, a fiduciary may not use the authority, control, or responsibility which makes such person a fiduciary to cause a plan to pay an additional fee to such fiduciary (or to a person in which such fiduciary has an interest which may affect the exercise of such fiduciary's best judgment as a fiduciary) to provide a service. Nor may a fiduciary use such authority, control, or responsibility to cause a plan to enter into a transaction involving plan assets whereby such fiduciary (or a person in which such fiduciary has an interest which may affect the exercise of such fiduciary's best judgment as a fiduciary) will receive consideration from a third party in connection with such transaction.

A person in which a fiduciary has an interest which may affect the exercise of such fiduciary's best judgment as a fiduciary includes, for example, a person who is a disqualified person by reason of a relationship to such fiduciary described in section 4975(e)(2)(E), (F), (G), (H), or (I).

(ii) *Transactions not described in section 4975(c)(1)(E).* A fiduciary does not engage in an act described in section 4975(c)(1)(E) if the fiduciary does not use any of the authority, control or responsibility which makes such person a fiduciary to cause a plan to pay additional fees for a service furnished by such fiduciary or to pay a fee for a service furnished by a person in which such fiduciary has an interest which may affect the exercise of such fiduciary's best judgment as a fiduciary. This may occur, for example, when one fiduciary is retained on behalf of a plan by a second fiduciary to provide a service for an additional fee. However, because the authority, control or responsibility which makes a person a fiduciary may be exercised "in effect" as well as in form, mere approval of the transaction by a second fiduciary does not mean that the first fiduciary has not used any of the authority, control or responsibility which makes such person a fiduciary to cause the plan to pay the first fiduciary an additional fee for a service.

(iii) *Services without compensation.* If a fiduciary provides services to a plan without the receipt of compensation or other consideration (other than reimbursement of direct expenses properly and actually incurred in the performance of such services within the meaning of paragraph (e)(4) of this section), the provision of such services does not, in and of itself, constitute an act described in section 4975(c)(1)(E) or (F). The allowance of a deduction to an employer under section 162 or 212 for the expense incurred in furnishing office space or services to a plan established or maintained by such employer does not constitute compensation or other consideration.

(6) *Examples.* The provisions of § 54.4975–6(a)(5) may be illustrated by the following examples:

Example (1). E, an employer whose employees are covered by plan P, is a fiduciary of P. I is a professional investment adviser in which E has no interest which may affect the exercise of E's best judgment as a fiduciary. E causes P to retain I to provide certain kinds of investment advisory services of a type which causes I to be a fiduciary of P under section 4975(e)(3)(B). Thereafter, I proposes to perform for additonal fees portfolio evaluation services in addition to the services currently provided. The provision of such services is arranged by I and approved on behalf of the plan by E. I has not engaged in an act described in section 4975(c)(1)(E), because I did not use any of the authority, control or responsibility which makes I a fiduciary (the provision of investment advisory services) to cause the plan to pay I additional fees for the provision of the portfolio evaluation services. E has not engaged in an act which is described in section 4975(c)(1)(E). E, as the fiduciary who has the responsibility to be prudent in his selection and retention of I and the other investments advisers of the plan, has an interest in the purchase by the plan of portfolio evaluation services. However, such an interest is not an interest which may affect the exercise of E's best judgment as a fiduciary.

Example (2). D, a trustee of plan P with discretion over the management and disposition of plan assets, relies on the advice of C, a consultant to P, as to the investment of plan assets, thereby making C a fiduciary of the plan. On January 1, 1978, C recommends to D that the plan purchase an insurance policy from U, an insurance company which concerning the fact that C will receive a P. C thoroughly explains the reasons for the recommendation and makes a full disclosure concerning the fact that C will receive a commission from U upon the purchase of the policy by P. D considers the recommendation and approves the purchase of the policy by P. C receives a commission. Under such circumstances, C has engaged in an act described in section 4975(c)(1)(E) (as well as section 4975(c)(1)(F)) because C is in fact exercising the authority, control or responsibility which makes C a fiduciary to cause the plan to purchase the policy. However, the transaction is exempt from the prohibited transaction provisions of section 4975(c)(1) if the requirements of Prohibited Transaction Exemption 77–9 are met.

Example (3). Assume the same facts as in Example (2) except that the nature of C's relationship with the plan is not such that C is a fiduciary of P. The purchase of the insurance policy does not involve an act described in section 4975(c)(1)(E) or (F), because such sections only apply to acts by fiduciaries.

Example (4). E, an employer whose employees are covered by plan P, is a fiduciary with respect to P. A, who is not a disqualified person with respect to P, persuades E that the plan needs the services of a professional investment adviser and that A should be hired to provide the investment advice. Accordingly, E causes P to hire A to provide investment advice of the type which makes A a fiduciary under § 54.4975–6(c)(1)(ii)(B). Prior to the expiration of A's first contract with P, A persuades E to cause P to renew A's contract with P to provide the same services for additional fees in view of the increased costs in providing such services. During the period of A's second contract, A provides additional investment advice services for which no additional charge is made. Prior to the expiration of A's second contract, A persuades E to cause P to renew his contract for additional fees in view of the additional services A is providing. A has not engaged in an act described in section 4975(c)(1)(E), because A has not used any of the authority, control or responsibility which makes A a fiduciary (the provision of investment advice) to cause the plan to pay additional fees for A's services.

Example (5). P, a trustee of plan P with discretion over the management and disposition of plan assets, retains C to provide administrative services to P of the type which makes C a fiduciary under section 4975(e)(3)(C). Thereafter, C retains F to provide, for additional fees, actuarial and various kinds of administrative services in addition to the services F is currently providing to P. Both F and C have engaged in an act described in section 4975(c)(1)(E). F, regardless of any intent which he may have had at the time he retained C, has engaged in such an act because F has, in effect, exercised the authority, control or responsibility which makes F a fiduciary to cause the plan to pay F additional fees for the services C, whose continued employment by P depends on F, has also engaged in such an act, because C has an interest in the transaction which might affect the exercise of C's best judgment as a fiduciary. As a result, C has dealt with plan assets in his own interest under section 4975(c)(1)(E).

Example (6). F, a fiduciary of plan P with discretionary authority respecting the management of P, retains S, the son of F, to provide for a fee various kinds of administrative services necessary for the operation of the plan. F has engaged in an act described in section 4975(c)(1)(E), because S is a person in whom F has an interest which may affect the exercise of F's best judgment as a fiduciary. Such act is not exempt under section 4975(d)(2) irrespective of whether the provision of the services by S is exempt.

Example (7). T, one of the trustees of plan P, is president of bank B. The bank proposes to provide administrative services to P for a fee. T physically absents himself from all consideration of B's proposal and does not otherwise exercise any of the authority, control or responsibility which makes T a fiduciary to cause the plan to retain B. The other trustees decide to retain B. T has not engaged in an act described in section 4975(c)(1)(E). Further, the other trustees have not engaged in an act described in section 4975(c)(1)(E) merely because T is on the board of trustees of P. This fact alone would not make them have an interest in the transaction which might affect the exercise of their best judgment as fiduciaries.

(b) *Exemption for bank deposits.*—(1) *In general.* Section 4975(d)(4) exempts from the excise taxes imposed by section 4975 investment of all or a part of a plan's assets in deposits bearing a reasonable rate of interest in a bank or similar financial institution supervised by the United States or a State, even though such bank or similar financial institution is a fiduciary or other disqualified person with respect to the plan, if the conditions of either § 54.4975–6(b)(2) or § 54.4975–6(b)(3) are met. Section 4975(d)(4) provides an exemption from section 4975(c)(1)(E) relating to fiduciaries dealing with the income or assets of plans in their own interest or for their own account), as well as sections 4975(c)(1)(A) through (D), because section 4975(d)(4) contemplates a bank or similar financial institution causing a

plan for which it acts as a fiduciary to invest plan assets in its own deposits if the requirements of section 4975(d)(4) are met. However, it does not provide an exemption from section 4975(c)(1)(F) (relating to fiduciaries receiving consideration for their own personal account from any party dealing with a plan in connection with a transaction involving the income or assets of the plan). The receipt of such consideration is a separate transaction not described in the exemption. Section 4975(d)(4) does not contain an exemption from other provisions of the Code, such as section 401, or other provisions of law which may impose requirements or restrictions relating to the transactions which are exempt under section 4975(d)(4). See, for example, the general fiduciary responsibility provisions of section 404 of the Act. The provisions of section 4975(d)(4) are further limited by the flush language at the end of section 4975(d) (relating to transactions with owner-employees and related persons).

(2) *Plan covering own employees.* Such investment may be made if the plan is one which covers only the employees of the bank or similar financial institution, the employees of any of its affiliates, or the employees of both.

(3) *Other plans.*—(i) *General rule.* Such investment may be made if the investment is expressly authorized by a provision of the plan or trust instrument or if the investment is expressly authorized (or made) by a fiduciary of the plan (other than the bank or similar financial institution or any of its affiliates) who has authority to make such investments, or to instruct the trustee or other fiduciary with respect to investments, and who has no interest in the transaction which may affect the exercise of such authorizing fiduciary's best judgment as a fiduciary so as to cause such authorization to constitute an act described in section 4975(c)(1)(E) or (F). Any authorization to make investments contained in a plan or trust instrument will satisfy the requirement of express authorization for investments made prior to November 1, 1977.

Effective November 1, 1977, in the case of a bank or similar financial institution that invests plan assets in deposits in itself or its affiliates under an authorization contained in a plan or trust instrument, such authorization must name such bank or similar financial institution and must state that such bank or similar financial institution may make investments in deposits which bear a reasonable rate of interest in itself (or in an affiliate.)

(ii) *Example.* B, a bank, is the trustee of plan P's assets. The trust instruments give the trustee the right to invest plan assets in its discretion. B invests in the certificates of deposit of bank C, which is a fiduciary of the plan by virtue of performing certain custodial and administrative services. The authorization is sufficient for the plan to make such investment under section 4975(d)(4). Further, such authorization would suffice to allow B to make investments in deposits in itself prior to November 1, 1977. However, subsequent to October 31, 1977, B may not invest in deposits in itself, unless the plan or trust instrument specifically authorizes it to invest in deposits of B.

(4) *Definitions.* (i) The term "bank or similar financial institution" includes a bank (as defined in section 581), a domestic building and loan association (as defined in section 7701(a)(19)), and a credit union (as defined in section 101(6) of the Federal Credit Union Act).

(ii) A person is an affiliate of a bank or similar financial institution if such person and such bank or similar financial institution would be treated as members of the same controlled group of corporations or as members of two or more trades or businesses under common control within the meaning of section 414(b) or (c) and the regulations thereunder.

(iii) The term "deposits" includes any account, temporary or otherwise, upon which a reasonable rate of interest is paid, including a certificate of deposit issued by a bank or similar financial institution.

(c) *Exemption for ancillary bank services.*—(1) *In general.* Section 4975(d)(6) exempts from the excise taxes imposed by section 4975 the provision of certain ancillary services by a bank or similar financial institution (as defined in § 54.4975–6(b)(4)(i)) supervised by the United States or a State to a plan for which it acts as a fiduciary if the conditions in § 54.4975–6(c)(2) are met. Such ancillary services include services which do not meet the requirements of section 4975(d)(2), because the provision of such services involves an act described in section 4975(c)(1)(E) (relating to fiduciaries dealing with the income or assets of plans in their own interest or for their own account) by the fiduciary bank or similar financial institution. Section 4975(d)(6) provides an exemption from section 4975(c)(1)(E), because section 4975(d)(6) contemplates the provision of such ancillary services without the approval of a second fiduciary (as described in § 54.4975–6(a)(5)(ii)) if the conditions of § 54.4975–6(c)(2) are met. Thus, for example, plan assets held by a fiduciary bank which are reasonably expected to be needed to satisfy current plan expenses may be placed by the bank in a non-interest-bearing checking account in the bank if the conditions of § 54.4975–6(c)(2) are met, notwithstanding the provisions of section 4975(d)(4) (relating to investments in bank deposits). However, section 4975(d)(6) does not provide an exemption for an act described in section 4975(c)(1)(F) (relating to fiduciaries receiving consideration for their own personal account from any party dealing with a plan in connection with a transaction involving the income or assets of the plan). The receipt of such consideration is a separate transaction not described in section 4975(d)(6).

Section 4975(d)(6) does not contain an exemption from other provisions of the Code, such as section 401, or other provisions of law which may impose requirements or restrictions relating to the transactions which are exempt under section 4975(d)(6). See, for example, the general fiduciary responsibility provisions of section 404 of the Act. The provisions of section 4975(d)(6) are further limited by the flush language at the end of section 4975(d) (relating to transactions with owner-employees and related persons).

(2) *Conditions.* Such service must be provided:

(i) At not more than reasonable compensation;

(ii) Under adequate internal safeguards which assure that the provision of such service is consistent with sound banking and financial practice, as determined by Federal or State supervisory authority; and

(iii) Only to the extent that such service is subject to specific guidelines issued by the bank or similar financial institution which meet the requirements of § 54.4975–6(c)(3).

(3) *Specific guidelines.* [Reserved]

(d) *Exemption for services as a fiduciary.* [Reserved]

(e) *Compensation for services.*—(1) *In general.* Section 4975(d)(2) refers to the payment of reasonable compensation by a plan to a disqualified person for services rendered to the plan. Section 4975(d)(10) and §§ 54.4975–6(e)(2) through 54.4975–6(e)(5) clarify what constitutes reasonable compensation for such services.

(2) *General rule.* Generally, whether compensation is "reasonable" under sections 4975(d)(2) and (10) depends on the particular facts and circumstances of each case.

(3) *Payments to certain fiduciaries.* Under sections 4975(d)(2) and (10), the term "reasonable compensation" does not include any compensation to a fiduciary who is already receiving full-time pay from an employer or association of employers (any of whose employees are participants in the plan) or from an employee organization (any of whose members are participants in the plan), except for the reimbursement of direct expenses properly and actually incurred and not otherwise reimbursed. The restrictions of this paragraph (e)(3) do not apply to a disqualified person who is not a fiduciary.

(4) *Certain expenses not direct expenses.* An expense is not a direct expense to the extent it would have been sustained had the service not been provided or if it represents an allocable portion of overhead costs.

(5) *Expense advances.* Under sections 4975(d)(2) and (10), the term "reasonable compensation", as applied to a fiduciary or an employee of a plan, includes an advance to such a fiduciary or employee by the plan to cover direct expenses to be properly and actually incurred by such person in the performance of such person's duties with the plan if:

(i) The amount of such advance is reasonable with respect to the amount of the direct expense which is likely to be properly and actually incurred in the immediate future (such as during the next month); and

(ii) The fiduciary or employee accounts to the plan at the end of the period covered by the advance for the expenses properly and actually incurred.

(6) *Excessive compensation.* Under sections 4975(d) (2) and (10), any compensation which would be considered excessive under § 1.162–7 (relating to compensation for personal services which constitutes an ordinary and necessary trade or business expense) will not be "reasonable compensation". Depending upon the facts and circumstances of the particular situation, compensation which is not excessive under § 1.162–7 may, nevertheless, not be "reasonable compensation" within the meaning of sections 4975(d) (2) and (10).

PAR. 2. Section 54.4975–15 is inserted in the appropriate place to read as follows:

§ 54.4975–15 Other transitional rules.

(a) [Reserved]

(b) [Reserved]

(c) [Reserved]

(d) *Provision of certain services until June 30, 1977.*—(1) *In general.* Section 2003(c)(2)(D) of the Employee Retirement Income Security Act of 1974 (the Act) (88 Stat. 979) provides that section 4975 shall not apply to the provision of services before June 30, 1977, between a plan and a disqualified person if the three requirements contained in section 2003(c)(2)(D) of the Act are met. The first requirement is that such services must be provided either (i) under a binding contract in effect on July 1, 1974 (or pursuant to a renewal or modification of such contract); or (ii) by a disqualified person who ordinarily and customarily furnished such services on June 30, 1974. The second requirement is that the services be provided on terms that remain at least as favorable to the plan as an arm's-length transaction with an unrelated party would be.

For this purpose, such services are provided on terms that remain at least as favorable to the plan as an arm's length transaction with an unrelated party would be if, at the time of execution (or renewal) of such binding contract, the contract (or renewal) is on terms at least as favorable to the plan as an arm's-length transaction with an unrelated party would be. However, if in a normal commercial setting an unrelated party in the position of the plan could be expected to insist upon a renegotiation or termination of a binding contract, the plan must so act. Thus, for example, if a disqualified person provides services to a plan on a month-to-month basis, and a party in the position of the plan could be expected to renegotiate the price paid under such contract because of a decline in the fair market value of such services, the plan must so act in order to avoid participation in a prohibited transaction. The third requirement is that the provision of services must not be, or have been, at the time of such provision a prohibited transaction within the meaning of section 503(b) or the corresponding provisions of prior law. If these three requirements are met, section 4975 will apply neither to services provided before June 30, 1977 (both to customers to whom such services were being provided on June 30, 1974, and to new customers) nor to the receipt of compensation therefor. Thus, if these three requirements are met, section 4975 will not apply until June 30, 1977, to the provision of services to a plan by a disqualified person (including a fiduciary) even if such services could not be furnished pursuant to the exemption provisions of sections 4975(d)(2) or (6) and § 54.4975–6. For example, if the three requirements of section 2003(c)(2)(D) of the Act are met, a person serving as fiduciary to a plan who already receives full-time pay from an employer or an association of employers, whose employees are participants in such plan, or from an employee organization whose members are participants in such plan, may continue to receive reasonable compensation from the plan for services rendered to the plan before June 30, 1977. Similarly, until June 30, 1977, a plan consultant who may be a fiduciary because of the nature of the consultative and administrative services being provided may, if these three requirements are met, continue to cause the sale of insurance to the plan and continue to receive commissions for such sales from the insurance company writing the policy. Further, if the three requirements of section 2003 (c)(2)(D) of the Act are met, a securities broker dealer who renders investment advice to a plan for a fee, thereby becoming a fiduciary, may furnish other services to the plan, such as brokerage services, and receives compensation therefor. Also, if a registered representative of such a broker-dealer were a fiduciary, the registered representative may receive compensation, including commissions, for brokerage services performed before June 30, 1977.

(2) *Persons deemed to be June 30, 1974, service providers.* A disqualified person with respect to a plan which did not, on June 30, 1974, ordinarily and customarily furnish a particular service, will nevertheless be considered to have ordinarily and customarily furnished such service on June 30, 1974, for purposes of this section and section 2003(c)(2)(D) of the Act, if either of the following conditions are met:

(i) At least 50 percent of the outstanding beneficial interests of such disqualified person are owned directly or through one or more intermediaries by the same person or persons who owned, directly or through one or more intermediaries, at least 50 percent of the outstanding beneficial interests of a person who ordinarily and customarily furnished such service on June 30, 1974; or

(ii) Control or the power to exercise a controlling influence over the management and policies of such disqualified person is possessed, directly or through one or more intermediaries, by the same person or persons who possessed, directly or through one of more intermediaries, control or the power to exercise a controlling influence over the management and policies of a person who ordinarily and customarily furnished such service on June 30, 1974. For purposes of this paragraph (d)(2) a person shall be deemed to be an "intermediary" of another person if at least 50 percent of the outstanding beneficial interests of such person are owned by such other person, directly or indirectly, or if such other person controls or has the power to exercise a controlling influence over the management and policies of such person.

(3) *Examples.* The principals of § 54.4975–15(d)(2) may be illustrated by the following examples.

Example (1). A owns 50 percent of the outstanding beneficial interests of ABC Partnership which ordinarily and customarily furnished certain services on June 30, 1974. On July 2, 1974, ABC Partnership was incorporated into ABC Corporation with one class of stock outstanding. A owns 50 percent of the shares of such stock. ABC Corporation furnishes the same services that were furnished by ABC Partnership on June 30, 1974. ABC Corporation will be deemed to have ordinarily and customarily furnished such services on June 30, 1974, for purposes of section 2003(c)(2)(D) of the Act.

Example (2). A and B together own 100 percent of the beneficial interests of AB Partnership, which ordinarily and customarily furnished certain services on June 30, 1974. On September 1, 1974, AB Partnership was incorporated into AB Corporation with one class of stock outstanding. A and B each own 20 percent of such outstanding class of stock and together have control over the management and policies of AB Corporation. AB Corporation furnishes the same services that were furnished by AB Partnership on June 30, 1974. AB Corporation will be deemed to have ordinarily and customarily furnished such services on June 30, 1974, for purposes of section 2003(c)(2)(D) of the Act.

Example (3). On June 30, 1974, M Corporation was ordinarily and customarily furnishing certain services. On that date, X, Y and Z together owned 50 percent of all classes of the outstanding shares of M Corporation. On January 28, 1975, all of the shareholders of M Corporation exchanged their shares in M Corporation for shares of a new N Corporation. As a result of that exchange, X, Y and Z together own 50 percent of the common stock of N Corporation, the only class of N Corporation stock outstanding after the exchange. N Corporation furnishes the services formerly furnished by M Corporation. N Corporation will be deemed to have ordinarily and customarily furnished such services on June 30, 1974, for purposes of section 2003(c)(2)(D) of the Act.

Example (4). I Corporation ordinarily and customarily furnished certain services on June 30, 1974. On November 3, 1975, I Corporation organizes a wholly owned subsidiary, S Corporation, which furnishes the same services ordinarily and customarily furnished by I Corporation on June 30, 1974. S Corporation will be deemed to have ordinarily and customarily furnished such services on June 30, 1974, for purposes of section 2003(c)(2)(D) of the Act.

Example (5). X Corporation, wholly-owned and controlled by A, ordinarily and customarily furnished certain services on June 30, 1974. Y Corporation did not perform such services on that date. On January 2, 1976, X Corporation is merged into Y Corporation and, although A received less than 50 per-

cent of the total outstanding shares of Y Corporation, after such merger A has control over the management and policies of Y Corporation. Y Corporation furnishes the same services that were formerly furnished by X Corporation. Y Corporation will be deemed to have ordinarily and customarily furnished such services on June 30, 1974, for purposes of section 2003(c)(2)(D) of the Act.

This Treasury decision is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

WILLIAM E. WILLIAMS,
Commissioner of Internal Revenue.

Approved:

LAURENCE N. WOODWORTH,
Assistant Secretary of the Treasury.

[FR Doc.77-17894 Filed 6-21-77;8:45 am]

Title 29—Labor

CHAPTER XXV—PENSION AND WELFARE BENEFIT PROGRAMS

SUBCHAPTER F—EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

PART 2550—RULES AND REGULATIONS FOR FIDUCIARY RESPONSIBILITY

Exemptions for the Provision of Services or Office Space to Employee Benefit Plans, the Investment of Plan Assets in Bank Deposits, the Provision of Bank Ancillary Services to Plans, and the Transitional Rule for the Provision of Services to Plans

AGENCY: Department of Labor.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to the provision of services or office space to employee benefit plans, the investment of plan assets in the deposits of banks and similar financial institutions, the provision of ancillary services by banks and similar financial institutions to plans, and the transitional rule for the provision of services to plans under the Employee Retirement Income Security Act of 1974. These regulations provide necessary guidance to the public for compliance with the law and affect participants and beneficiaries of employee benefit plans, their employers, persons providing services to such plans, and banks and similar financial institutions.

EFFECTIVE DATE: January 1, 1975.

FOR FURTHER INFORMATION CONTACT:

Mr. Forrest Foss of the Plan Benefits Security Division, Office of the Solicitor, Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210, Room C-4508 (202-523-6856, not a toll free number).

SUPPLEMENTARY INFORMATION:

BACKGROUND

On July 30, 1976, notice was published in the FEDERAL REGISTER (41 FR 31874) that the Department of Labor (the Department) had under consideration a proposal to adopt regulations 29 CFR 2550.408b-2, 2550.408b-4, 2550.408b-6, 2550.408c-2, and 2550.414c-4, under sections 408(b)(2), 408(b)(4), 408(b)(6), 408(c)(2), and 414(c)(4) of the Employee Retirement Income Security Act of 1974 (the Act) relating to the provision of services or office space to plans, the investment of plan assets in bank deposits, the provision of bank ancillary services to plans and the transitional rule for the provision of services to plans.[1] On December 29, 1976, the FEDERAL REGISTER published a notice of hearing (41 FR 56758) which contained additional material relating to the proposed regulations. On February 14, 1977, the Department and the Internal Revenue Service (the Service) held a public hearing on the provisions of the proposed regulations. After consideration of all the written comments received and the testimony given at the public hearing, the Department has decided to adopt the proposed regulations, as modified and set forth below.[2]

Section 406 of the Act prohibits a fiduciary with respect to a plan from knowingly causing the plan to engage in certain transactions ("prohibited transactions"). Section 408(b) of the Act contains exemptions from these prohibited transaction provisions. Section 414(c)(4) of the Act contains transitional rules which delay the effective date of section 406 for certain transactions. These regulations explain certain of the exemptions and transitional rules which relate to the provision of services or office space to plans by parties in interest, the investment of plan assets in deposits of a bank or similar financial institution which is a party in interest to the plan and the provision of ancillary services to a plan by a bank or similar financial institution which is a fiduciary with respect to the plan.

EXEMPTION FOR OFFICE SPACE OR SERVICES

Under the notices, the exemption for the provision of office space or services applied to those kinds of services which are "necessary for the establishment or operation of the plan." § 2550.408b-2(b)(1)(i) (§ 54.4975-6(b)(1)(i)).[3] A service was interpreted as being necessary "if it is of a type which is customarily furnished to plans of the kind in question in the ordinary course of their being established or operated." § 2550.408b-2(b)(2) (§ 54.4975-6(b)(2)).

This interpretation was criticized in various comments on the grounds that it would permit an improper service so long as the service was customary prior to the adoption of the Act. On the other hand, many comments noted that what is customary varies with the size and kind of plan as well as with the geographical region in which the plan is located, and that the proposed interpretation might not permit recognition of new kinds of services which may be developed in the future. Several comments stated that the services should be considered "necessary" only if they were essential to plan operation. The proposed interpretation of what constitutes a necessary service has been revised in light of these comments.

The notices provided that the service must be furnished under a contract or arrangement which is reasonable. § 2550.408b-2(b)(1)(ii) (§ 54.4975-6(b)(1)(ii)). Under the notices, a contract is not reasonable unless the contract may be terminated by the plan "* * * without penalty to the plan on reasonably short notice under the circumstances * * *." § 2550.408b-2(b)(3) (§ 54.4975-6(b)(3)).

The length of the notice period as compared to the length of the lease was proposed as a factor to be considered in determining reasonableness. Objections were made to the use of this factor on the grounds that it does not bear a sufficient relationship to commercial practice. Clarification was also requested as to whether a provision for a minimum fee or other provision which is designed to permit recoupment of start-up costs would be a "penalty" under the proposed regulations. These provisions in the proposed regulations have been revised in response to the comments.

The exemption does not apply if the arrangement for services or office space involves fiduciary conflicts of interest described in section 406(b) of the Act. In this regard, the notices provided a description of a "safe harbor" as follows:

> Thus, a person who is a fiduciary with respect to a plan may not provide additional services to the plan and receive any compensation or other consideration in connection therewith, unless such provision of services is arranged and approved on behalf of the plan by a fiduciary who is independent of and unrelated to the fiduciary providing such services, who is not a party to such arrangement for the provision of services, who does not receive any compensation or other consideration with respect to such provision of services, and who has no other interest with respect to the transaction that might affect the exercise of such fiduciary's best judgment as a fiduciary.

§ 2550.408b-2(b)(1) (§ 54.4975-6(b)(1)).

Many comments were received criticizing the ambiguity of the above quoted provision. Further clarification was provided in the notice of hearing published on December 29, 1976, in the FEDERAL REGISTER. This notice was also criticized in various comments as being ambiguous with respect to the applicability of the "safe harbor" in certain common situations.

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[1] By notice appearing in the same issue of the FEDERAL REGISTER (41 FR 31838), the Internal Revenue Service announced that it had under consideration a proposal to adopt similar regulations.

[2] By notice appearing in this issue of the FEDERAL REGISTER, the Service has announced the adoption of similar regulations.

[3] References are to the parallel provisions of the proposed regulations issued by the Department and the proposed amendments issued by the Service, 29 and 26 CFR respectively. Reference to the parallel amendments of the Service are to the Pension Excise Tax Regulations (26 CFR Part 54) and are contained in the parentheses.

In response to these comments, this portion of the proposed regulations has been extensively revised to provide better guidance as to the circumstances under which the provision of services does or does not involve an act of self-dealing under section 406(b)(1) of the Act.

INVESTMENT IN DEPOSITS OF BANKS OR SIMILAR FINANCIAL INSTITUTIONS

Under the notices, investments in the deposits of a fiduciary bank or similar financial institution in some circumstances must meet certain requirements as to express authorization. § 2550.408b-4(b)(2) and (3) (§ 54.4975-6(c)(2)(ii) and (iii)).

Several comments objected that a requirement of express authorization in plan instruments of the specific investment would necessitate amending hundreds of plans, a procedure which the commentators stated would be administratively burdensome. Further clarification was requested as to the exact language which would constitute a sufficient authorization under the regulations and whether retroactive amendment of plan instruments would be permitted. Consequently, these requirements have been clarified.

ANCILLARY SERVICES BY BANKS OR SIMILAR FINANCIAL INSTITUTIONS

In the notices, attention was called to the proposed regulations dealing with the exemption in section 408(b)(6) of the Act and section 4975(d)(6) of the Code for the provision to a plan of ancillary services by a bank or similar financial institution which is a fiduciary with respect to the plan. The Act and the Code require that such ancillary services be provided subject to specific guidelines determined by the agencies after consultation with Federal and State supervisory authorities. The requirements for the specific guidelines were reserved in the notices, and comments were requested as to what provisions the guidelines should contain.

Section 2550.408b-6(c) has been reserved pending development of such guidelines. When such guidelines have been developed, a separate notice of proposed rulemaking will be prepared containing proposed § 2550.408b-6(c).

The notice proposed to require that ancillary services be furnished under an agreement which binds the bank or similar financial institution to comply with the guidelines for the furnishing of such ancillary services. § 2550.408b-6(b)(4) (§ 54.4975-6(d)(2)(iv)). Comments were received objecting to this condition on the grounds that it would involve unnecessary cost to plans and that compliance with the guidelines could be required by regulations. This requirement has been omitted.

TRANSITIONAL RULE FOR SERVICES

The notices directed attention to alternative interpretations of identical language contained in Act sections 414(c)(4) and 2003(c)(2)(D) for the transitional rule relating to the provision of services. In 26 CFR 53.4941(d)-4(c) (relating to acts of self-dealing involving private foundations), the Department of the Treasury interpreted similar language to mean that, in certain circumstances, a lease or loan must be renegotiated by the parties even though the terms of the pre-existing contract do not permit either party to insist upon an adjustment of the contract terms. The Service proposed to adopt a similar interpretation under Act section 2003(c)(2)(D). However, the Department did not propose to require renegotiation until renewal if the terms of the pre-existing contract did not permit an adjustment of the contract terms.

Because parallel provisions appear in both Act sections 414(c)(4) and 2003(c)(2)(D), the two agencies proposed to review public comments on these alternative interpretations and to adopt a uniform rule. After reviewing the public comments, the agencies have decided to adopt the interpretation in the notice issued by the Department, because of the substantial differences in the operation of employee benefit plans and private foundations under their respective transitional rules.

OTHER MATTERS

The attention of interested parties is directed to the fact that regulation 2550.408c-2 replaces Interpretive Bulletin 2509.75-6 (ERISA IB 75-6) and regulation 2550.414c-4 replaces Interpretive Bulletins 2509.75-1 (ERISA IB 75-1) and 2509.75-7 (ERISA IB 75-7).

In addition to the changes noted above that have been made in the regulation as adopted in response to suggestions made in the written comment letters and testimony given at the public hearing of February 14, 1977, other minor changes intended to clarify the provisions of the regulations have been made.

ADOPTION OF FINAL REGULATIONS

Accordingly, 29 CFR Part 2550 is amended as follows:

PARAGRAPH 1. Section 2550.408b-2 is inserted in the appropriate place to read as follows:

§ 2550.408b-2 General statutory exemption for services or office space.

(a) *In general.* Section 408(b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) exempts from the prohibitions of section 406(a) of the Act payment by a plan to a party in interest, including a fiduciary, for office space or any service (or a combination of services) if (1) such office space or service is necessary for the establishment or operation of the plan; (2) such office space or service is furnished under a contract or arrangement which is reasonable; and (3) no more than reasonable compensation is paid for such office space or service. However, section 408(b)(2) does not contain an exemption from acts described in section 406(b)(1) of the Act (relating to fiduciaries dealing with the assets of plans in their own interest or for their own account), section 406(b)(2) of the Act (relating to fiduciaries in their individual or in any other capacity acting in any transaction involving the plan on behalf of a party (or representing a party) whose interests are adverse to the interests of the plan or the interests of its participants or beneficiaries) or section 406(b)(3) of the Act (relating to fiduciaries receiving consideration for their own personal account from any party dealing with a plan in connection with a transaction involving the assets of the plan). Such acts are separate transactions not described in section 408(b)(2). See §§ 2550.408b-2(e) and (f) for guidance as to whether transactions relating to the furnishing of office space or services by fiduciaries to plans involve acts described in section 406(b)(1) of the Act. Section 408(b)(2) of the Act does not contain an exemption from other provisions of the Act, such as section 404, or other provisions of law which may impose requirements or restrictions relating to the transactions which are exempt under section 408(b)(2). See, for example, section 401 of the Internal Revenue Code of 1954. The provisions of section 408(b)(2) of the Act are further limited by section 408(d) of the Act (relating to transactions with owner-employees and related persons).

(b) *Necessary service.* A service is necessary for the establishment or operation of a plan within the meaning of section 408(b)(2) of the Act and § 2550.408b-2(a)(1) if the service is appropriate and helpful to the plan obtaining the service in carrying out the purposes for which the plan is established or maintained. A person providing such a service to a plan (or a person who is a party in interest solely by reason of a relationship to such a service provider described in section 3(14)(F), (G), (H), or (I) of the Act) may furnish goods which are necessary for the establishment or operation of the plan in the course of, and incidental to, the furnishing of such service to the plan.

(c) *Reasonable contract or arrangement.* No contract or arrangement is reasonable within the meaning of section 408(b)(2) of the Act and § 2550.408b-2(a)(2) if it does not permit termination by the plan without penalty to the plan on reasonably short notice under the circumstances to prevent the plan from becoming locked into an arrangement that has become disadvantageous. A long-term lease which may be terminated prior to its expiration (without penalty to the plan) on reasonably short notice under the circumstances is not generally an unreasonable arrangement merely because of its long term. A provision in a contract or other arrangement which reasonably compensates the service provider or lessor for loss upon early termination of the contract, arrangement or lease is not a penalty. For example, a minimal fee in a service contract which is charged to allow recoupment of reasonable startup costs is not a penalty. Similarly, a provision in a lease for a termination fee that covers reasonably foreseeable expenses related to the vacancy and reletting of the office space upon early termination of the lease is not a penalty. Such a provision does not rea-

sonably compensate for loss if it provides for payment in excess of actual loss or if it fails to require mitigation of damages.

(d) *Reasonable compensation.* Section 408(b)(2) of the Act and § 2550.408b–2(a)(3) permit a plan to pay a party in interest reasonable compensation for the provision of office space or services described in section 408(b)(2). Section 2550.408c–2 of these regulations contains provisions relating to what constitutes reasonable compensation for the provision of services.

(e) *Transactions with fiduciaries.*—(1) *In general.* If the furnishing of office space or a service involves an act described in section 406(b) of the Act (relating to acts involving conflicts of interest by fiduciaries), such an act constitutes a separate transaction which is not exempt under section 408(b)(2) of the Act. The prohibitions of section 406(b) supplement the other prohibitions of section 406(a) of the Act by imposing on parties in interest who are fiduciaries a duty of undivided loyalty to the plans for which they act. These prohibitions are imposed upon fiduciaries to deter them from exercising the authority, control, or responsibility which makes such persons fiduciaries when they have interests which may conflict with the interests of the plans for which they act. In such cases, the fiduciaries have interests in the transactions which may affect the exercise of their best judgment as fiduciaries. Thus, a fiduciary may not use the authority, control, or responsibility which makes such person a fiduciary to cause a plan to pay an additional fee to such fiduciary (or to a person in which such fiduciary has an interest which may affect the exercise of such fiduciary's best judgment as a fiduciary) to provide a service. Nor may a fiduciary use such authority, control, or responsibility to cause a plan to enter into a transaction involving plan assets whereby such fiduciary (or a person in which such fiduciary has an interest which may affect the exercise of such fiduciary's best judgment as a fiduciary) will receive consideration from a third party in connection with such transaction. A person in which a fiduciary has an interest which may affect the exercise of such fiduciary's best judgment as a fiduciary includes, for example, a person who is a party in interest by reason of a relationship to such fiduciary described in section 3(14)(E), (F), (G), (H), or (I).

(2) *Transactions not described in section 406(b)(1).* A fiduciary does not engage in an act described in section 406(b)(1) of the Act if the fiduciary does not use any of the authority, control or responsibility which makes such person a fiduciary to cause a plan to pay additional fees for a service furnished by such fiduciary or to pay a fee for a service furnished by a person in which such fiduciary has an interest which may affect the exercise of such fiduciary's best judgment as a fiduciary. This may occur, for example, when one fiduciary is retained on behalf of a plan by a second fiduciary to provide a service for an additional fee. However, because the authority, control or responsibility which makes a person a fiduciary may be exercised "in effect" as well as in form, mere approval of the transaction by a second fiduciary does not mean that the first fiduciary has not used any of the authority, control or responsibility which makes such person a fiduciary to cause the plan to pay the first fiduciary an additional fee for a service. See paragraph (f) below.

(3) *Services without compensation.* If a fiduciary provides services to a plan without the receipt of compensation or other consideration (other than reimbursement of direct expenses properly and actually incurred in the performance of such services within the meaning of § 2550.408c–2(b)(3)), the provision of such services does not, in and of itself, constitute an act described in section 406(b) of the Act. The allowance of a deduction to an employer under section 162 or 212 of the Code for the expense incurred in furnishing office space or services to a plan established or maintained by such employer does not constitute compensation or other consideration.

(f) *Examples.* The provisions of § 2550.408b–2(e) may be illustrated by the following examples.

Example (1). E, an employer whose employees are covered by plan P, is a fiduciary of P. I is a professional investment adviser in which E has no interest which may affect the exercise of E's best judgment as a fiduciary. E causes P to retain I to provide certain kinds of investment advisory services of a type which causes I to be a fiduciary of P under section 3(21)(A)(ii) of the Act. Thereafter, I proposes to perform for additional fees portfolio evaluation services in addition to the services currently provided. The provision of such services is arranged by I and approved on behalf of the plan by E. I has not engaged in an act described in section 406(b)(1) of the Act, because I did not use any of the authority, control or responsibility which makes I a fiduciary (the provision of investment advisory services) to cause the plan to pay I additional fees for the provision of the portfolio evaluation services. E has not engaged in an act which is described in section 406(b)(1). E, as the fiduciary who has the responsibility to be prudent in his selection and retention of I and the other investment advisers of the plan, has an interest in the purchase by the plan of portfolio evaluation services. However, such an interest is not an interest which may affect the exercise of E's best judgment as a fiduciary.

Example (2). D, a trustee of plan P with discretion over the management and disposition of plan assets, relies on the advice of C, a consultant to P, as to the investment of plan assets, thereby making C a fiduciary of the plan. On January 1, 1978, C recommends to D that the plan purchase an insurance policy from U, an insurance company which is not a party in interest with respect to P. C thoroughly explains the reasons for the recommendation and makes a full disclosure concerning the fact that C will receive a commission from U upon the purchase of the policy by P. D considers the recommendation and approves the purchase of the policy by P. C receives a commission. Under such circumstances, C has engaged in an act described in section 406(b)(1) of the Act (as well as sections 406(b)(2) and (3) of the Act) because C is in fact exercising the authority, control or responsibility which makes C a fiduciary to cause the plan to purchase the policy. However, the transaction is exempt from the prohibited transaction provisions of section 406 of the Act, if the requirements of Prohibited Transaction Exemption 77–9 are met.

Example (3). Assume the same facts as in Example (2) except that the nature of C's relationship with the plan is not such that C is a fiduciary of P. The purchase of the insurance policy does not involve an act described in section 406(b)(1) of the Act (or sections 406(b)(2) or (3) of the Act) because such sections only apply to acts by fiduciaries.

Example (4). E, an employer whose employees are covered by plan P, is a fiduciary with respect to P. A, who is not a party in interest with respect to P, persuades E that the plan needs the services of a professional investment adviser and that A should be hired to provide the investment advice. Accordingly, E causes P to hire A to provide investment advice of the type which makes A a fiduciary under § 2510.3–21(c)(1)(ii)(B). Prior to the expiration of A's first contract with P, A persuades E to cause P to renew A's contract with P to provide the same services for additional fees in view of the increased costs in providing such services. During the period of A's second contract, A provides additional investment advice services for which no additional charge is made. Prior to the expiration of A's second contract, A persuades E to cause P to renew his contract for additional fees in view of the additional services A is providing. A has not engaged in an act described in section 406(b)(1) of the Act, because A has not used any of the authority, control or responsibility which makes A a fiduciary (the provision of investment advice) to cause the plan to pay additional fees for A's services.

Example (5). F, a trustee of plan P with discretion over the management and disposition of plan assets, retains C to provide administrative services to P of the type which makes C a fiduciary under section 3(21)(A)(iii). Thereafter, C retains F to provide for additional fees actuarial and various kinds of administrative services in addition to the services F is currently providing to P. Both F and C have engaged in an act described in section 406(b)(1) of the Act. F, regardless of any intent which he may have had at the time he retained C, has engaged in such an act because F has, in effect, exercised the authority, control or responsibility which makes F a fiduciary to cause the plan to pay F additional fees for the services. C, whose continued employment by P depends on F, has also engaged in such an act, because C has an interest in the transaction which might affect the exercise of C's best judgment as a fiduciary. As a result, C has dealt with plan assets in his own interest under section 406(b)(1).

Example (6). F, a fiduciary of plan P with discretionary authority respecting the management of P, retains S, the son of F, to provide for a fee various kinds of administrative services necessary for the operation of the plan. F has engaged in an act described in section 406(b)(1) of the Act because S is a person in whom F has an interest which may affect the exercise of F's best judgment as a fiduciary. Such act is not exempt under section 408(b)(2) of the Act irrespective of whether the provision of the services by S is exempt.

Example (7). T, one of the trustees of plan P, is president of bank B. The bank proposes to provide administrative services to P for a fee. T physically absents himself from all consideration of B's proposal and does not otherwise exercise any of the authority, control or responsibility which makes T a fiduciary to cause the plan to retain B. The

other trustees decide to retain B. T has not engaged in an act described in section 406(b)(1) of the Act. Further, the other trustees have not engaged in an act described in section 406(b)(1) merely because T is on the board of trustees of P. This fact alone would not make them have an interest in the transaction which might affect the exercise of their best judgment as fiduciaries.

PAR. 2. Section 2550.408b–4 is inserted in the appropriate place to read as set forth below:

§ 2550.408b–4 Statutory exemption for investments in deposits of banks or similar financial institutions.

(a) *In general.* Section 408(b)(4) of the Employee Retirement Income Security Act of 1974 (the Act) exempts from the prohibitions of section 406 of the Act the investment of all or a part of a plan's assets in deposits bearing a reasonable rate of interest in a bank or similar financial institution supervised by the United States or a State, even though such bank or similar financial institution is a fiduciary or other party in interest with respect to the plan, if the conditions of either § 2550.408b–4(b)(1) or § 2550.408–4(b)(2) are met. Section 408(b)(4) provides an exemption from sections 406(b)(1) of the Act (relating to fiduciaries dealing with the assets of plans in their own interest or for their own account) and 406(b)(2) of the Act (relating to fiduciaries in their individual or in any other capacity acting in any transaction involving the plan on behalf of a party (or representing a party) whose interests are adverse to the interests of the plan or the interests of its participants or beneficiaries), as well as section 406(a)(1), because section 408(b)(4) contemplates a bank or similar financial institution causing a plan for which it acts as a fiduciary to invest plan assets in its own deposits if the requirements of section 408(b)(4) are met. However, it does not provide an exemption from section 406(b)(3) of the Act (relating to fiduciaries receiving consideration for their own personal account from any party dealing with a plan in connection with a transaction involving the assets of the plan). The receipt of such consideration is a separate transaction not described in the statutory exemption. Section 408(b)(4) does not contain an exemption from other provisions of the Act, such as section 304, or other provisions of law which may impose requirements or restrictions relating to the transactions which are exempt under section 408(b)(4) of the Act. See, for example, section 401 of the Internal Revenue Code of 1954 (Code). The provisions of section 408(b)(4) of the Act are further limited by section 408(d) of the Act (relating to transactions with owner-employees and related persons).

(b)(1) *Plan covering own employees.* Such investment may be made if the plan is one which covers only the employees of the bank or similar financial institution, the employees of any of its affiliates, or the employees of both.

(2) *Other plans.* Such investment may be made if the investment is expressly authorized by a provision of the plan or trust instrument or if the investment is expressly authorized (or made) by a fiduciary of the plan (other than the bank or similar financial institution or any of its affiliates) who has authority to make such investments, or to instruct the trustee or other fiduciary with respect to investments, and who has no interest in the transaction which may affect the exercise of such authorizing fiduciary's best judgment as a fiduciary so as to cause such authorization to constitute an act described in section 406(b) of the Act. Any authorization to make investments contained in a plan or trust instrument will satisfy the requirement of express authorization for investments made prior to November 1, 1977. Effective November 1, 1977, in the case of a bank or similar financial institution that invests plan assets in deposits in itself or its affiliates under an authorization contained in a plan or trust instrument, such authorization must name such bank or similar financial institution and must state that such bank or similar financial institution may make investments in deposits which bear a reasonable rate of interest in itself (or in an affiliate).

(3) *Example.* B, a bank, is the trustee of plan P's assets. The trust instruments give the trustees the right to invest plan assets in its discretion. B invests in the certificates of deposit of bank C, which is a fiduciary of the plan by virtue of performing certain custodial and administrative services. The authorization is sufficient for the plan to make such investment under seciton 408(b)(4). Further, such authorization would suffice to allow B to make investments in deposits in itself prior to November 1, 1977. However, subsequent to October 31, 1977, B may not invest in deposits in itself, unless the plan or trust instrument specifically authorizes it to invest in deposits of B.

(c) *Definitions.* (1) The term "bank or similar financial institution" includes a bank (as defined in section 581 of the Code), a domestic building and loan association (as defined in section 7701(a)(19) of the Code), and a credit union (as defined in section 101(6) of the Federal Credit Union Act).

(2) A person is an affiliate of a bank or similar financial institution if such person and such bank or similar financial institution would be treated as members of the same controlled group of corporations or as members of two or more trades or businesses under common control within the meaning of section 414(b) or (c) of the Code and the regulations thereunder.

(3) The term "deposits" includes any account, temporary or otherwise, upon which a reasonable rate of interest is paid, including a certificate of deposit issued by a bank or similar financial institution.

PAR. 3. Section 2550.408b–6 is inserted in the appropriate place to read as set forth below:

§ 2550.408b–6 Statutory exemption for ancillary services by a bank or similar financial institution.

(a) *In general.* Section 408(b)(6) of the Employee Retirement Income Security Act of 1974 (the Act) exempts from the prohibitions of section 406 of the Act the provision of certain ancillary services by a bank or similar financial institution (as defined in § 2550.408b–4(c)(1)) supervised by the United States or a State to a plan for which it acts as a fiduciary if the conditions of § 2550.408b–6(b) are met. Such ancillary services include services which do not meet the requirements of section 408(b)(2) of the Act because the provision of such services involves an act described in section 406(b)(1) of the Act (relating to fiduciaries dealing with the assets of plans in their own interest or for their own account) by the fiduciary bank or similar financial institution or an act described in section 406(b)(2) of the Act (relating to fiduciaries in their individual or in any other capacity acting in any transaction involving the plan on half of a party (or representing a party) whose interests are adverse to the interests of the plan or the interests of its participants or beneficiaries). Section 408(b)(6) provides an exemption from sections 406(b)(1) and (2) because section 408(b)(6) contemplates the provision of such ancillary services without the approval of a second fiduciary (as described in § 2550.408b–2(e)(2)) if the conditions of § 2550.408b–6(b) are met. Thus, for example, plan assets held by a fiduciary bank which are reasonably expected to be needed to satisfy current plan expenses may be placed by the bank in a non-interest-bearing checking account in the bank if the conditions of § 2550.408b–6(b) are met, notwithstanding the provisions of section 408(b)(4) of the Act (relating to investments in bank deposits). However, section 408(b)(6) does not provide an exemption for an act described in section 406(b)(3) of the Act (relating to fiduciaries receiving consideration for their own personal account from any party dealing with a plan in connection with a transaction involving the assets of the plan). The receipt of such consideration is a separate transaction not described in section 408(b)(6). Section 408(b)(6) does not contain an exemption from other provisions of the Act, such as section 404, or other provisions of law which may impose requirements or restrictions relating to the transactions which are exempt under section 408(b)(6) of the Act. See, for example, section 401 of the Internal Revenue Code of 1954. The provisions of section 408(b)(6) of the Act are further limited by section 408(d) of the Act (relating to transactions with owner-employees and related persons).

(b) *Conditions.* Such service must be provided—

(1) At not more than reasonable compensation;

(2) Under adequate internal safeguards which assure that the provision of such service is consistent with sound banking and financial practice, as determined by Federal or State supervisory authority; and

(3) Only to the extent that such service is subject to specific guidelines issued by the bank or similar financial institution which meet the requirements of § 2550.408b–6(c).

(c) *Specific guidelines.* [Reserved]

PAR. 4. Section 2550.408c-2 is inserted in the appropriate place to read as set forth below:

§ 2550.408c-2 Compensation for services.

(a) *In general.* Section 408(b)(2) of the Employee Retirement Income Security Act of 1974 (the Act) refers to the payment of reasonable compensation by a plan to a party in interest for services rendered to the plan. Section 408(c)(2) of the Act and §§ 2550.408c-2(b)(1) through 2550.408c-2(b)(4) clarify what constitutes reasonable compensation for such services.

(b)(1) *General rule.* Generally, whether compensation is "reasonable" under sections 408(b)(2) and 408(c)(2) of the Act depends on the particular facts and circumstances of each case.

(2) *Payments to certain fiduciaries.* Under sections 408(b)(2) and 408(c)(2) of the Act, the term "reasonable compensation" does not include any compensation to a fiduciary who is already receiving full-time pay from an employer or association of employers (any of whose employees are participants in the plan) or from an employee organization (any of whose members are participants in the plan), except for the reimbursement of direct expenses properly and actually incurred and not otherwise reimbursed. The restrictions of this paragraph (b)(2) do not apply to a party in interest who is not a fiduciary.

(3) *Certain expenses not direct expenses.* An expense is not a direct expense to the extent it would have been sustained had the service not been provided or if it represents an allocable portion of overhead costs.

(4) *Expense advances.* Under sections 408(b)(2) and 408(c)(2) of the Act, the term "reasonable compensation", as applied to a fiduciary or an employee of a plan, includes an advance to such a fiduciary or employee by the plan to cover direct expenses to be properly and actually incurred by such person in the performance of such person's duties with the plan if:

(i) The amount of such advance is reasonable with respect to the amount of the direct expense which is likely to be properly and actually incurred in the immediate future (such as during the next month); and

(ii) The fiduciary or employee accounts to the plan at the end of the period covered by the advance for the expenses properly and actually incurred.

(5) *Excessive compensation.* Under sections 408(b)(2) and 408(c)(2) of the Act, any compensation which would be considered excessive under 26 CFR 1.162-7 (Income Tax Regulations relating to compensation for personal services which constitutes an ordinary and necessary trade or business expense) will not be "reasonable compensation". Depending upon the facts and circumstances of the particular situation, compensation which is not excessive under 26 CFR 1.162-7 may, nevertheless, not be "reasonable compensation" within the meaning of sections 408(b)(2) and 408(c)(2) of the Act.

PAR. 5. Section 2550.414(c)-4 is inserted in the appropriate place to read as follows:

§ 2550.414c-4 Transitional rule for the provision of certain services until June 30, 1977.

(a) *In general.* Section 414(c)(4) of the Employee Retirement Income Security Act of 1974 (the Act) provides that sections 406 and 407(a) shall not apply to the provision of services before June 30, 1977, between a plan and a party in interest if the three requirements contained in section 414(c)(4) are met. The first requirement is that such services must be provided either (1) under a binding contract in effect on July 1, 1974 (or pursuant to a renewal or modification of such contract), or (2) by a party in interest who ordinarily and customarily furnished such services on June 30, 1974. The second requirement is that the services be provided on terms that remain at least as favorable to the plan as an arm's-length transaction with an unrelated party would be. For this purpose, such services are provided on terms that remain at least as favorable to the plan as an arm's-length transaction with an unrelated party would be, if at the time of execution (or renewal) of such binding contract, the contract (or renewal) is on terms at least as favorable to the plan as an arm's-length transaction with an unrelated party would be. However, if in a normal commercial setting an unrelated party in the position of the plan could be expected to insist upon a renegotiation or termination of a binding contract, the plan must so act. Thus, for example, if a party in interest provides services to a plan on a month-to-month basis, and a party in the position of the plan could be expected to renegotiate the price paid under such contract because of a decline in the fair market value of such services, the plan must so act in order to avoid participation in a prohibited transaction. The third requirement is that the provision of services must not be, or have been, at the time of such provision a prohibited transaction within the meaning of section 503(b) of the Internal Revenue Code of 1954 or the corresponding provisions of prior law. If these three requirements are met, section 406 of the Act will apply neither to services provided before June 30, 1977 (both to customers to whom such services were being provided on June 30, 1974, and to new customers) nor to the receipt of compensation therefor. Thus, if these three requirements are met, section 406 of the Act will not apply until June 30, 1977, to the provision of services to a plan by a party in interest (including a fiduciary) even if such services could not be furnished pursuant to the exemption provisions of sections 408(b)(2) or (6) of the Act and §§ 2550.408b-2 and 2550.408b-6. For example, if the three requirements of section 414(c)(4) of the Act are met, a person serving a fiduciary to a plan who already receives full-time pay from an employer or an association of employers, whose employees are participants in such plan, or from an employee organization whose members are participants in such plan, may continue to receive reasonable compensation from the plan for services rendered to the plan before June 30, 1977. Similarly, until June 30, 1977, a plan consultant who may be a fiduciary because of the nature of the consultative and administrative services being provided may, if these three requirements are met, continue to cause the sale of insurance to the plan and continue to receive commissions for such sales from the insurance company writing the policy. Further, if the three requirements of section 414(c)(4) of the Act are met, a securities broker-dealer who renders investment advice to a plan for a fee, thereby becoming a fiduciary, may furnish other services to the plan, such as brokerage services, and receive compensation therefor. Also, if a registered representative of such a broker-dealer were a fiduciary, the registered representative may receive compensation, including commissions, for brokerage services performed before June 30, 1977.

(b) *Persons deemed to be June 30, 1974, service providers.* A party in interest with respect to a plan which did not, on June 30, 1974, ordinarily and customarily furnish a particular service, will nevertheless be considered to have ordinarily and customarily furnished such service on June 30, 1974, for purposes of this section and section 414(c)(4) of the Act, if either of the following conditions are met:

(1) At least 50 percent of the outstanding beneficial interests of such party in interest are owned directly or through one or more intermediaries by the same person or persons who owned, directly or through one or more intermediaries, at least 50 percent of the outstanding beneficial interests of a person who ordinarily and customarily furnished such service on June 30, 1974; or

(2) Control or the power to exercise a controlling influence over the management and policies of such party in interest is possessed, directly or through one or more intermediaries, by the same person or persons who possessed, directly or through one or more intermediaries, control or the power to exercise a controlling influence over the management and policies of a person who ordinarily and customarily furnished such service on June 30, 1974.

For purposes of paragraph (b) of this section, a person shall be deemed to be an "intermediary" of another person if at least 50 percent of the outstanding beneficial interests of such person are owned by such other person, directly or indirectly, or if such other person controls or has the power to exercise a controlling influence over the management and policies of such person.

(c) *Examples.* The following examples apply the principles enunciated in paragraph (b) this section.

Example (1). A owns 50 percent of the outstanding beneficial interests of ABC Partnership which ordinarily and customarily furnished certain services on June 30, 1974. On July 2, 1974, ABC Partnership was incorporated into ABC Corporation with one class of stock outstanding. A owns 50 percent of the shares of such stock. ABC Corporation furnishes the same services that were furnished by ABC Partnership on June 30, 1974. ABC Corporation will be deemed to have ordinarily and customarily furnished such services on June 30, 1974, for purposes of section 414(c)(4) of the Act.

Example (2). A and B together own 100 percent of the beneficial interests of AB Partnership, which ordinarily and customarily furnished certain services on June 30, 1974. On September 1, 1974, AB Partnership was incorporated into AB Corporation with one class of stock outstanding. A and B each own 20 percent of such outstanding class of stock and together have control over the management and policies of AB Corporation. AB Corporation furnishes the same services that were furnished by AB Partnership on June 30, 1974. AB Corporation will be deemed to have ordinarily and customarily furnished such services on June 30, 1974, for purposes of section 141(c)(4) of the Act.

Example (3). On June 30, 1974, M Corporation was ordinarily and customarily furnishing certain services. On that date, X, Y, and Z together owned 50 percent of all classes of the outstanding shares of M Corporation. On January 28, 1975, all of the shareholders of M Corporation exchanged their shares in M Corporation for shares of a new N Corporation. As a result of that exchange, X, Y, and Z together own 50 percent of the common stock of N Corporation, the only class of N Corporation stock outstanding after the exchange. N Corporation furnishes the services formerly furnished by M Corporation. N Corporation will be deemed to have ordinarily and customarily furnished such services on June 30, 1974, for purposes of section 414(c)(4) of the Act.

Example (4). I Corporation ordinarily and customarily furnished certain services on June 30, 1974. On November 3, 1975, I Corporation organizes a wholly-owned subsidiary, S Corporation, which furnishes the same services ordinarily and customarily furnished by I Corporation on June 30, 1974. S Corporation will be deemed to have ordinarily and customarily furnished such services on June 30, 1974, for purposes of section 414(c)(4) of the Act.

Example (5). X Corporation, wholly owned and controlled by A, ordinarily and customarily furnished certain services on June 30, 1974. Y Corporation did not perform such services on that date. On January 2, 1976, X Corporation is merged into Y Corporation and, although A received less than 50 percent of the total outstanding shares of Y Corporation, after such merger A has control over the management and policies of Y Corporation. Y Corporation furnishes the same services that were formerly furnished by X Corporation. Y Corporation will be deemed to have ordinarily and customarily furnished such services on June 30, 1974, for purposes of section 414(c)(4) of the Act.

Signed at Washington, D.C., this 14th day of June 1977.

IAN D. LANOFF,
Administrator of Pension and Welfare Benefit Programs, U.S. Department of Labor.

[FR Doc.77-17895 Filed 6-21-77;8:45 am]

DEPARTMENT OF LABOR

Office of Pension and Welfare Benefit Programs

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[Prohibited Transaction Exemption]

EMPLOYEE BENEFIT PLANS

Class Exemption for Certain Transactions Involving Insurance Agents and Brokers, Pension Consultants, Insurance Companies, Investment Companies and Investment Company Principal Underwriters and Employee Benefit Plans

AGENCIES: Department of Labor, Department of Treasury/Internal Revenue Service.

ACTION: Grant of class exemption.

SUMMARY: This class exemption exempts from the prohibited transaction provisions of the Employee Retirement Income Security Act of 1974 (the Act) and the taxes imposed by section 4975 of the Internal Revenue Code of 1954 (the Code) certain transactions involving employee benefit plans and insurance agents and brokers, pension consultants, insurance companies, investment companies and investment company principal underwriters for, or in connection with the purchase of insurance or annuity contracts and the purchase or sale of securities issued by an investment company, if certain conditions are met. Such persons, because of their activities with respect to employee benefit plans, may be considered fiduciaries or other parties in interest[1] of such plans, thus rendering the described transactions prohibited transactions within the meaning of section 406 of the Act and section 4975 of the Code. The exemption affects participants and beneficiaries of employee benefit plans, their employers, and persons engaging in the described transactions.

FOR FURTHER INFORMATION CONTACT:

Mr. Forrest Foss, Room C-4508, Plan Benefits Security Division, Office of the Solicitor, Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210, 202-523-6856. Mr. Elliot Daniel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224, Attention: E:EP:PT 202-566-3089. (These are not toll free numbers.)

SUPPLEMENTAL INFORMATION: On December 29, 1976, notice was published in the FEDERAL REGISTER (41 FR 56760) (reprinted on January 7, 1977 (42 FR 1525)) that the Department of Labor (the Department) and the Internal Revenue Service (the Service) had under consideration a proposed class exemption from the restrictions of sections 406(a)(1)(A) through (D) and 406(b) of the Act and from the taxes imposed by section 4975 of the Code. The class exemption was requested in applications filed pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code by the National Association of Pension Consultants and Administrators, Inc. (Application No. D-183); jointly by the American Council of Life Insurance, the National Association of Life Underwriters, and the Association for Advanced Life Underwriting (Application No. D-301); the Investment Company Institute (Application Nos. D-419 and D-466); jointly by Marsh and McLennan Companies, Inc. and Johnson and Higgins (Application No. D-459); and jointly by Investors Diversified Services, Inc. and American General Capital Distributors, Inc. (Application No. D-473).

The exemption was proposed in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975) and Rev. Proc. 75-26, 1975-1 C.B. 722, and all interested persons were invited to submit comments on the proposed exemption. In addition, pursuant to notice published in the FEDERAL REGISTER (41 FR 56758, December 29, 1976), a public hearing was held on February 14, 1977, in which interested persons were afforded the opportunity to present their views on the proposed exemption.

In response to numerous comments, the exemption has been adopted by the Agencies in restructured form. In order to illustrate the operation of the exemption, as revised and adopted, the Agencies have set forth below a summary of its operation and effect. After the summary, there is a discussion of major comments received by the Agencies with respect to the proposed exemption, and a discussion of how these comments were treated in the exemption as adopted. In addition, the Agencies have published elsewhere in this issue of the FEDERAL REGISTER a proposal to impose two additional conditions on the exemption, but these conditions would be applicable only to transactions occurring after December 31, 1978.

EXPLANATION OF THE OPERATION OF THE EXEMPTION

1. *Transactions covered.* The exemption relates to six different classes of transactions involving insurance agents or brokers, pension consultants, insurance companies, investment companies, and investment company principal underwriters who, because of their activities with respect to plans, may be considered to be fiduciaries or other parties in interest of such plans, thus rendering the transactions described prohibited transactions within the meaning of section 406 of the Act and 4975(c)(1) of the Code. These transactions are set forth in section III, and describe situations involving the purchase of insurance or annuity contracts or the purchase or sale of securities issued by an investment company. The transactions are stated in general terms, thereby encompassing a broad range of transactions which could be prohibited but for the exemption. However, as described below, conditions imposed upon the exemption limit its availability for purchases made after October 31, 1977 to transactions involving only certain categories of parties in interest (see section V(a)).

The first three transactions cover the effecting by insurance agents or brokers, pension consultants, or investment company principal underwriters of the purchase with plan assets of insurance or annuity contracts or securities issued by an investment company and the receipt of commissions in connection with such purchase (see sections III (a), (b) and (c)). Paragraph (d) of section III covers the purchase with plan assets of an insurance or annuity contract from an insurance company.

The last two transactions, covered by sections III (e) and (f), are not subject to many of the conditions imposed on the first four transactions (see section V). These last two transactions are limited to purchases with plan assets of insurance or annuity contracts or securities issued by an investment company in situations where the insurance company, investment company or investment company principal underwriter is a fiduciary or service provider of the plan solely by reason of sponsorship of a master or prototype plan. These transactions contemplate situations in which the insurance company, investment company or investment company principal underwriter is a party in interest of a plan by reason of its sponsorship of a master or prototype plan (including its authority to make changes in the master or prototype plan) but has no other relationship to the plan, such as being an investment adviser to the plan directly or through an affiliate. The Agencies have determined that it is appropriate to distinguish the transactions involving sponsorship of master and prototype plans from the other transactions and to apply different conditions thereto because a person who may be a fiduciary or other party in interest only because it is the sponsor of a master or prototype plan is not as likely to be able to influence the investments and other purchases of the plan as persons who are fiduciaries or parties in interest as a result of other relationships. Therefore, if the insurance company, investment company, or investment company principal underwriter is also a fiduciary or party in interest for a reason other than or in addition to sponsorship of a master or prototype plan, the exemptions afforded for transactions described by section III (e) and (f) are not available, but the exemptions afforded for transactions described by sections III (b), (c) and (d) are available, if the conditions applicable to such transactions are satisfied. Further, sections III (e) and (f) do not cover the insurance agent or broker, pension consultant or investment company principal underwriter who is a fiduciary to the plan and who sells an insurance or annuity contract or securities issued by an investment company to the plan in connection with a master or protoype plan. Such persons would have to meet the conditions applicable to the transactions

[1] The term "parties in interest", as used in this preamble, includes "disqualified persons" as defined in section 4975(e)(2) of the Code.

described by sections III (a), (b) and (c).

It should be noted that the terms "insurance or annuity contracts" and "securities issued by an investment company" are designed to encompass all products issued by an insurance company or an investment company in the ordinary course of its business. For example, these terms cover variable annuities and investment contracts issued by an insurance company and described in section 801(g)(1) of the Code and face amount certificates as defined in section 2(a)(15) of the Investment Company Act of 1940 (15 USC 80a–2(a)(15)).

It is further noted that, as used in this exemption, the terms "insurance agent or broker", "pension consultant", "insurance company", "investment company" and "principal underwriter" include all affiliates of such persons (see definitions in section VI).

2. *Conditions.* Section IV provides certain basic conditions for all transactions described in section III between plans and parties in interest (including fiduciaries) without regard to the date of such transaction. These conditions require that the transactions be effected in the ordinary course of business, that they be as favorable to the plan as those which would have been engaged in by the plan and such party in interest if they were unrelated parties, and that the total of all fees, commissions and other consideration received be reasonable.

Section V provides further conditions for transactions involving purchases effected after October 31, 1977. The conditions of section V do not apply to the sponsors of master and prototype plans as described in sections III(e) and (f).

Paragraph (a) of section V limits the categories of parties in interest for which this exemption is available to persons who are parties in interest to the plan solely because they are service providers or certain types of fiduciaries to the plan. For example, a pension consultant who is a plan administrator would not be eligible for relief under the exemption. It should also be noted that, in general, this exemption would not be required for the effecting of a sale to a plan and the receipt of a sales commission with respect to such sale by an agent, broker, consultant or principal underwriter who is a party in interest with respect to the plan for which the transaction is executed, if the person is not a fiduciary[*] and the provision of such services by the party in interest satisfies the conditions of the exemption set forth in section 408(b)(2) of the Act and 4975(d)(2) of the Code. In this regard, such nonfiduciary is referred to the final regulations appearing elsewhere in this issue of the FEDERAL REGISTER which clarify the scope of the statutory exemption.

Paragraph (b) imposes a requirement designed to prevent purchases from being approved on behalf of the plan by a fiduciary who might have a conflict of interest with respect to the transaction. In addition, the paragraph requires that the party in interest recommending the purchase convey to the approving fiduciary certain information with respect to the transaction, and that such fiduciary acknowledge in writing receipt of such information prior to approving the recommended transaction.

Paragraph (c) of section V provides for certain limited disclosures to the approving fiduciary. These disclosures are designed to elicit certain information about the relationship of the party in interest recommending the purchase to the issuer of the recommended contract or securities and the commissions which will be received by the party in interest in connection with the sale. It is expected that this information will make the approving fiduciary aware, generally, of a potential for conflict of interest on the part of the person recommending the transaction.

Paragraph (d), which is reserved, is intended to impose two additional conditions on the exemption, but these conditions would be applicable only to transactions occurring after December 31, 1978. It would require additional disclosures for purchases made with plan assets, and would restrict the scope of the exemption for transactions described in sections III (a) through (d) to those where the purchase is made on behalf of plans with a limited number of active participants. The specific terms of this paragraph are proposed elsewhere in this issue of the FEDERAL REGISTER and interested persons are referred to that proposal.

Paragraph (e) of section V relates to disclosure requirements with respect to additional purchases of contracts and securities. It states that once the disclosures required by paragraphs (c) and (d) have been made, they need not be repeated unless such disclosures were made more than three years before the transaction in question, or the product sold or the commission received with respect to the previous transaction is materially different from the instant transaction or commission.

Paragraphs (f) and (g) require that the insurance agent or broker, pension consultant, investment company principal underwriter or insurance company maintain certain records for six years from the date of the transaction. Paragraph (h)(2) requires that records maintained pursuant to paragraphs (f) and (g) be available for examination by specified persons, while paragraph (h)(1) deals with certain situations where the records are lost or destroyed prior to the end of six years.

3. *Retroactive relief.* Section I provides retroactive relief from all the restrictions of sections 406 of the Act and 4975(c)(1) of the Code with respect to transactions described in section III of the exemption if the conditions that apply to all the transactions (section IV) are met. This relief is provided for all transactions entered into prior to November 1, 1977, regardless of whether the terms of section V of this class exemption or the transition provisions of sections 414(c)(4) and 2003(c)(2)(D) of the Act are met, in order to provide sufficient opportunity for affected persons to modify their practices to comply with the conditions of the exemption.

4. *Prospective relief.* Section II affords prospective relief from the prohibitions of sections 406(a)(1)(A) through (D) and 406(b) of the Act and 4975(c)(1) of the Code for transactions described in section III of the exemption arising out of purchases made after October 31, 1977. If the transactions are described in sections III (e) and (f), the only conditions which must be satisfied are those contained in section IV; if the transactions are described in sections III (a) through (d), they must satisfy the conditions of both sections IV and V in order to be entitled to relief under the exemption.

DISCUSSION OF MAJOR COMMENTS

1. EXEMPT TRANSACTIONS AND COVERED PERSONS

Numerous comments were received requesting clarification as to whether the normal sales presentation and recommendations made to a plan or a plan fiduciary by an agent, broker, pension consultant or principal underwriter constitute the rendering of investment advice within the meaning of sections 3(21)(A)(ii) of the Act and 4975(e)(3)(B) of the Code and the regulations issued thereunder (29 CFR 2510.3–21(c) and 26 CFR 54.4975–9(c)). If they do, the receipt of a commission by such agent, broker, pension consultant or principal underwriter in connection with the purchase, with plan assets, of an insurance or annuity contract or securities issued by an investment company would constitute a prohibited transaction under sections 406 of the Act and 4975 of the Code for which an exemption would be required. As stated in the proposal, a determination of whether such sales presentation, recommendations, and advice constitute "investment advice" under section 3(21)(A)(ii) of the Act and section 4975(e)(3)(B) of the Code and the regulations issued thereunder can be made only on a case-by-case basis.

Several comments stated that the class exemption, as proposed, would not cover transactions engaged in by registered representatives of a principal underwriter because such persons were not "employees" of the principal underwriter, and, accordingly, were not affiliates of the principal underwriter. The definition of "affiliate," now in section VI(c) of the exemption, has been modified in response to these comments so as to make it clear that a registered representative is an affiliate of a principal underwriter. Commentators also pointed out that, technically, investment company securities are sold in both agency and principal transactions by principal underwriters. Accordingly, section III(c) of the exemption has been amended so

[*] For example, a person is not a fiduciary if the person's sales activities do not constitute investment advice and only non-discretionary administrative support services are rendered (and such person is not otherwise a fiduciary). In this connection, see question D–2 of Interpretive Bulletin 2509.75–8 (ERISA IB 75–8, 40 FR 47491).

that the "effecting" of such transactions are covered.

Numerous comments reflected a misunderstanding as to which agents, brokers, consultants, insurance companies, investment companies and principal underwriters that are fiduciaries or other parties in interest with respect to a plan would be eligible for relief under the exemption. Comments were also received respecting the types of services that such persons could provide to a plan under the exemption. In response to these comments, proposed sections III(a) and III(d)(1) have been combined and modified and are now contained in section V(a) of the exemption.

As noted above, all transactions described in section III, which would otherwise be prohibited transactions, are exempt if the purchase is made prior to November 1, 1977, and the conditions of section IV are met. However, for transactions involving purchases made after October 31, 1977, section V(a) of the final exemption limits the exemption to persons who are parties in interest with respect to a plan solely by reason of being a service provider, fiduciary, or both. Furthermore, as noted above, certain limitations are placed on the type of fiduciary activity in which such persons may engage.

Comments were received urging the Agencies not to apply certain of the conditions of the exemption to an insurance company, investment company or investment company principal underwriter that may be a fiduciary or party in interest with respect to a plan solely by reason of sponsoring a master or prototype plan which is adopted as the plan. These comments indicated that independent insurance brokers, or dealers in investment company shares, often market insurance or annuity contracts or securities issued by an investment company together with a master or prototype plan prepared by the insurance company or the investment company or its principal underwriter. In these situations, while the independent agents, brokers, consultants or dealers in investment company shares may be fiduciaries to the plan in connection with the transaction, the insurance company, investment company or its principal underwriter would not be involved with the plan other than as sponsor of the master or prototype plan (and as issuer of the contract or security which is purchased to fund the plan). In response to these comments, the Agencies have modified the exemption so that, as noted above, such sponsors of master or prototype plans are subject only to a limited number of the conditions of the exemption. As noted above, however, the person effecting the transaction for the purchase of an insurance or annuity contract or of securities issued by an investment company to fund a master or prototype plan (i.e., the agent, broker, consultant or principal underwriter) is subject fully to all conditions of the exemption.[3]

2. *Reasonable Compensation.* Proposed sections III(b)(1), III(c) and III(d)(2) are now contained in section IV of the exemption, and, as noted above, are applicable to all covered transactions.

The proposal was criticized for not containing specific guidance as to what constitutes reasonable compensation and various standards were suggested by which to measure reasonableness. The Agencies have decided not to incorporate these comments because the forms of compensation can vary substantially, and any determination as to whether or not the total amount of compensation is reasonable depends on the particular facts and circumstances of each case. A similar position has been adopted by the Agencies with respect to "reasonable compensation" in the regulations issued elsewhere in this issue of the FEDERAL REGISTER under section 408(c)(2) of the Act (29 CFR 2550.408c-2(b)(1)) and section 4975(d)(10) of the Code (26 CFR 54.4975-6(e)(2)).

Comments were also received urging the Agencies to alter the commission disclosure requirement to reflect commissions received over a longer base period. Although these comments have not been adopted, the Agencies wish to emphasize that the disclosure requirements of the final exemption set forth minimum requirements respecting commissions, and that disclosure of additional information is, to the extent it is not misleading or obfuscatory, permissible.

Comments also urged the Agencies to provide that in those cases where the amount of compensation is judged to be in excess of reasonable compensation, the "amount involved" for purposes of the assessment of the excise tax under sections 4975(a) and (b) of the Code or the civil penalty under section 502(i) of the Act be limited to the amount of the compensation in excess of reasonable compensation. The exemption has been modified to incorporate these comments. Finally, in response to confusion evidenced by various comments, the reasonable compensation test has been rephrased to clarify that it is the total compensation received (which includes all fees, commissions and other consideration) that must be reasonable.

3. *Approval by a fiduciary.* In response to numerous comments, section V(b) of the exemption, respecting fiduciary approval of the exempted transaction, clarifies that the employer of employees covered by the plan may assume the responsibility of being the approving fiduciary.

[3] If a dealer in investment company securities is not a principal underwriter with respect to the investment company whose securities are being recommended for purchase with plan assets, such dealer need not comply with the condition of this exemption, but is instead referred to Part II of Prohibited Transaction Exemption 75-1 (40 FR 50845).

4. *Dislosure.* Pursuant to comments, a variety of changes from the disclosure requirements of the proposal have been made.

Many comments were received criticizing the requirement of the proposal that the agent, broker, consultant or principal underwriter disclose the names of all insurance companies and investment companies with which such person is affiliated. The exemption, as adopted, has been modified in response to these comments and limits the disclosure in this area to information concerning the relationship between the insurance company or investment company whose contract or security is recommended and the person making the recommendation.

Comments suggested that the exemption be conditioned upon the disclosure of the dollar amount of commission to be received. The Agencies did not adopt this suggestion because disclosure of the percentage rate of commissions will be required, and this will provide comparable information to the approving fiduciary and will be more easily developed by the person claiming exemption.

The provisions of the proposal respecting disclosure of special instructions, special incentive arrangements and sources of substantial amounts of commission income have been deleted. Comments indicated a great deal of uncertainty as to the meaning of these terms and questioned their relevance to the inforamtion needed by the approving fiduciary. In addition, the Agencies believe that the other disclosure requirements of the exemption will be sufficient to alert an approving fiduciary to the extent of the potential conflict of interest of the person recommending the purchase.

Several comments were received with respect to the necessity for and frequency of disclosures which might be occasioned by additional purchases of contracts or securities. Some commentators urged the Agencies to require repeat disclosure only when the applicable contract or security, or the commission with respect thereto, is materially different from that for which the approval was obtained, while others urged that disclosure be required each year. The requirement of the exemption, as adopted, is intended to reach a middle ground and reflects the Agencies' position that the approving fiduciary needs sufficiently current information with which to make an informed judgment with respect to additional purchases of the recommended product.

5. *Recordkeeping, availability of records.* In response to comments, the recordkeeping requirements of the proposal have been modified to specify the records that the agent, broker, consultant, insurance company and principal underwriter must retain. Comments were received urging the Agencies to modify the proposal so as to limit the persons to whom the retained records would be

available. However, these suggestions have not been incorporated because the final exemption clearly delineates the records which must be retained.

In addition to the changes noted above which have been made in the exemption, as adopted, in response to suggestions made in the written comment letters and the testimony received at the public hearing of February 14, 1977, other changes intended to clarify the provisions of the exemption have been made.

GENERAL INFORMATION

The attention of interested persons is directed to the following: (1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and Section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act which, among other things, require a fiduciary to discharge his duties respecting the plan solely in the interest of the plan's participants and beneficiaries and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) The exemption set forth herein is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

(3) The class exemption is applicable to a particular transaction only if the transaction satisfies the conditions specified in the class exemption.

(4) In accordance with section 408(a) of the Act and section 4975(c)(2) of the Code, and based upon the entire record, including the written comments submitted in response to the notice of December 29, 1976, (reprinted on January 7, 1977) and the testimony given at the public hearing of February 14, 1977, the Department and the Service make the following determinations:

(i) The class exemption set forth herein is administratively feasible;

(ii) It is in the interests of plans and of their participants and beneficiaries; and

(iii) It is protective of the rights of participants and beneficiaries of plans.

EXEMPTION

Accordingly, the following exemption is hereby granted under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975) and Rev. Proc. 75-26, 1975-1 C.B. 722.

Section I—Retroactive. Effective for purchases described in section III of this exemption made before November 1, 1977, the restrictions of section 406 of the Employee Retirement Income Security Act of 1974 (the Act) and the taxes imposed by section 4975 of the Internal Revenue Code of 1954 (the Code) do not apply to any of the transactions described in section III if the conditions set forth in section IV are met.

Section II—Prospective. Effective for purchases described in Section III of this exemption made after October 31, 1977, the restrictions of section 406(a)(1)(A) through (D) and 406(b) of the Act and the taxes imposed by section 4975 of the Code do not apply to any of the transactions described in section III of this exemption if the conditions prescribed in sections IV and V of this exemption are met.

Section III—Transactions. (a) The receipt, directly or indirectly, by an insurance agent or broker or a pension consultant of a sales commission from an insurance company in connection with the purchase, with plan assets, of an insurance or annuity contract.

(b) The receipt of a sales commission by a principal underwriter for an investment company registered under the Investment Company Act of 1940 (hereinafter referred to as an investment company) in connection with the purchase, with plan assets, of securities issued by an investment company.

(c) The effecting by an insurance agent or broker, pension consultant or investment company principal underwriter of a transaction for the purchase, with plan assets, of an insurance or annuity contract or securities issued by an investment company.

(d) The purchase, with plan assets, of an insurance or annuity contract from an insurance company.

(e) The purchase, with plan assets, of an insurance or annuity contract from an insurance company which is a fiduciary or a service provider (or both) with respect to the plan solely by reason of the sponsorship of a master or prototype plan.

(f) The purchase of securities issued by an investment company with plan assets from, or the sale of such securities to, an investment company or investment company principal underwriter, when such investment company or principal underwriter is a fiduciary or a service provider (or both) with respect to the plan solely by reason of the sponsorship of a master or prototype plan.

Section IV—Conditions with Respect to Transactions Described in Section III. (a) The transaction is effected by the insurance agent or broker, pension consulant, insurance company or investment company principal underwriter in the ordinary course of its business as such a person.

(b) The transaction is on terms at least as favorable to the plan as an arm's-length transaction with an unrelated party would be.

(c) The combined total of all fees, commissions and other consideration received by the insurance agent or broker, pension consultant, insurance company, or investment company principal underwriter:

(1) For the provision of services to the plan; and

(2) In connection with the purchase of insurance or annuity contracts or securities issued by an investment company is not in excess of "reasonable compensation" within the contemplation of section 408(b)(2) and 408(c)(2) of the Act and sections 4975(d)(2) and 4975(d)(10) of Code. If such total is in excess of "reasonable compensation," the "amount involved" for purposes of the civil penalties of section 502(i) of the Act and the excise taxes imposed by section 4975(a) and (b) of the Code is the amount of compensation in excess of "reasonable compensation."

Section V—Conditions For Transactions Described in Section III(a) through (d): The following conditions apply solely to a transaction described in paragraphs (a), (b), (c) or (d) of section III:

(a) The insurance agent or broker, pension consultant, insurance company, or investment company principal underwriter is a party in interest or disqualified person solely by reason of being a service provider or fiduciary (or both) with respect to the plan, but is not a trustee of the plan, a plan administrator (within the meaning of section 3(16)(A) of the Act and section 414 (g) of the Code), a named fiduciary of the plan (within the meaning of section 402(a)(2) of the Act) or a fiduciary who is expressly authorized in writing to manage, acquire, or dispose of the assets of the plan on a discretionary basis.

(b) A fiduciary with respect to the plan, following receipt of the information required to be disclosed pursuant to paragraphs (c), (d), and (e) of this section, and, prior to the execution of the transaction, acknowledges in writing receipt of such information and approves the transaction on behalf of the plan. Such fiduciary may be an employer of employees covered by the plan, but may not be insurance agent or broker, pension consultant, insurance company, investment company, or investment company principal underwriter involved in the transaction. Such fiduciary may not receive, directly or indirectly (e.g., through an affiliate), any compensation or other consideration for his or her own personal account from any party dealing with the plan in connection with the transaction.

(c) The insurance agent or broker, pension consultant, insurance company, or investment company principal underwriter provides to the fiduciary referred to in paragraph (b) of this section, prior to the approval described in that paragraph, written disclosure of the information set forth below, which information shall be in a manner and form calculated to be understood by a plan fiduciary who

has no special expertise in insurance or investment matters:

(1) If the agent, broker, or consultant is an affiliate of the insurance company whose contract is being recommended, or if the ability of such agent, broker or consultant to recommend insurance or annuity contracts is limited by any agreement with such insurance company, or if the person recommending securities issued by an investment company is the principal underwriter of the investment company whose securities are being recommended, the nature of such affiliation, limitation, or relationship;

(2) The sales commission, expressed as a percentage of gross annual premium payments for the first year and for each of the succeeding renewal years, that will be paid by the insurance company to the agent, broker, or consultant in connection with the purchase of the recommended contract; and

(3) The sales commission, expressed as a percentage of the dollar amount of the plan's gross payment and of the amount actually invested, that will be received by the principal underwriter in connection with the purchase of the recommended securities issued by the investment company.

(d) In the case of any purchase made after December 31, 1978, [Reserved].

(e) With respect to additional purchases of insurance or annuity contracts or securities issued by an investment company, the written disclosure required under paragraphs (c) and (d) of this section V need not be repeated, unless—

(1) More than three years have passed since such disclosure was made with respect to the same kind of contract or security, or

(2) The contract or security being recommended for purchase or the commission with respect thereto is materially different from that for which the approval described in paragraph (b) of this section was obtained.

(f) In the case of any transaction described in paragraphs (a), (b), or (c) of section III, the insurance agent or broker, pension consultant or investment company principal underwriter shall retain or cause to be retained for a period of six years from the date of such transaction, the following:

(1) The information disclosed pursuant to paragraphs (c), (d), and (e) of this section V;

(2) Any additional information or documents provided to the fiduciary described in paragraph (b) of this section V with respect to such transaction; and

(3) The written acknowledgement described in paragraph (b) of this section.

(g) In the case of any transaction described in section III(d) (for which no insurance agent or broker or pension consultant is required to maintain records under section V(f)), the insurance company shall retain the materials described in paragraphs (f), (1), (2), and (3) of this section V for a period of six years from the date of such transaction.

(h) With respect to the records required to be retained pursuant to paragraph (f) or (g) of this section V:

(1) A prohibited transaction will not be deemed to have occurred if, due to circumstances beyond the control of the insurance agent or broker, pension consultant, principal underwriter, or insurance company, such records are lost or destroyed prior to the end of such six-year period.

(2) Notwithstanding anything to the contrary in sections 504 (a)(2) and (b) of the Act, such records are unconditionally available for examination during normal business hours by duly authorized employees or representatives of the Department of Labor, the Internal Revenue Service, plan participants and beneficiaries, any employer of plan participants and beneficiaries, and any employee organization any of whose members are covered by the plan.

Section VI—Definitions. For purposes of this exemption:

(a) The term "principal underwriter" is defined in the same manner as that term is defined in section 2(a)(29) of the Investment Company Act of 1940 (15 U.S.C. 80a-2(a)(29)).

(b) The terms "insurance agent or broker," "pension consultant," "insurance company," "investment company," and "principal underwriter" mean such persons and any affiliates thereof.

(c) The term "affiliate" of a person means:

(1) Any person directly or indirectly controlling, controlled by, or under common control with such person;

(2) Any officer, director, partner, employee (including, in the case of a principal underwriter, any registered representative thereof, whether or not such person is a common law employee of such principal underwriter), or relative of any such person;

(3) Any corporation or partnership of which such person is an officer, director, partner, or employee;

(d) The term "control" means the power to exercise a controlling influence over the management or policies of a person other than an individual.

(e) The term "relative" means a "relative" as that term is defined in section 3(15) of the Act (or a "member of the family" as that term is defined in section 4975(e)(6) of the Code), or a brother, a sister, or a spouse of a brother or a sister.

(f) The term "master or prototype plan" means a plan which is approved by the Service under Rev. Proc. 72-7, 1972-1 C.B. 715, or Rev. Proc. 72-8, 1972-1 C.B. 716, or their successors.

Signed at Washington, D.C., this 16th day of June, 1977.

IAN D. LANOFF,
Administrator, Pension and Welfare Benefit Programs, Department of Labor.

ALVIN D. LURIE,
Assistant Commissioner (Employee Plans and Exempt Organizations), Internal Revenue Service.

[FR Doc.77-17896 Filed 6-21-77;8:45 am]

EMPLOYEE BENEFIT PLANS

Proposal To Adopt Additional Conditions With Respect to Prohibited Transaction Exemption 77-9

AGENCIES: Department of Labor, Department of Treasury/Internal Revenue Service.

ACTION: Proposal to Impose Additional Conditions on Prohibited Transaction Exemption 77-9.

SUMMARY: This notice contains a proposal to impose two additional conditions on Prohibited Transaction Exemption 77-9, the class exemption relating to certain transactions engaged in by insurance agents and brokers, pension consultants, insurance companies, investment companies, and investment company principal underwriters published elsewhere in this issue of the FEDERAL REGISTER. The proposed conditions, which would be applicable only to certain transactions described in Prohibited Transaction Exemption 77-9 occurring after December 31, 1978, would restrict the scope of the exemption for such transactions to those entered into on behalf of employee benefit plans with a limited number of active participants, and would require the disclosure of additional information with respect to such transactions. The additional conditions are being published in proposed form in order to allow interested persons the opportunity to comment, and would affect participants and beneficiaries of employee benefit plans, their employers, and persons engaging in the transactions to which the proposed conditions would be applicable.

FOR FURTHER INFORMATION:

Mr. Forrest Foss, Room C-4508, Plan Benefits Security Division, Office of the Solicitor, Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210 (202-523-5856).

Mr. Elliot Daniel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224, Attention: E:EP:PT (202-566-3089).

(These are not toll free numbers.)

SUPPLEMENTARY INFORMATION: Notice is hereby given that the Department of Labor (Department) and the Internal Revenue Service (Service) have under consideration a proposal to adopt additional conditions with respect to the exemption provided by Prohibited Transaction Exemption 77-9, the class exemption relating to certain transactions engaged in by insurance agents and brokers, pension consultants, insurance companies, investment companies, and investment company principal underwriters published elsewhere in this issue of the FEDERAL REGISTER. These persons, because of the services they render to plans, may be fiduciaries or other parties in interest with respect to such plans and thereby precluded by reason of sections 406(a)(1)(A) through (D) and 406(b) of the Employee Retirement Income Security Act of 1974 (the Act) and section 4975(c)(1) of the Internal Revenue Code of

1954 (the Code) from engaging in the transactions described in Prohibited Transaction Exemption 77–9. The additional conditions would affect only those transactions described in paragraphs (a) through (d) of section III of Prohibited Transactions Exemption 77–9 which are entered into after December 31, 1978.

The proposal has two parts. The first part would limit the availability of the exemption to those transactions (described in sections III (a)–(d) of Prohibited Transaction Exemption 77–9) entered into on behalf of plans with less than 100 active participants at the time of the transaction. The applicants for the class exemption, and many of those submitting comments thereon, emphasized that small plans have limited financial resources and, therefore, must rely heavily on the services of insurance agents and brokers, pension consultants, insurance companies and investment company principal underwriters. The comments noted that if such persons were precluded from engaging in the transactions described in paragraphs (a) through (d) of section III of the class exemption, they could not provide services to the plans, to the detriment of the plans and their participants and beneficiaries. The Agencies, however, have not received adequate comment on how to identify these plans.

In this regard, with respect to defining a small plan for purposes of this exemption, comments were received suggesting that the exemption be limited to plans with 25 or fewer active participants.[1] These commentators seemed to have chosen this limit based upon their understanding that certain insurance or annuity contracts would be inappropriate for plans with more than 25 participants. The Agencies are concerned, however, that such a limitation of the exemption could restrict the operation of many plans which, while having more than 25 active participants, nevertheless have limited resources and would be unable to operate economically without the availability of this exemption. Accordingly, while the Agencies are proposing to limit the exemption to small plans, they have tentatively described such plans as those having less than 100 active participants.

In the notice which proposed Prohibited Transaction Exemption 77–9 (41 FR 56760, December 29, 1976), the Agencies indicated that satisfaction of the conditions therein would not permit a breach of the general fiduciary responsibility provisions of section 404(a)(1) of the Act or excuse a violation of the "exclusive benefit of employees" requirement contained in section 401(a) of the Code. By way of example, the Agencies stated that such a breach or violation might occur if a fiduciary with respect to the plan recommends or causes the plan to select a funding medium or investment which, under the particular circumstances, is not suitable for the plan. Thus, in the circumstances of a given case, an insurance agent who is a fiduciary with respect to a plan might be found to have breached his or her fiduciary responsibilities if he or she caused the plan to purchase individual insurance or annuity contracts or other high commission products when similar benefits or protections could have been secured at a lesser cost to the plan under a group contract.

With respect to this particular example, many commentators observed that differences exist between individual and group contracts, some of which may be important to plan beneficiaries and participants; other commentators suggested that the potential for abuse is so great with respect to transactions of the type described that an absolute limit of 25 participants be placed on the size of plans which could engage in transactions covered by the proposed class exemption. The Agencies recognize that every alleged breach of fiduciary duty must be analyzed in connection with the facts and circumstances particular to that transaction. Therefore, the described example should not be interpreted to mean that a sale by an insurance agent who is a fiduciary to a plan of individual contracts to such plan would necessarily involve a breach of fiduciary duty. Similarly, with respect to the described example, the Agencies' determination to propose that the class exemption afford relief only where plans engaging in described transactions have less than 100 active participants should not be viewed as an interpretation by the Agencies that purchases of individual contracts would not involve a breach of fiduciary duty if the plan has less than 100 active participants. As explained above, the proposed delineation of "small" plans was determined primarily upon concerns as to the ability of a plan to secure certain necessary services, and many circumstances must be evaluated in determining whether the choice of a particular funding medium for a plan is in violation of section 404(a)(1) of the Act or the "exclusive benefit" rule of section 401(a) of the Code.

The second part of the amendment pertains to disclosure of information concerning various characteristics of the insurance or annuity contract or securities issued by an investment company recommended to the plan for purchase with plan assets. The disclosures required by the original proposal (41 FR 56760) were criticized in various comments as being misleading because they focused entirely on the commission and related forms of compensation of the agent, broker, consultant or principal underwriter, and ignored other information which would be useful to a plan seeking to evaluate the benefits available under a recommended insurance or investment company product. The proposed amendment would require disclosure of information relating to the nature of the contract or security being recommended for purchase, as well as the potential conflict of interest of the person making the recommendation. Specifically, the proposal would require disclosures relating to the cash surrender value of the insurance or annuity contract, the guaranteed rate of return, if any, with respect to the contract, and various provisions of the contract or security which could adversely affect benefits contemplated thereunder. Thus, the additional condition is designed to allow a fiduciary of the plan to make a more informed and independent judgment as to the suitability of purchasing the contract or security for the plan.

The proposal would require that the mandated disclosures be written in a manner and form calculated to be understood by a plan fiduciary who has no special expertise in insurance and investment matters. Generally, this will mean that technical, complex and legal jargon be eliminated and that easily understood examples and illustrations be provided. For example, it is anticipated that the disclosures relating to cash surrender value would be made in a tabular or graphic form that would facilitate a clear understanding of the information being presented. All information required to be disclosed should be clearly understandable without the necessity of referring to any other document. It is expected that any description of exceptions, limitations, reductions and other restrictions on benefits provided under the contract or security will not be minimized, rendered obscure or otherwise made to appear unimportant. Such exceptions, limitations, reductions or restrictions on benefits should be described in a manner which is not less prominent than the style, captions, printing type and prominence used to describe benefits. The disclosure should not be written in a way that emphasizes the benefits of the product being recommended and de-emphasizes any terms or provisions of the product which would adversely affect such benefits. In short, all disclosures respecting the nature of the product being recommended must be fair and even handed, but, of course, need not follow the order of items as set forth in the exemption.

These conditions are proposed to be effective only for purchases after December 31, 1978, to enable the Agencies to receive further comment from affected persons. All interested persons are invited to submit written comments on the proposal to adopt additional conditions to Prohibited Transaction Exemption 77–9 set forth below. In order to receive consideration, such comments should be received by the Department of Labor on or before September 30, 1977. In addition, any interested person may submit a written request that a hearing be held relating to the proposed additional conditions to Prohibited Transaction Exemption 77–9. Such written request must be received by the Department on or before September 30, 1977, and should state the reasons for such person's request for a hearing and the nature of such person's interest in the proposed additional conditions.

All written comments and all requests for a hearing (at least six copies) should

[1] Other commentators urged the Agencies to issue an exemption without regard to the size of the plans.

be addressed to Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, Washington, D.C. 20216, Attention: Proposed Additional Condition to Prohibited Transaction Exemption 77–9. All such comments will be made part of the record, and will be available for public inspection at the Public Document Room, Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N–4677, 200 Constitution Avenue NW., Washington, D.C. 20210 and at the Freedom of Information Reading Room, Internal Revenue Service, Room 1565, 1111 Constitution Avenue NW., Washington, D.C. 20224.

The proposal to adopt additional conditions to Prohibited Transaction Exemption 77–9, by inserting section V (d) in the appropriate place, is made under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975) and Rev. Proc. 75–26, 1975–1 C.B. 72.

* * * * *

PROHIBITED TRANSACTION EXEMPTION 77–9
SECTION V

(d) In the case of any purchase made after December 31, 1978, the insurance agent or broker, pension consultant, insurance company, or investment company principal underwriter:

(1) Effects such purchase on behalf of a plan which, at the time of such purchase, has less than 100 active participants; and

(2) Provides to the fiduciary referred to in paragraph (b) of this section, prior to the approval described in that paragraph, written disclosure of all the information set forth below (in addition to the information required by paragraph (c) of this section):

(i) With respect to the first 20 years of the recommended insurance or annuity contract, a tabulation (or illustration) showing, by year, the following:

(A) The guaranteed cash surrender value for a contract with a gross annual premium of $1000 as compared to (B) the cumulative total of annual payments of $1000 with interest of 6 percent, compounded annually;

(ii) If the insurance or annuity contract includes a guaranteed rate or rates of return, the following information:

(A) The rate or rates of return and the period for which each rate is applicable,

(B) The percentage of the gross annual premium to which such rate or rates would be applied, and

(C) Any event which would alter such guaranteed rate or rates of return, and the effect of such alteration;

(iii) A description of any charges, fees, discounts, penalties, or adjustments which may be imposed under the recommended contract or securities in connection with the purchase, holding, exchange, termination or sale of such contract or securities.

The disclosures required by this paragraph (d)(2) shall be made in a manner and form calculated to be understood by a plan fiduciary who has no special expertise in insurance and investment matters.

* * * * *

Signed at Washington, D.C., this 16th day of June 1977.

IAN D. LANOFF,
Administrator Pension and Welfare Benefit Programs, Department of Labor.

ALVIN D. LURIE,
Assistant Commissioner (Employee Plans and Exempt Organizations) Internal Revenue Service.

[FR Doc.77-17987 Filed 6-21-77;8:45 am]

federal register

FRIDAY, JUNE 24, 1977

PART IV



SECURITIES AND EXCHANGE COMMISSION

■

REGULATION OF TRANSFER AGENTS

General Rules

Title 17—Commodity and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-13636]

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

Regulation of Transfer Agents

AGENCY: Securities and Exchange Commission.

ACTION: Final rules.

SUMMARY: The Securities and Exchange Commission, in order to facilitate the establishment of a national system for the clearance and settlement of transactions in securities under section 17A of the Securities Exchange Act of 1934, is adopting rules applicable to transfer agents. The rules are intended: (1) to assure that registered transfer agents perform their functions in a prompt and accurate manner; (2) to provide early warning of inadequate transfer agent performance; (3) to apply limitations on the expansion of transfer agent activities when transfer agents are unable to meet the performance time standards; (4) to assure prompt response to inquiries concerning the status of items presented for transfer; and (5) to require the maintenance and preservation of certain records necessary to monitor compliance with the proposed rules.

EFFECTIVE DATES: Sections 240.17Ad-1; 240.17Ad-2 (c), (d), (f), (g), and (h); and 17Ad-4: October 3, 1977. Sections 240.17Ad-2 (a), (b) and (e); 17Ad-3; and 17Ad-5 through 7: January 2, 1978.

FOR FURTHER INFORMATION CONTACT:

Harry F. Day, Assistant Director, Division of Market Regulation, Securities and Exchange Commission, Washington, D.C. 20549, 202-472-4515 or 202-755-8834.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the Securities and Exchange Commission (the "Commission") has amended Title 17, Chapter II, Part 240 of the Code of Federal Regulations to add §§ 240.17Ad-1, 240.17Ad-2, 240.17Ad-3, 240.17Ad-4, 240.17Ad-5, 240.17Ad-6 and 240.17Ad-7 (hereinafter "adopted rules") under the Securities Exchange Act of 1934 (the "Act"), in particular Sections 2, 17, 17A and 23(a) of that Act, 15 U.S.C. 78b, 78q, 78q-1 and 78w(a). In accordance with Section 17A(d)(3)(A)(i) of the Act, 15 U.S.C. 78q-1(d)(3)(A)(i), the Commission consulted and requested the views of the Federal bank regulatory agencies at least fifteen days prior to this announcement.

I. Introduction

A. Background

On May 12, 1976, the Commission published notice of proposed rules ("draft rules") prescribing performance standards for registered transfer agents.[1] The Commission received approximately 150 letters of comment on the draft rules, and those letters were carefully considered in drafting revised rules.

On February 24, 1977, the Commission published revised rules for comment ("proposed rules").[2] The comment period ended April 13, 1977, and the Commission received 45 letters of comment. The rules adopted herein include a number of revisions (discussed below) made to the proposed rules in response to the suggestions of the commentors.

B. The Purpose of the Adopted Rules

The adopted rules are designed to protect investors and persons facilitating transactions by and on behalf of investors and to contribute to the establishment of a national system for the prompt and accurate clearance and settlement of transactions in securities by: (1) assuring that the transfer agent community performs its functions in a prompt, accurate and more predictable manner; (2) providing an early warning system to alert the transfer agent regulatory agencies[3] that a transfer agent is not meeting the performance standards, thereby enabling those agencies to take timely preventive and remedial measures to protect the public interest and investors; (3) precluding a transfer agent from expanding its transfer agent activities when it has been unable to comply with performance standards and, in the event of continued substantial performance failures, requiring such transfer agent to alert issuers of securities serviced by it of its performance failures; (4) assuring prompt response to inquiries concerning the status of items presented for transfer and to certain other inquiries, in order to better meet the needs of investors who deal with transfer agents, to promote more prompt identification of lost securities and to assist broker-dealers undergoing examination and seeking to comply with requirements relating to control of customer securities; and (5) prescribing recordkeeping and record retention requirements to better enable transfer agents to monitor their own activities and to permit regulatory authorities to monitor transfer agent compliance with the adopted rules.

C. Effect on Rules of Self-Regulatory Organizations

Several commenters questioned whether the Commission's turnaround rules supersede similar rules imposed by self-regulatory organizations which require, among other things, that transfer agents acting for certain listed issues effect turnaround within 48 hours. The adopted rules are not intended to and do not supersede any rules of self-regulatory organizations which impose more stringent performance standards.[4]

D. Exemptions

Under § 240.17Ad-4 transfers of certain securities and transfer agents in certain circumstances are exempt from parts of these rules. Under paragraph (a) of that section certain transfers are exempt from §§ 240.17Ad-2, 240.17Ad-3 and § 240.17Ad-6(a) (1) through (7) and (11), but remain subject to §§ 240.17Ad-1, 240.17Ad-4, 240.17Ad-5, 240.17Ad-6 (a) (8), (9) and (10), (b) and (c) and § 240.17Ad-7. Transfer agents who qualify for exemption under paragraph (b) of § 240.17Ad-4 are exempt from §§ 240.17Ad-2 (a), (b), (c), (d) and (h), 240.17Ad-3 and 240.17Ad-6(a) (2) through (7) and (11), but remain subject to §§ 240.17Ad-1, 240.17Ad-2 (e), (f) and (g), §§ 240.17Ad-4, 240.17Ad-5, 240.17Ad-6(a) (1), (8), (9) and (10), (b) and (c) and § 240.17Ad-7.

II. Discussion of the Adopted Turnaround Rules in Light of Comments Received

A. Section-by-Section Discussion of the Adopted Rules

Section 240.17Ad-1 Definitions

Section 240.17Ad-1 defines salient terms used throughout the rules; familiarity with these definitions is essential to understanding the rules.

The basic unit for which turnaround times and other requirements are prescribed is an "item." Section 240.17Ad-1 defines "item" to mean the certificates of a single issue of securities presented under one ticket, or, if there is no ticket (as is often the case with mail items from individuals), presented at one time by one presentor. Several commentors noted that in the past a single submission by a depository (shipment control list) might include a very large number of individual transfer instructions. These commentors recommended that the term "item" be defined to mean each individual transfer instruction for cer-

[1] See Securities Exchange Act Release No. 34-12440 (May 12, 1976); 9 SEC Docket 627 (May 25, 1976); 41 FR 22595 (June 4, 1976). Comments were requested to be submitted by July 2, 1976, and that deadline was extended to July 19, 1976 in Securities Exchange Act Release No. 34-12594 (July 2, 1976); 9 SEC Docket 1029 (July 21, 1976); 41 FR 28798 (July 13, 1976).

[2] Securities Exchange Act Release No. 34-13293 (Feb. 24, 1977); 11 SEC Docket 1818 (March 8, 1977); 42 FR 12191 (March 3, 1977).

[3] The appropriate regulatory agencies for transfer agents, which are set forth in Section 3(a)(34)(B) of the Act, 15 U.S.C. 78c(a)(34)(B), are the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposits Insurance Corporation and the Securities and Exchange Commission.

[4] The rules usually mentioned in this connection are the New York Stock Exchange's Rule 496 and the American Stock Exchange's Rule 891. See 2 NYSE Guide (CCH) para. 2496 and 2 Am. Stock Ex. Guide (CCH) para. 9681. Those rules and similar rules of other self-regulatory organizations were identified for review by the Commission pursuant to Section 31(b) of the Securities Acts Amendments of 1975 and currently are being examined in accordance with the procedures provided in that section. Securities Exchange Act Release No. 13027 (December 1, 1976); 11 SEC Docket 1066 (December 14, 1976); 41 FR 53473 (December 7, 1976).

tificates of a single issue of securities included within a single ticket. It appears that the depository concerned has recently implemented changes in its procedures, and that, as a result, each ticket (shipment control list) shall on the average contain 20 lines requiring the issuance of a total of 24 certificates. Although many of the shipment control lists will exceed this average, we have been assured that the upward variation in size will not be of a magnitude to create difficulties. Accordingly, the definition of "item" has not been changed. The definition also extends to items presented under a transfer agent custodian arrangement. Finally, the definition provides that, for an outside registrar, each certificate to be countersigned is an item.

Section 17Ad-1(c) provides that an item is, in various circumstances described therein, "made available" when it is dispatched or mailed. An item is considered dispatched when it leaves the premises at which transfer agent functions are performed and is sent to the receiving party or to a location from which it is to be picked up by the receiving party. For example, an outside registrar that received before noon an item subject to the processing requirement of § 240.17Ad-2(b)(1) would make the item available when, on or before the opening of business the next business day, the item is being taken by a messenger to a clearing house for delivery to the transfer agent. An item is considered mailed either when it is delivered to the location from which it is collected by the U.S. Postal Service or when it is being delivered to the U.S. Postal Service. The term "made available" has been amended to include the transfer agent's forwarding to a presentor, or other proper party, an item which has been returned to the transfer agent by an outside registrar.

The term "transfer" is defined as the accomplishment of all acts necessary to cancel certificates presented and to issue new certificates, including performance of the registrar function, and to make the item available to the presentor. One commentor asked whether original issues are excluded from the definition of "transfer." Public distributions, whether initial or secondary offerings, are not excluded from the term "transfer." Nevertheless, the Commission recognizes that an unusual volume of transfers is often associated with public offerings, and a provision for offerings is included in subsection (i)(8).[5] The second part of the definition of "transfer" refers to the manner in which a transfer may be accomplished when a transfer agent maintains custody of securities under a transfer agent custodian program. The language "or complete registration of change in ownership of all or a portion of these securities" refers not to the function performed by the registrar but to the transfer and registration of ownership by book entry on the security-holder records when no certificates are issued.

"Turnaround" of an item is accomplished, in the case of a transfer agent that acts in the dual capacity of transfer agent and registrar with respect to that item, when the item is transferred. For other transfer agents, turnaround occurs when the item is made available to the outside registrar.

Consideration was given to establishing a minimum time period within which items received from an outside registrar must be made available to the presentor. In the absence of any indication that this matter has been a source of delay, the Commission has required in § 240.17Ad-2(f) that a transfer agent make such items available "promptly" to the presentor. In most circumstances, "promptly" would mean that any item received by a transfer agent from an outside registrar in mid-afternoon would be made available to the presentor by the close of business the same day. The Commission will monitor the time taken by transfer agents to make such items available to presentors and will propose a specific time requirement for this step should experience indicate that such a requirement is needed.

For the purpose of measuring the performance of an outside registrar, the term "turnaround" does not apply; instead, the term "process" is used. An outside registrar is considered to have processed an item either when all acts necessary to perform the registrar function are completed and the item is made available to the presenting transfer agent or when the presenting transfer agent is advised why the registrar function for the item is delayed or may not be completed.

The time period for turnaround or processing of an item begins when the item is received by the registered transfer agent. Several commentors suggested that the time of "receipt" of an item be postponed until it arrives in the very room in which transfer agent functions are performed. Most commentors, however, did not foresee a problem with the proposed definition. Accordingly, no change has been made, and "receipt" occurs when an item arrives at the premises at which the transfer agent performs transfer agent functions. It will, therefore, be in the transfer agent's interest to see that a received item is promptly forwarded from the mail room to the transfer department.

Items received at a "window" or mail room at the premises at which the transfer agent performs transfer agent functions shall also be deemed to have been received by the transfer agent. However, items received at a "drop" or "window" maintained at a significant distance from the premises where the transfer agent performs its transfer agent functions usually would not be considered received for the purposes of § 240.17Ad-2 upon arrival at such "drop" or "window"; such items would be considered received upon delivery to the premises where the transfer agent performs transfer agent functions.[6] Additionally, items presented for transfer but rejected at a "drop" or "window" are not deemed to be received.

Section 240.17Ad-1(h) defines the term "business day." The second sentence of the proposed subparagraph has been moved to Section 17Ad-2(a). (See discussion infra.)

The performance time standards of the turnaround rules apply to items that are considered "routine," as defined by § 240.17Ad-1(i). It should be noted that distinctions between "routine" and "non-routine" do not depend on whether an item is received through the mail. Transfer agents are, in effect, required to examine uniformly all items received, regardless of the manner in which presented, to determine whether they are routine or non-routine.

The first exclusion from "routine" in paragraph (i) refers to issues for which the transfer agent does not maintain a working supply of unissued certificates but requisitions them as needed from another source, such as the issuer; this practice is often required by municipalities with respect to issues of municipal bonds. Some commentors recommended that the exclusion should be available to a transfer agent that has exhausted the supply of certificates it customarily retains in inventory, provided the transfer agent made a timely request for more certificates from the issuer. The availability of certificates cannot be controlled completely by the transfer agent. Nevertheless, the absence of an exclusion for such items from the definition of a routine item encourages the implementation of effective inventory control and efficient re-order procedures to insure the timely initiation of requests for new certificates. Diligent follow-up of these requests appears effective in most instances to insure the timely arrival of new certificates. When, however, these measures fail and a transfer agent's performance is adversely affected by a delayed arrival of new certificates, that factor may be asserted as a basis for exemptive relief from § 240.17Ad-3. Moreover, transfer agents requisitioning new certificates may remind issuers and others of the obligations imposed upon transfer agents by these rules.

Under the adopted rule, legal items are not necessarily "non-routine." Several commentors recommended that all items accompanied by certified corporate resolutions be deleted from the definition of "routine." Since it appears that most certified corporate resolutions follow standard forms and are found acceptable for transfer, no change has been made in § 240.17Ad-1(i)(4). As a result, if a legal item requires no more than a review of the supporting documentation listed in

[5] See the discussion of Section 240.17Ad-1(i)(8) concerning the definition of "routine item" infra.

[6] In this connection, it should be noted that § 240.17Ad-2(e) requires a transfer agent that receives items at a location other than the premises at which it performs transfer agent functions to have appropriate procedures to assure that the items are forwarded "promptly" to the premises at which receipt will be deemed to occur.

subsection (i)(4) (that is, "assignments, endorsements or stock powers, certified corporate resolutions, * * *"), the item would be considered routine. If that review, however, raised the need to obtain additional documentation, an opinion of counsel or other matter listed in subsection (i)(3), the item would be considered "non-routine."

In response to comments, subsection (6) has been amended to exclude from coverage as a routine item any warrant, right or convertible security presented for transfer of record ownership within five (increased from two) business days before exercise or conversion privileges either lapse or change. The word "change" was added to bring within the scope of subsection (6) securities which have multiple or step-down conversion dates. A new subsection (7) has been added to exclude from coverage as a routine item any warrant, right, or convertible security presented for exercise or conversion.

Proposed subsection (i)(7), which excluded from the definition of routine item a security of an issue whose outstading amount was increased by 25 percent or more within the previous 15 business days in a public offering of securities registered under the Securities Act of 1933, was intended to provide temporary relief from the 90 percent-three day turnaround requirement in light of the acute volume of transfers which occur immediately after a public offering of a substantial amount of securities. Since the amounts of outstanding securities vary so widely among issuers, the determination of a percentage breakpoint for the size of an offering that would qualify the issue for temporary nonroutine treatment has not proved feasible. Instead, subsection (i)(8) as adopted permits temporary non-routine treatment provided the registered offering is "not of a continuing nature." To the extent the offering is made in the form of employee stock option purchases, or is otherwise an offering which continues over a period of time, items containing securities of the issue are routine under subsection (i)(8).

Nevertheless, although such items are temporarily deemed non-routine, transfer agents are reminded that § 240.17 Ad-2(e) requires that non-routine items be given diligent and continuous attention and turned around as soon as possible.

Some commentors suggested that the definition of "routine item" exclude securities of an issue for which the transfer agent recently assumed the responsibility for performance of transfer agent functions from another transfer agent. These commentors believed that in such circumstances the records may be in disarray and require an extensive period before they are properly arranged. Because the turnaround rules do not address the updating of securityholder records (except in the circumstance in which a transfer agent acts as custodian of the securities), and since changes in transfer agents are carefully timed to avoid any delay in effecting transfers, the suggested addition to the definition of routine item has not been made.

SECTION 240.17Ad-2 TURNAROUND, PROCESSING AND FORWARDING OF ITEMS

Paragraph (a) of § 240.17Ad-2 sets forth the basic requirement that transfer agents (except when acting as outside registrars), with regard to at least 90 percent of routine items received during any month, must perform their functions "turnaround" such items) within three business days of the items' receipt. Paragraph (a), as proposed, has been amended by adding the second sentence from proposed Section 17Ad-1(h) (the definition of business day) which establishes a noon-to-noon cutoff for items received that are subject to paragraph (a).[7]

As proposed, paragraph (b), which pertains to a transfer agent when acting as an outside registrar, required that at least 90% of all items received during any month at or before noon on any business day be processed by the close of business that day. That paragraph, as adopted, requires the processing to be completed by the opening of the next business day. This change was made in recognition of the geographical distances that must be traversed in some parts of the nation in order to deliver completed registrar items to the transfer agent. Although the Commission is aware that a number of outside registrars both process and deliver most of their items in two to five hours and encourages them to continue to do so, geographic considerations make such a standard unrealistic for much of the nation. The provision requiring that at least 90% of all items received after noon on any business day be processed by noon of the next business day has not been changed. Certain items are excluded from the term "items received" in paragraph (b) in order to remove items which may present special difficulties from the processing time requirements.

Several commentors recommended that the turnaround standard which is three business days when an outside registrar is utilized should be increased to four business days when the transfer agent is acting in a dual capacity to allow additional time for performance of the registrar function. Because there has been a widespread acceptance of the proposal that the maximum time a transfer agent acting in a dual capacity should take to turnaround and process items is three business days, no adjustment to the three business day standard in § 240.17Ad-2(a) has been made in the adopted rule. Transfer agents are encouraged to do better than this standard when possible. The Commission intends to monitor carefully the performance of transfer agents in a single capacity with a view to determining whether the turnaround standard for items sent to an outside registrar should be reduced to two business days.

Commentors suggested that in the case of debt securities for which the bond registrar is not also the trustee or the authenticating agent and the authenticating agent maintains and updates securityholder records (such as, for example, when the authenticating agent registers the payment of interest), the turnaround standard should be increased to one business day. In such circumstances, the authenticating agent is not acting solely as a processor of items but is also performing "transfer" functions (in the equity sense), and the adopted rules adequately provide for this situation. In the above example, the authenticating agent would be permitted three business days to accomplish the transfer and registration of the ownership of the interest coupons.

Paragraph (c), as proposed, has been restated as paragraphs (c) and (d). Paragraphs (c) and (d), as adopted, prescribe a notice requirement for transfer agents which, during any month, fail to comply with the performance standards of paragraphs (a) and (b) respectively.[8] The information required in such notice is intended to inform the regulatory authorities of the extent to which the reporting transfer agent has failed to meet the turnaround requirements and to alert those authorities of the need for monitoring the transfer agent's performance and of the possible need for supplementing the limitations under § 240.17Ad-3 with remedial action.[9] In

[7] The sentence in question provides that items received at or before noon on a business day shall be deemed to have been received at noon on that day, and that items received after noon on a business day, on a weekend or on a holiday shall be considered as received at noon on the next business day. For example, this provision, operates as follows: An item received at 11:00 a.m. on a Monday that is not a holiday would be considered as received at noon on that day and, assuming none of the intervening days are holidays, would have to be turned around by noon on Thursday. Assuming either one of the intervening days or Thursday is a holiday, the item would have to be turned around by noon of the following business day (Friday). An item received on a Friday afternoon, or received on a weekend, would be considered as received at noon on Monday and, assuming the intervening weekdays are business days, would have to be turned around by noon of the following Thursday. An item received on a Tuesday that is a holiday would be considered as received at noon on Wednesday (provided that Wednesday is not a holiday) and, assuming the intervening weekdays are business days, would have to be turned around by noon on Monday. Again, if the day for receipt or accomplishment of turnaround is not a business day, then the time of receipt or the deadline for turnaround would be noon of the next business day.

[8] Section 240.17Ad-3, discussed infra, prescribes certain limitations that are applied to transfer agents which, because of continued failure to meet the performance standards, are required to file notices repeatedly.

[9] Repeated failure to perform at the level prescribed by Section 240.17Ad-2 (a) and (b) requires filing notices with the regulatory authorities and, if continued, application of limitations on the expanson of the transfer agent's business until the agent can demonstrate an ability to meet the standards. During this time, the regulatory authorities can monitor the transfer agent's performance to determine whether to initiate, under Sec-

order to better facilitate prompt responses by the appropriate regulatory agencies to requests for exemption from § 240.17Ad–3, the adopted rule requires that the notice pursuant to § 240.17Ad–2(c) include a statement of the number of routine items, aged in increments of one business day, which on the last business day of the month have been in the transfer agent's possession for more than four business days. A similar provision for unprocessed registrar items has been incorporated into paragraph (d) as adopted.

The written notice under proposed § 240.17Ad–2(c) has been changed in adopted § 240.17Ad–2 (c) and (d) to require that notices be filed with the Commission and the appropriate regulatory agency, if it is not the Commission, within ten business days after the end of the month instead of sent to regulatory agencies within six business days after the end of the month. Some commentors had suggested that more time be allowed for transfer agents to compute their performance for a given month (the disposition of items received on the last business day of a month will not be known until three business days following the end of that month). In addition, a requirement that notices be filed with an agency would be consistent with requirements imposed in other areas when reports or other materials are required. The date on which the notice is actually received by a regulatory agency is considered the date of filing thereof.[9]

Section 240.17Ad–2(e) (formerly paragraph (d)) provides that the 10% of routine items not required to be turned around or processed within the time periods established by § 240.17Ad–2 (a) and (b) must be turned around or processed "promptly"; in the case of transfer items, under usual circumstances, "promptly" would be within one additional business day and, in the case of registrar items, by the end of the business day following the day of receipt. Paragraph (e) also requires that all non-routine items must receive diligent and continuous attention and must be turned around as soon as possible.

Section 240.17Ad–3—Limitations on Expansion

This rule sets forth the consequences which automatically attach to a transfer agent's failure on a continuing basis to meet the prescribed performance standards. The limitations are designed to maintain the status quo so that a transfer agent can bring its performance into compliance with the rules. The limitations are not intended to be a penalty for failure to meet the turnaround standards. In addition, it should be noted that the application of limitations does not preclude the institution of administrative, civil or criminal (if the violation is willful) proceedings if necessary to protect investors and persons facilitating transactions by and acting on behalf of investors. Paragraph (a) applies limitations to transfer agents who fail for each of three consecutive months to meet the 90% turnaround or processing standards of paragraphs (a) or (b) of § 240.17Ad–2 (and who therefore are required to file monthly notices under paragraphs (c) or (d) of that section). The limitations attach on the fifth business day following the end of the third consecutive month in which a notice was required by § 240.17Ad–2(c) or (d) and remain in effect for at least three consecutive months thereafter. The rule as proposed provided that limitations would apply for six consecutive months, but upon further consideration it appears that a term of three consecutive months will provide a sufficient period of time for a transfer agent to demonstrate its ability to meet the performance standards.

It should be noted that paragraphs (a) and (b) § 240.17Ad–3 would apply to a transfer agent which, for example, failed for two consecutive months to turnaround within three business days 90% or more of routine items received (as required by § 240.17Ad–2(a)) and then in the third consecutive month failed to process within the specified time frames 90% or more of items received as outside registrar (as required by § 240.17Ad–2(b)). Similarly, if a transfer agent during a month failed to turnaround within three business days 75% or more of its routine transfer items and in the next month failed to process timely 75% or more of its outside registrar items, paragraph (b) of § 240.17Ad–3 would attach on the fifth business day following the end of the second month.

During the three month limitations period, a transfer agent may not begin to perform a transfer agent activity for issues for which it does not perform, or is not under agreement to perform, transfer agent activities before the fifth business day (the "limitations date"). Similarly, after the limitations date, a transfer agent may not begin to perform for issues for which it performs a transfer agent function prior to the limitations date any new transfer agent function or activity which the transfer agent does not perform, or is not under agreement to perform, prior to the limitations date. Section 240.17Ad–3 does not preclude a transfer agent who has agreed to act in a new capacity prior to the attachment of the limitations provision from carrying out the terms of the agreement.[11]

Once the limitations are applied, whether because of failure to comply with § 240.17Ad–2(a) or § 240.17Ad–2(b) or both, they remain effective until the transfer agent's performance has met the standards of both paragraphs (a) and (b) of that section for three consecutive months, i.e., 90% or more of accountable transfer agent and registrar items are each turned around or processed within the prescribed periods of time for each of three consecutive months.

A few persons commented that limitations on new transfer agent business should not attach to transfer agent activities which, in their view, the Commission does not regulate, such as dividend disbursements. Adopted § 240.17Ad–3(a) does not reflect this view. The rationale for the limitations provision is that it is not in the public interest or consistent with the protection of investors for a transfer agent which is unable to perform its current obligations in a timely manner to take on additional responsibilities. Moreover, the Commission's rulemaking authority (Section 17A (d)(1) of the Act) is not circumscribed by the functions which are provided elsewhere as the precedents for registration. Indeed, an unnecessarily restrictive view of the Commission's rulemaking authority could well impede the Commission's efforts to provide necessary or appropriate regulations for transfer agents in the broader context of the establishment of a national system for the prompt and accurate clearance and settlement of securities transactions. For example, a transfer agent that is unable to meet the performance time requirements for transfers but which nevertheless was permitted to begin a new activity such as dividend disbursing could necessarily be diverting resources to that new activity at the time the performance standards for transfers were not being met.

Some commentors recommended that the limitations under § 240.17Ad–3 should not attach until after a reasonable "appeal" period. Since the limitations period does not commence after a single month of failure to perform but rather after several months of operating below the minimum standard, the Commission believes that a transfer agent will have sufficient advance notice before the application of limitations becomes effective to begin preparing an exemption request for submission to the appropriate regulatory agency.

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tions 17A(c)(3)(A), 17A(d) and 21(d) of the Act, 15 U.S.C. 78q–1(c)(3)(A), 78q–1(d) and 78u(d), administrative or civil action which may lead to the imposition of a remedial sanction upon, or the enjoining of, the transfer agent. Of course, an intentional failure to comply with the requirements of any of the rules may constitute a criminal violation of the Federal Securities laws (Section 32(a) of the Act, 15 U.S.C. 78ff(a)).

[9] 17 CFR 240.0–3. Transfer agents that are banks should note that the notices pursuant to § 240.17Ad–2 (c) and (d) must be filed with both their appropriate Federal bank regulator and the Commission.

[11] Thus, a transfer agent who, prior to the application of limitations, is under agreement to act as a dividend disbursing agent for an issue (even though the dividend disbursing activity does not begin until after the limitations are applied) would be permitted by subparagraphs (a) (1) and (2) to act as dividend disbursing agent for that issue. In contrast, if the agreement to perform a new activity for an issue, such as disbursing dividends, were not signed until the fifth business day after the end of the month, i.e., after the limitations become effective, the transfer agent would be prohibited from initiating that, or any other, new function or activity for that issue.

The attachment of limitations would not prevent a transfer agent from acting for new series of bonds (of an open-end indenture) issued after the limitations date, provided the transfer agent acted in the same capacity for the bonds before the limitations date.

Paragraph (b) describes limitations which attach to a transfer agent that is unable for each of two consecutive months to process at least 75% of the accountable items under § 240.17Ad-2 (a) or (b). Paragraph (b) applies to the limitations of paragraph (a), discussed above, and also requires the transfer agent to notify the chief executive officer of each issuer of each issue serviced by the transfer agent (including the chief executive officer of an issuer that acts as its own transfer agent) that performance has fallen below the 75% standard.

Transfer agents are allowed 20 business days before notice must be made to issuers; the additional 15 business days beyond the day limitations are applied may be used by the transfer agent to apply to its appropriate regulatory agency for relief upon grounds that the failure to perform was caused, in significant part, by circumstances beyond the transfer agent's control.[12] Applications for relief should be well-documented and contain a thorough presentation as to why and how circumstances beyond the transfer agent's control caused its performance to fall below the standards each month. Ordinarily, the presentation should show that the transfer agent's performance would have satisfied the minimum standard but for the circumstances beyond its control. When an exemption is sought because of a failure to meet the turnaround standards of § 240.17Ad-2(a), the transfer agent should include with its request for an exemption information as to the age of routine items not turned around timely.

The filing of a request for an exemption, however, does not toll the effective date of the application of limitations, but the appropriate regulatory agency will make every effort to act promptly on the request for exemption. The appropriate offices to contact are as follows: (A) For a transfer agent registered with the Comptroller of the Currency, the Deputy Comptroller for Trust Operations, Office of the Comptroller of the Currency, Washington, D.C. 20219; (B) for a transfer agent registered with the Board of Governors of the Federal Reserve System, the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551; (C) for a transfer agent registered with the Federal Deposit Insurance Corporation, the Director, Division of Bank Supervision, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, D.C. 20429; and (D) for a transfer agent registered with the Securities and Exchange Commission, the Office of Securities Processing Regulation, Division of Market Regulation, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549.

The application of limitations under paragraphs (a) and (b) may operate cumulatively so that, for example, a transfer agent that performs at the 80% level for two months, and then at the 70% level for the next two months, would become subject to the application of paragraph (a) at the end of the third month and would become subject to the additional requirement of paragraph (b) (notices to issuers) at the end of the fourth month.

SECTION 230.17Ad-4—APPLICABILITY OF SECTIONS 240.17Ad-2, 240.17Ad-3 AND 240.17Ad-6(a) (1) THROUGH (7) AND (11)

In response to comments received on the initial and the revised proposed rules, the Commission has determined that the turnaround rules shall not apply to redeemable securities of investment companies registered under Section 8 of the Investment Company Act of 1940, 15 U.S.C. 80a-8. It appears that the transfer agent activities performed for those securities involve for the most part the redemption of fund shares and that the redemption of shares is significantly different from the transfer of ownership of stocks and bonds on issuer's records.[13] Moreover, that activity is subject to Section 22(e) of the Investment Company Act of 1940, 15 U.S.C. 80a-22(e). Therefore, paragraph (a) provides that §§ 240.-17Ad-2, 240.17Ad-3 and 240.-17Ad-6(a) (1) through (7) and (11) do not apply to the issuance, redemption or transfer of redeemable securities issued by investment companies registered under Section 8 of the Investment Company Act of 1940.[14] The exemption was amended to include also redeemable securities of registered unit investment trusts.

Lastly, the exemptions of paragraph (a) have been expanded to include the transfers and withdrawals of shares from dividend reinvestment plans, which also require procedures significantly different from the procedures required to transfer ownership of stocks and bonds.

Approximately 2,400 transfer agents have registered with either the Commission or one of the bank regulatory authorities. Information on Forms TA-1 received at the time of those registrations indicates that the level of transfer activity varies widely among registered transfer agents. In view of the fact that the number of transfers performed by many transfer agents is relatively small and involves issues which are not traded actively, the Commission has determined that it is not necessary or appropriate at this time to require those transfer agents to comply with the minimum performance standards and certain recordkeeping provisions. Accordingly, paragraph (b) of § 240.17Ad-4 exempts from § 240.17Ad-2 (a), (b), (c), (d) and (h), 240.17Ad-3 and 240.17Ad-6(a) (2) through (7) and (11) any registered transfer agent that receives within any six consecutive months with respect to all issues serviced fewer than 500 items for transfer and fewer than 500 items for processing, provided the transfer agent files with its appropriate regulatory agency within ten business days of the close of the sixth such month the notice described in that paragraph.[15] Additionally, the notice is required to be filed only with the transfer agent's appropriate regulatory agency.[16]

The transfer and processing time standards of § 240.17Ad-2 (a) and (b) always apply together to a transfer agent not qualifying for an exemption under § 240.17Ad-4(b). Conversely, neither paragraph 2(a) nor 2(b) applies to a transfer agent which does qualify for the exemption. Thus, to qualify for the exemption, the number of items received for transfer in a six month period must be fewer than 500, and the number of items received for processing in a six month period must be fewer than 500.

The operation of § 240.17Ad-4(b) may be illustrated as follows. If a transfer agent receives 500 or more items for transfer in a six month period and in the same period receives less than 500 items for processing, the transfer agent is not eligible for the exemption provided by § 240.17Ad-4(b). Similarly, if a transfer agent receives for processing 500 or more items in a six month period and receives for transfer less than 500 items in that period, the transfer agent remains subject to § 240.17Ad-1 through 7.

Paragraph (c) sets forth the condition under which a transfer agent loses its exemption under paragraph (b). The last sentence of paragraph (c) requires that a transfer agent, which previously was exempt and thereafter has a volume of activity that removes the exemption, remain subject to the performance standards for six consecutive months before again qualifying for an exemption. This provision is intended to relieve both

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[12] Section 17A(c)(1) of the Act, 15 U.S.C. 78q-1(c)(1), in relevant part, empowers the appropriate regulatory agency to exempt under certain circumstances transfer agents registered with it from any rule or regulation imposed pursuant to Section 17A of the Act.

[13] The amount of certificated fund shares is relatively small, and the amount of transfer agent activity in connection with transferring ownership of certificated shares represents a very small part of a transfer agent's activity with regard to an open-end investment company.

[14] The turnaround rules do apply to registered transfer agents performing transfer agent functions for securities issued by closed-end investment companies.

[15] For example, a transfer agent which received during the previous six months 499 items for transfer and 499 items for processing (in its capacity as an outside registrar) would, upon timely filing of the required notice with its appropriate regulatory agency, be exempt from the enumerated sections.

[16] Section 17(c)(1) of the Act, 15 U.S.C. 78q(c)(1), among other things, requires every transfer agent which files a notice with the Board of Governors of the Federal Reserve System, the Comptroller of the Currency or the Federal Deposit Insurance Corporation to file a copy of such notice with the Securities and Exchange Commission. The Securities and Exchange Commission and the Federal bank regulatory agencies have developed procedures pursuant to which the Federal bank regulatory agencies will transmit a copy of any notice under Section 240.17Ad-4(b) filed with them to the Securities and Exchange Commission. Accordingly, such filings with the appropriate regulatory agency by transfer agents for which the Securities and Exchange Commission is not the appropriate regulatory agency will constitute filings with the Securities and Exchange Commission for purposes of Section 17(c)(1) of the Act.

a transfer agent and the appropriate regulatory authority from the administrative burden that would be imposed when a transfer agent's volume of activity fluctuates around the exemption breakpoint.

One commentor asked whether § 240.17Ad–4 applies to transfer agents that do not issue and cancel, or act as registrar for, certificates but which only update and maintain the securityholder records (Section 3(a)(25)(C), 15 U.S.C. 78c(a)(25)(C)). Section 240.17Ad–2 is not intended to apply to a transfer agent in those circumstances and, accordingly, the notice requirement of § 240.17Ad–4 is also inapplicable.

Transfer agents which qualify for an exemption under § 240.17Ad–4 are not required thereafter to file additional notices for subsequent six month periods. The exemption remains effective until such transfer agent receives during a six month period 500 or more items for transfer or processing.

It should be noted that transfers of securities exempted under § 240.17Ad–4 (a) from certain provisions of these rules remain subject to §§ 240.17Ad–1; 240.17Ad–4; 240.17Ad–5; 240.17Ad–6(a) (8), (9) and (10), (b) and (c); and § 240.17Ad–7. In addition, transfer agents exempt under § 240.17Ad–4(b) from certain provisions of these rules remain subject to the sections listed above, as well as to § 240.17Ad–2 (e), (f) and (g) and § 240.17Ad–6(a)(1).

SECTION 240.17Ad–5 WRITTEN INQUIRIES

This rule sets forth the obligation of transfer agents to respond within prescribed time frames to inquiries which fall within the rules. Paragraphs (a) through (d) of the section are intended to cover four separate circumstances in which various persons make written inquiry about the transfer agent's performance of the transfer function. The information which the inquirer must present is the type of information that in practice is given to a transfer agent and is found sufficient to enable the agent to identify the account involved and the item presented. Nevertheless, a transfer agent that is able to respond within the requisite time frames to an inquiry even though it falls outside of the parameters of § 240.17Ad–5 is encouraged to make every effort to do so, particularly when the inquirer is not a professional in the securities business.

Paragraph (a) is written for "any person" who inquires in writing about the "status of * * * [his] item presented for transfer within the preceding six months." The status of the time on the transfer agent's books does not determine whether the inquiry falls under this paragraph of the rule; the status of the item on the presentor's books is the determinative factor. A transfer agent is required to respond, orally or in writing, within five business days after receiving the inquiry. For example, a written inquiry received on a Monday which is a business day must, assuming the intervening weekdays are business days, be responded to by close of business the following Monday. Paragraph (a) of the rule also indicates that if a new certificate is dispatched or mailed to the presentor within five business days following receipt of the inquiry, a response is not required. However, if the item is made available to the presentor by other means (i.e., it is awaiting pick-up), the transfer agent is required to notify the presentor that the item is available.

Paragraph (b) is written to complement existing § 240.15c3–3(c)(3) (17 CFR 240.15c3–3(c)(3) (regarding a broker-dealer's control of customer securities) and § 240.17a–13(b)(3) (17 CFR Section 240.17a–13(b)(3) (regarding quarterly security counts by broker-dealers). Paragraph (b) applies when a broker-dealer requests in writing that a registered transfer agent either confirm the agent's possession of a security previously presented for transfer by the broker-dealer or revalidate a window ticket for the security. The transfer agent is required to respond in writing within five business days, giving the required information. No written response is required if the transfer agent, within five business days following receipt of the inquiry, dispatches or mails the new certificate to the presentor or notifies the presentor that it is available for pick-up. One commentor requested that the phrase "revalidate a window ticket" be defined. The Commission understands the phrase to have a generally accepted meaning in the industry [17] and accordingly believes that the phrase need not be defined in the rule.

Transfer agents whose response to an inquiry made under paragraphs (a) or (b) is that the security either was never received or was returned previously to the presentor should be aware of the requirements for reporting of lost, missing or stolen securities pursuant to § 240.17f–1 (17 CFR 240.17f–1). Similarly, other persons who are reporting institutions under that section should be aware of their reporting responsibility upon receipt of such information from a transfer agent.

Paragraph (c), although applicable to "any person," is designed primarily for a broker-dealer which is performing or undergoing a securities positions examination. Accordingly, this paragraph refers to a written request that a transfer agent "confirm possession of a certificate as of a given date." Several commenters recommended that the paragraph should require that the date specified for confirmation be within thirty days of the date the inquiry is received, because an open-ended "as of" date could in some cases impose a substantial burden upon a transfer agent. The paragraph has been modified to limit its application to an inquiry that was received not more than thirty days after the date specified for confirmation. In addition, to insure that the person inquiring about the account has proper authority to do so, the paragraph has been modified to provide that it applies only to inquiries from a person or someone acting on behalf of the person whose account is involved. Moreover, the alternative of making available the certificate in question is not provided since, in most cases, the paragraph applies to confirmation activities by auditors of broker-dealers and will usually relate to a certificate already transferred.

Reference to a fee in paragraphs (c) and (d) was made in recognition of the current practice of some transfer agents of charging a fee for supplying the specific historical data described in those paragraphs and to confirm that those paragraphs are not intended to affect that established practice. Neither paragraph affirmatively requires the charging of a fee nor conditions the response to a request made thereunder on the time any such fee is paid, although a transfer agent may require assurance that payment will be received. Several commentors suggested that § 240.17Ad–5 (c) and (d) be modified to allow a transfer agent either to charge fees in advance of responding to written inquiries or to delay responding thereto until payment has been received. As the rule is adopted, a transfer agent may follow a practice of seeking written assurance of payment if he wishes. In this case, the time periods in paragraphs (c) and (d) would run from the date assurance of payment is received.

Several commentors recommended that rather than require the transfer agent to provide historical data arranged to show the status of an account as of a particular date, the transfer agent should be permitted to provide the inquirer with sufficient historical information about the activity in the account to enable the inquirer to reconstruct the certificates outstanding in his account as of the date specified in the request. Since the latter was the intention of paragraph (c), the language of § 240.17Ad–5(d) has been amended accordingly.

No provision was made in the proposed rules for an inquiry or request which does not meet the requirements of § 240.17Ad–5 (a) through (d). The Commission has, therefore, proposed Section 240.17Ad–5(e) in a release published today.

SECTION 240.17Ad–6 RECORDKEEPING PROVISIONS

The recordkeeping (§ 240.17Ad–6) and record retention (§ 240.17Ad–7) requirements are intended to serve a dual purpose: (1) to assure that all registered transfer agents are maintaining the minimum records necessary to monitor and keep adequate control over their own performance; and (2) to permit the appropriate regulatory authorities to examine registered transfer agents on an historical basis for compliance with applicable rules.

The recordkeeping rules are flexible with respect to the form in which most

[17] A transfer agent is requested to "revalidate a window ticket" when the presentor desires acknowledgement in some appropriate fashion (e.g., by time-stamping again a copy of the window ticket) that the item is in the transfer agent's possession pursuant to the presentor's transfer instructions.

records must be kept. Paragraph (a)(1) requires that "a receipt, ticket, schedule, log or other record" be kept showing the business day (that is, the year, month and day as determined under § 240.17Ad-1(h)) on which each routine and non-routine item is received from a presentor or outside registrar and is made available to such persons. For example, many transfer agents preserve the tickets accompanying items, and such tickets, if stamped with the required information, would comply with this rule. A transfer agent that uses a batch method for handling transfer items would use an "other record" referred to in the paragraph by recording the required information for each batch of items.

Paragraph (a)(2)(i)(B) as proposed has been restated as paragraphs (a)(2)(ii) and (iii) to clarify the requirement that the records showing turnaround of routine items for each month distinguish clearly between routine items turned around within three business days of receipt and routine items turned around after three business days of receipt.

Some commentors suggested deleting the portions of paragraphs (a)(2)(vi) and (vii) (proposed paragraphs (a)(2)(ii) and (iii)) which require a transfer agent to maintain, as of the last business day of each month, a record of aged routine and non-routine items. As previously stated, the Commission believes that such logs are desirable controls for every registered transfer agent which turns around, transfers or processes securities and, hence, has determined to retain the provisions, with two changes. Paragraph (a)(2)(vi) has been modified to require that the log of routine items set forth the number of routine items in the transfer agent's possession which, as of the close of business on the last business day of each month, have been in its possession for more than four business days (not three as previously proposed). Since 90 percent of routine items must be turned around in three business days, and since the balance should be turned around by the fourth business day, a transfer agent normally should not have on the last business day of a month five-day old routine items to enter on the log. If the agent does, however, the necessity to make entries on this log will alert the transfer agent to its inadequate performance, as well as assist the regulatory agencies to gauge better the degree of the difficulties being experienced by transfer agents who apply for an exemption from the limitations provisions of § 240.17Ad-3. It should be noted that the log of aged routine items is required without regard to whether a transfer agent turned around more or less than 90 percent of routine items received during the month.

Paragraph (a)(2)(vii) has been modified from the form in which it was proposed previously to eliminate the requirement that the record of non-routine items in a transfer agent's possession as of the last business day of each month contain the age of each non-routine item; as modified, the paragraph requires only that the number (and not the age) of such items be recorded.[18]

Paragraph (a)(3) (previously proposed § 240.17Ad-6(a)(7)) does not require an outside registrar to track each item individually, but rather requires an outside registrar to keep a record showing for each month the total number of items which were received for processing, the number which were processed within the time frame specified in § 240.17Ad-2(b) and the number which required more than the specified time for processing.

Paragraph (a)(3)(ii)(B) has been modified to clarify the requirement that the number of items processed within the time frames of § 240.17Ad-2(b) must be stated separately from the number of items that required more than the time frames for processing specified by that section.

Paragraph (a)(4) requires a record of the calculations made in connection with performance monitoring to determine compliance with § 240.17Ad-2. This provision does not require any specific form of calculation; nevertheless, transfer agents seeking to comply with the 90 percent performance standards of § 240.17Ad-2 necessarily will perform monthly calculations to determine compliance. For example, at the close of the third business day following the end of a month, a transfer agent would know the total number of routine items received during the preceding month (§ 240.17Ad-6(a)(2)(i)) and the total number of those items turned around within three business days (§ 240.17Ad-6(a)(2)(ii)). Dividing the former into the latter will provide the percentage of routine items turned around within the time limits prescribed by § 240.17Ad-2.

[18] Both of the logs required by paragraphs (a)(2)(ii) and (iii) are cumulative; that is, any item reflected on the previous month's log which is still in the registered transfer agent's possession as of the last business day of the next month must be shown on the current month's log. It is expected, however, that no transfer agent will have any routine item in its possession for such a length of time.

In response to comments received, paragraph (a)(7) (previously proposed § 240.17Ad-6(a)(6)) has been revised to require recordation of exceptions only. Paragraph (a)(7) requires only a log identifying the number of inquiries subject to § 240.17Ad-5 received but not responded to within the time frames and the number of those inquiries still pending as of the last business day of the month covered by the report.

Paragraph (a)(11) (previously proposed § 240.17Ad-6(b)(3)) has been revised, in response to comments, to clarify the requirement that a registered transfer agent keep the document upon which it bases its determination that a particular item was received in connection with a special event and is therefore not routine under § 240.17Ad-1(i)(5) or (7). Of course, since only transfer agents which cancel and issue certificates would have an occasion to make such a determination, the section effectively applies only to those transfer agents.

The scope of paragraph (b), previously designated § 240.17Ad-6(b)(1), has been clarified. As adopted, transfer agents need not keep any documents concerning the matters covered by that paragraph. Instead, paragraph (b) requires a record setting forth, with respect to each issue, the total authorized and the total issued and outstanding.

In response to comments received, paragraph (c) (previously proposed § 240.17Ad-6(b)(2)) has been revised to apply only to registered evidences of ownership which have been cancelled.

Section 240.17Ad-7 Record Retention Requirements

The record retention periods specified in § 240.17Ad-7 are not intended to replace longer retention periods that might be required by state law or other Federal laws. The retention periods are those considered necessary for the appropriate regulatory agency to monitor compliance with the turnaround rules.

The record retention provisions apply both to records described in § 240.17Ad-6 that are being kept at the time the retention provisions become effective and to records that are maintained thereafter in compliance with § 240.17Ad-6.

The following is a chart relating to the records required in § 240.17Ad-6 to the retention periods of § 240.17Ad-7:

Sec.	Maximum retention period	Period to be easily accessible	Relevant paragraph of sec. 240.17Ad-7
240.17Ad-6(a)(1)	2 yr.	6 mo.	(a)
240.17Ad-6(a)(2)	2 yr.	1 yr.	(b)
240.17Ad-6(a)(3)(i)	2 yr.	6 mo.	(a)
240.17Ad-6(a)(3)(ii)	2 yr.	1 yr.	(b)
240.17Ad-6(a)(4)	2 yr.	1 yr.	(b)
240.17Ad-6(a)(5)	2 yr.	1 yr.	(b)
240.17Ad-6(a)(6)	2 yr.	6 mo.	(a)
240.17Ad-6(a)(7)	2 yr.	1 yr.	(b)
240.17Ad-6(a)(8)	(1)	Termination	(c)
240.17Ad-6(a)(9)	(1)	do	(c)
240.17Ad-6(a)(10)	(1)	do	(c)
240.17Ad-6(a)(11)	2 yr.	6 mo.	(a)
240.17Ad-6(b)	(1)	Termination	(c)
240.17Ad-6(c)	6 yr.	6 mo.	(d)

[1] Termination plus 1 yr.

Paragraph (f) is intended to assure that records in the possession of service agents who act under contract with transfer agents are available for examination by regulatory authorities.[18]

The question was asked whether the phrase "easily accessible place" would permit records to be kept in "low-storage-cost" record centers from which the records could be retrieved within twenty-four hours. The purpose of requiring that records be kept in an "easily accessible place" is to insure that regulatory authorities may examine them as necessary or appropriate in discharging regulatory responsibilities. Inasmuch as the length of time for which records must be kept in an "easily accessible place" has, in most cases, been shortened, it is expected that records subject to that requirement will be made available either immediately or on the same day as the request to examine them is made.

In response to comments, the Commission has added § 240.17Ad–7(h) to relieve a registered transfer agent, which ceases to perform transfer agent functions for an issue, of the responsibility of retaining records required to be made and kept under § 240.17Ad–6(a) (1), (6), (9), (10), and (11), (b) and (c) once the records are delivered to the successor transfer agent.

III. Statutory Basis and Competitive Considerations

Sections 240. 17Ad–1 through 17Ad–7 are adopted pursuant to the Securities Exchange Act of 1934, in particular Sections 2, 17, 17A, and 23(a) thereof, 15 U.S.C. 78b, 78q, 78q–1, and 78w(a). Certain editorial changes have been made to the rules as proposed. Other amendments that appear in the adopted rules were made to clarify the Commission's intent in light of comments received, and such amendments either grant exemptions in addition to those proposed or relieve restrictions that were contained in the proposed rules. Accordingly, the Commission has determined that further notice and public procedures on these rules are unnecessary.

The Commission finds that any burden upon competition imposed by these rules is necessary and appropriate in the public interest, for the protection of investors and to facilitate the establishment of a national system for the prompt and accurate clearance and settlement of transactions in securities.

IV. Effective Dates

Section 240.17Ad–1 (definitions), § 240.17Ad–2(c) (notice of failure to comply with the turnaround requirement of § 240.17Ad–2(a)), (d) (notice of failure to comply with the processing requirement of § 240.17Ad–2(b)), (f) (procedures assuring that items received at locations other than the premises at which the transfer agent performs transfer agent functions will be forwarded to such premises promptly), (g) (procedures assuring that processed items received by a transfer agent are made available promptly to the presentor), (h) (where to file notices) and § 240.17Ad–4 (exemptions) are effective as of October 3, 1977. The remaining provisions, including the time requirements for turnaround or processing of items and automatic imposition of limitations, are effective January 2, 1978.

Under this arrangement of phased implementation dates, transfer agents will have three months to implement a monitoring system and to develop operating procedures and three additional months to complete whatever changes are necessary to comply with the adopted rules. During the second three month period, between October 3, 1977, and January 2, 1978, transfer agents will be required to report if they are not meeting the turnaround and processing requirements of § 240.17Ad–2 (a) and (b), even though these two paragraphs do not themselves become effective until January 2, 1978. This will enable the appropriate regulatory agencies to monitor the transfer agent industry's progress in making any adjustments necessary to comply with the rules.

VI. Text of §§ 240.17Ad–1 Through 17Ad–7

§ 240.17Ad–1 Definitions.

As used in this section and §§ 240.17 Ad–2, 240.17Ad–3, 240.17Ad–4, 240.17Ad–5, 240.17Ad–6, and 240.17Ad–7:

(a) The term "item" means a certificate or certificates of the same issue of securities covered by one ticket (or, if there is no ticket, presented by one presentor) presented for transfer, or an instruction to a transfer agent which holds securities registered in the name of the presentor to transfer or to make available all or a portion of those securities. In the case of an outside registrar each certificate to be countersigned is an item.

(b) The term "outside registrar" with respect to a transfer item means a transfer agent which performs only the registrar function for the certificate or certificates presented for transfer and includes the persons performing similar functions with respect to debt issues.

(c) An item is "made available" when

(1) In the case of an item for which the services of an outside registrar are not required, or which has been received from an outside registrar after processing, the transfer agent dispatches or mails the item to, or the item is awaiting pick-up by, the presentor or a person designated by the presentor, or

(2) In the case of an item for which the services of an outside registrar are required, the transfer agent dispatches or mails the item to, or the item is awaiting pick-up by, the outside registrar, or

(3) In the case of an item for which an outside registrar has completed processing, the outside registrar dispatches or mails the item to, or the item is awaiting pick-up by, the presenting transfer agent.

(d) The "transfer" of an item is accomplished when, in accordance with the presentor's instructions, all acts necessary to cancel the certificate or certificates presented for transfer and to issue a new certificate or certificates, including the performance of the registrar function, are completed and the item is made available to the presentor by the transfer agent, or when, in accordance with the presentor's instructions, a transfer agent which holds securities registered in the name of the presentor completes all acts necessary to issue a new certificate or certificates representing all or a portion of those securities and makes available the new certificate or certificates to the presentor or a person designated by the presentor or, with respect to those transfers of record ownership to be accomplished without the physical issuance of certificates, completes registration of change in ownership of all or a portion of those securities.

(e) The "turnaround" of an item is completed when transfer is accomplished or, when an outside registrar is involved, the transfer agent in accordance with the presentor's instructions completes all acts necessary to cancel the certificate or certificates presented for transfer and to issue a new certificate or certificates, and the item is made available to an outside registrar.

(f) The term "process" means the accomplishing by an outside registrar of all acts necessary to perform the registrar function and to make available to the presenting transfer agent the completed certificate or certificates or to advise the presenting transfer agent, orally or in writing, why performance of the registrar function is delayed or may not be completed.

(g) The "receipt" of an item or a written inquiry or request occurs when the item or written inquiry or request arrives at the premises at which the transfer agent performs transfer agent functions, as defined in Section 3(a)(25) of the Act.

(h) A "business day" is any day during which the transfer agent is normally open for business and excludes Saturdays, Sundays, and legal holidays, or other holidays normally observed by the transfer agent.

(i) An item is "routine" if it does not (1) require requisitioning certificates of an issue for which the transfer agent, under the terms of its agency, does not maintain a supply of certificates; (2) include a certificate as to which the transfer agent has received notice of a stop order, adverse claim, or any other restriction on transfer; (3) require any additional certificates, documentation, instructions, assignments, guarantees, endorsements, explanations, or opinions of counsel before transfer may be effected; (4) require review of supporting documentation other than assignments, endorsements or stock powers, certified corporate resolutions, signature, or other common and ordinary guarantees, or appropriate tax, or tax waivers; (5) involve a transfer in connection with a reorganization, tender offer, exchange, redemption, or liquidation; (6) include a warrant, right, or convertible security pre-

[18] Paragraph (f) permits registered transfer agents who currently return all cancelled certificates and other records to the issuer to continue to do so provided the issuer agrees to make the certificates and records available for examination by, and to furnish copies upon request to, the transfer agent regulatory agencies.

sented for transfer of record ownership within five business days before any day upon which exercise or conversion privileges lapse or change; (7) include a warrant, right, or convertible security presented for exercise or conversion; or (8) include a security of an issue which within the previous 15 business days was offered to the public, pursuant to a registration statement effective under the Securities Act of 1933, in an offering not of a continuing nature.

§ 240.17Ad–2 Turnaround, processing, and forwarding of items.

(a) Every registered transfer agent (except when acting as an outside registrar) shall turnaround within three business days of receipt of at least 90 percent of all routine items received for transfer during a month. For the purposes of this paragraph, items received at or before noon on a business day shall be deemed to have been received at noon on that day, and items received after noon on a business day or received on a day not a business day shall be deemed to have been received at noon on the next business day.

(b) Every registered transfer agent acting as an outside registrar shall process at least 90 percent of all items received during a month (1) by the opening of business on the next business day, in the case of items received at or before noon on a business day, and (2) by noon of the next business day, in the case of items received after noon on a business day. For the purposes of paragraphs (b) and (d) of this section, "items received" shall not include any item enumerated in § 240.17Ad–1(i) (5), (6), (7), or (8) or any item which is not accompanied by a debit or cancelled certificate. For the purposes of this paragraph, items received on a day not a business day shall be deemed to have been received before noon on the next business day.

(c) Any registered transfer agent which fails to comply with paragraph (a) of this section with respect to any month shall, within ten business days following the end of such month, file with the Commission and the transfer agent's appropriate regulatory agency, if it is not the Commission, a written notice in accordance with paragraph (h) of this section. Such notice shall state the number of routine items and the number of non-routine items received for transfer during the month, the number of routine items which the registered transfer agent failed to turnaround in accordance with the requirements of paragraph (a) of this section, the percentage that such routine items represent of all routine items received during the month, the reasons for such failure, the steps which have been taken, are being taken or will be taken to prevent a future failure and the number of routine items, aged in increments of one business day, which as of the close of business on the last business day of the month have been in its possession for more than four business days and have not been turned around.

(d) Any registered transfer agent which fails to comply with paragraph (b) of this section with respect to any month shall, within ten business days following the end of such month, file with the Commission and the transfer agent's appropriate regulatory agency, if it is not the Commission, a written notice in accordance with paragraph (h) of this section. Such notice shall state the number of items received for processing during the month, the number of items which the registered transfer agent failed to process in accordance with the requirements of paragraph (b) of this section, the percentage that such items represent of all items received during the month, the reasons for such failure and the steps which have been taken, are being taken or will be taken to prevent a future failure, and the number of items which as of the close of business on the last business day of the month have been in the transfer agent's possession for more than the time allowed for processing and have not been processed.

(e) All routine items not turned around within three business days of receipt and all items not processed within the periods prescribed by paragraph (b) of this section shall be turned around or processed promptly, and all non-routine items shall receive diligent and continuous attention and shall be turned around as soon as possible.

(f) A registered transfer agent which receives items at locations other than the premises at which it performs transfer agent functions shall have appropriate procedures to assure, and shall assure, that items are forwarded to such premises promptly.

(g) A registered transfer agent which receives processed items from an outside registrar shall have appropriate procedures to assure, and shall assure, that such items are made available promptly to the presentor.

(h) Any notice required by this section or § 240.17Ad–4 shall be filed as follows:

(1) Any notice required to be filed with the Commission shall be filed in triplicate with the principal office of the Commission in Washington, D.C. 20549 and, in the case of a registered transfer agent for which the Commission is the appropriate regulatory agency, an additional copy shall be filed with the Regional Office of the Commission for the region in which the registered transfer agent has its principal office for transfer agent activities.

(2) Any notice required to be filed with the Comptroller of the Currency shall be filed with the Office of the Comptroller of the Currency, Administrator of National Banks, Washington, D.C. 20219.

(3) Any notice required to be filed with the Board of Governors of the Federal Reserve System shall be filed with the Board of Governors of the Federal Reserve System, Washington, D.C. 20251 and with the Federal Reserve Bank of the district in which the registered transfer agent's principal banking operations are conducted.

(4) Any notice required to be filed with the Federal Deposit Insurance Corporation shall be filed with the Federal Deposit Insurance Corporation Washington, D.C. 20429.

§ 240.17Ad–3 Limitations on expansion.

(a) Any registered transfer agent which is required to file any notice pursuant to § 240.17Ad–2 (c) or (d) for each of three consecutive months shall not, from the fifth business day after the end of the third such month until the end of the next following period of three successive months during which no such notices have been required:

(1) Initiate the performance of any transfer agent function or activity for an issue for which the transfer agent does not perform, or is not under agreement to perform, transfer agent functions prior to such fifth business day; and

(2) With respect to an issue for which transfer agent functions are being performed on such fifth business day, initiate for that issue the performance of an additional transfer agent function or activity which the transfer agent does not perform, or is not under agreement to perform, prior to such fifth business day.

(b) Any registered transfer agent which for each of two consecutive months fails to turn around at least 75% of all routine items in accordance with the requirements of § 240.17Ad–2(a) or to process at least 75% of all items in accordance with the requirements of § 240.17Ad–2(b) shall be subject to the limitations imposed by paragraph (a) of this section and further shall, within twenty business days after the close of the second such month, send to the chief executive officer of each issuer for which such registered transfer agent acts a copy of the written notice filed pursuant to § 240.17Ad–2 (c) or (d) with respect to the second such month.

§ 240.17Ad–4 Applicability of §§ 240.17Ad–2, 240.17Ad–3 and 240.17Ad–6(a) (1) through (7) and (11).

(a) Sections 240.17Ad–2, 240.17Ad–3 and 240.17Ad–6(a) (1) through (7) and (11) shall not apply to interests in limited partnerships, to redeemable securities of investment companies registered under Section 8 of the Investment Company Act of 1940, or to interests in dividend reinvestment programs.

(b) Except as provided in paragraph (c) of this section, §§ 240.17Ad–2 (a), (b), (c), (d) and (h), 240.17Ad–3 and 240.17Ad–6(a) (2) through (7) and (11) shall not apply to any registered transfer agent which during any six consecutive months shall have received fewer than 500 items for transfer and fewer than 500 items for processing and which, within ten business days following the close of the sixth such consecutive month, shall have filed with its appropriate regulatory agency a notice certifying to that effect (hereinafter an "exempt transfer agent").

(c) Within five business days following the close of each month, every exempt transfer agent shall calculate the number of items which it received during the preceding six months. Whenever any exempt transfer agent receives 500 or more items for transfer or 500 or more

items for processing during any six consecutive months, it shall, within ten business days after the end of such month, file with its appropriate regulatory agency notice to that effect. Thereafter, beginning with the first month following the month in which such notice is required to be filed, the registered transfer agent shall no longer be exempt under paragraph (b) of this section from the requirements of §§ 240.17Ad–2 (a), (b), (c), (d) and (h), 240.17Ad–3 and 240.17Ad–6(a) (2) through (7) and (11). Any registered transfer agent which has ceased to be an exempt transfer agent shall not qualify again for exemption until it has conducted its transfer agent operations pursuant to the foregoing sections for six consecutive months following the month in which it filed the notice required by this paragraph.

§ 240.17Ad–5 Written inquiries and requests.

(a) When any person makes a written inquiry to a registered transfer agent concerning the status of an item presented for transfer during the preceding six months by such person or anyone acting on his behalf, which inquiry identifies the issue, the number of shares (or principal amount of debt securities or number of units if relating to any other kind of security) presented, the approximate date of presentment and the name in which it is registered, the registered transfer agent shall, within five business days following receipt of the inquiry, respond, stating whether the item has been received; if received, whether it has been transferred; if received and not transferred, the reason for the delay and what additional matter, if any, is necessary before transfer may be effected; and, if received and transferred, the date and manner in which the completed item was made available, the addressee and address to which it was made available and the number of any new certificate which was registered and the name in which it was registered. If a new certificate is dispatched or mailed to the presentor within five business days following receipt of an inquiry pertaining to that certificate, no further response to the inquiry shall be required pursuant to this paragraph.

(b) When any broker-dealer requests in writing that a registered transfer agent acknowledge the transfer instructions and the possession of a security presented for transfer by such broker-dealer or revalidate a window ticket with respect to such security and the request identifies the issue, the number of shares (or principal amount of debt securities or number of units if relating to any other kind of security), the approximate date of presentment, the certificate number and the name in which it is registered, every registered transfer agent shall, within five business days following receipt of the request, in writing, confirm or deny possession of the security, and, if the registered transfer agent has possession, (1) acknowledge the transfer instructions or (2) revalidate the window ticket. If a new certificate is dispatched or mailed to the presentor within five business days following receipt of a request pertaining to that certificate, no further response to the inquiry shall be required pursuant to this paragraph.

(c) When any person, or anyone acting under his authority, requests in writing that a transfer agent confirm possession as of a given date of a certificate presented by such person during the 30 days before the date the inquiry is received and the request identifies the issue, the number of shares (or principal amount of debt securities or number of units if relating to any other kind of security), the approximate date of presentment, the certificate number and the name in which the certificate was registered, every registered transfer agent shall, within ten business days following receipt of the request and upon assurance of payment of a reasonable fee if required by such transfer agent, make available a written response to such person, or anyone acting under his authority, confirming or denying possession of such security as of such given date.

(d) When any person requests in writing a transcript of such person's account with respect to a particular issue, either as the account appears currently or as it appeared on a specific date not more than six months prior to the date the registered transfer agent receives the request, every registered transfer agent shall, within twenty business days following receipt of the request and upon assurance of payment of a reasonable fee if required by such transfer agent, make available to such person a transcript, ledger or statement of account in sufficient detail to permit reconstruction of such account as of the date for which the transcript was requested.

§ 240.17Ad–6 Recordkeeping.

(a) Every registered transfer agent shall make and keep current the following:

(1) A receipt, ticket, schedule, log or other record showing the business day each routine item and each non-routine item is (i) received from the presentor and, if applicable, from the outside registrar and (ii) made available to the presentor and, if applicable, to the outside registrar;

(2) A log, tally, journal, schedule or other record showing for each month:

(i) The number of routine items received;

(ii) The number of routine items received during the month that were turned around within three business days of receipt;

(iii) The number of routine items received during the month that were not turned around within three business days of receipt;

(iv) The number of non-routine items received during the month;

(v) The number of non-routine items received during the months that were turned around;

(vi) The number of routine items that, as of the close of business on the last business day of each month, have been in such registered transfer agent's possession for more than four business days, aged in increments of one business day (beginning on the fifth business day); and

(vii) The number of non-routine items in such registered transfer agent's possession as of the close of business on the last business day of each month;

(3) With respect to items for which the registered transfer agent acts as an outside registrar:

(i) A receipt, ticket, schedule, log or other record showing the date and time:

(A) Each item is (*1*) received from the presenting transfer agent and (2) made available to the presenting transfer agent;

(B) Each written or oral notice of refusal to perform the registrar function is made available to the presenting transfer agent (and the substance of the notice); and

(ii) A log, tally, journal, schedule or other record showing for each month:

(A) The number of items received;

(B) The number of items processed within the time required by § 240.17Ad–2(b); and

(C) The number of items not processed within the time required by § 240.17Ad–2(b);

(4) A record of calculations demonstrating the registered transfer agent's monitoring of its performance under § 240.17Ad–2 (a) and (b);

(5) A copy of any written notice filed pursuant to § 240.17Ad–2;

(6) Any written inquiry or request, including those not subject to the requirements of § 240.17Ad–5, concerning an item, showing the date received; a copy of any written response to an inquiry or request, showing the date dispatched or mailed to the presentor; if no response to an inquiry or request was made, the date the certificate involved was made available to the presentor; or, in the case of an inquiry or request under § 240.17Ad–5(a) responded to by telephone, a telephone log or memorandum showing the date and substance of any telephone response to the inquiry;

(7) A log, journal, schedule or other record showing the number of inquiries subject to § 240.17Ad–5 (a), (b), (c) and (d) received during each month but not responded to within the required time frames and the number of such inquiries pending as of the close of business on the last business day of each month;

(8) Any document, resolution, contract, appointment or other writing, and any supporting document, concerning the appointment and the termination of such appointment of such registered transfer agent to act in any capacity for any issue on behalf of the issuer, on behalf of itself as the issuer or on behalf of any person who was engaged by the issuer to act on behalf of the issuer;

(9) Any record of an active (i.e., unreleased) stop order, notice of adverse claim or any other restriction on transfer;

(10) A copy of any transfer journal and registrar journal prepared by such registered transfer agent; and

(11) Any document upon which the transfer agent bases its determination that an item received for transfer was received in connection with a reorganization, tender offer, exchange, redemption, liquidation, conversion or the sale of securities registered pursuant to the Securities Act of 1933 and, accordingly, was not routine under § 240.17Ad-1(i)(5) or (8).

(b) Every registered transfer agent which, under the terms of its agency, maintains securityholder records for an issue or which acts as a registrar for an issue shall, with respect to such issue, obtain from the issuer or its transfer agent and retain documentation setting forth the total number of shares or principal amount of debt securities or total number of units if relating to any other kind of security authorized and the total issued and outstanding pursuant to issuer authorization.

(c) Every registered transfer agent which, under the terms of its agency, maintains securityholder records for an issue shall, with respect to such issue, retain each cancelled registered bond, debenture, share, warrant or right, other registered evidence of indebtedness, or other certificate of ownership and all accompanying documentation, except legal papers returned to the presentor.

§ 240.17Ad-7 Record retention.

(a) The records required by § 240.17Ad-6(a), (1), (3)(i), (6) or (11) shall be maintained for a period of not less than two years, the first six months in an easily accessible place.

(b) The records required by § 240.17Ad-6(a) (2), (3)(ii), (4), (5) or (7) shall be maintained for a period of not less than two years, the first year in an easily accessible place.

(c) The records required by § 240.17Ad-6(a) (8), (9) and (10) and (b) shall be maintained in an easily accessible place during the continuance of the transfer agency and shall be maintained for one year after termination of the transfer agency.

(d) The records required by §240.17Ad-6(c) shall be maintained for a period of not less than six years, the first six months in an easily accessible place.

(e) Every registered transfer agent shall maintain in an easily accessible place:

(1) All records required under § 240.17f-2(d) until at least three years after the termination of employment of those persons required by § 240.17f-2 to be fingerprinted; and

(2) All records required pursuant to § 240.17f-2(e) for three years.

(f) The records required to be maintained pursuant to § 240.17Ad-6 may be produced or reproduced on microfilm and be preserved in that form for the time required by § 240.17Ad-7. If such microfilm substitution for hard copy is made by a registered transfer agent, it shall:

(1) At all times have available for examination by the Commission and the appropriate regulatory agency for such transfer agent, facilities for immediate, easily readable projection of the microfilm and for producing easily readable facsimile enlargements;

(2) Arrange the records and index and file the films in such a manner as to permit the immediate location of any particular record;

(3) Be ready at all times to provide, and immediately provide, any facsimile enlargement which the Commission and the appropriate regulatory agency by their examiners or other respresentatives may request; and

(4) For the period for which the microfilmed records are required to be maintained, store separately from the original microfilm records a copy of the microfilm records.

(g) If the records required to be maintained and preserved by a registered transfer agent pursuant to the requirements of §§ 240.17Ad-6 and 240.17Ad-7 are maintained and preserved on behalf of the registered transfer agent by an outside service bureau, other recordkeeping service or the issuer, the registered transfer agent shall obtain, from such outside service bureau, other recordkeeping service or the issuer, an agreement, in writing, to the effect that:

(1) Such records are subject at any time, or from time to time, to reasonable periodic, special, or other examinations by representatives of the Commission and the appropriate regulatory agency for such registered transfer agent, if it is not the Commission; and

(2) The outside service bureau, recordkeeping service, or issuer will furnish to the Commission and the appropriate regulatory agency, upon demand, at either the principal office or at any regional office, complete, correct and current hard copies of any and all such records.

(h) When a registered transfer agent ceases to perform transfer agent functions for an issue, the responsibility of such transfer agent under § 240.17Ad-7 to retain the records required to be made and kept current under § 240.17Ad-6(a)(1), (6), (9), (10) and (11), (b) and (c) shall end upon the delivery of such records to the successor transfer agent.

Accordingly, the Commission hereby adopts §§ 240.17Ad-1, 240.17Ad-2, 240.17Ad-3, 140.17Ad-4, 240.17Ad-5, 240.17Ad-6 and 240.17Ad-7.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

JUNE 16, 1977.

[FR Doc.77-17766 Filed 6-23-77;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Part 240]

[Release No. 34-13637; File No. S7-707]

REGULATION OF TRANSFER AGENTS

Notice of Proposed Rulemaking

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rule.

SUMMARY: The Commission proposes to amend its rule on written inquiries and requests to require that transfer agents acknowledge promptly and respond as soon as possible to certain communications which do not meet the requirements of the rule.

DATES: Comments must be received on or before August 15, 1977.

ADDRESS: Written comments, in triplicate, should be addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and refer to file No. S7-707.

FOR FURTHER INFORMATION CONTACT:

Harry F. Day, Assistant Director, Division of Market Regulation, Securities and Exchange Commission, Washington, D.C. 20549 (202-472-4515 or 202-755-8834).

SUPPLEMENTARY INFORMATION: Notice is hereby given that the Securities and Exchange Commission (the "Commission") has under consideration a proposal to amend Title 17, Chapter II, Part 240 of the Code of Federal Regulations to add § 240.17Ad-5(e) under the Securities Exchange Act of 1934 (the "Act"), in particular Sections 2, 17, 17A and 23(a) of that Act, 15 U.S.C. 78b, 78q, 78q-1 and 78w(a). In accordance with Section 17A(d)(3)(A)(i) of the Act, 15 U.S.C. 78q-1(d)(3)(A)(i), the Commission consulted and requested the views of the Federal bank regulatory agencies at least fifteen days prior to this announcement.

PROPOSED § 240.17Ad-5(e)

Simultaneously with the publication of this release, the Commission has published notice of the adoption of rules prescribing performance standards for registered transfer agents. Section 240.-17Ad-5 of those rules is designed to assure prompt response to inquiries concerning the status of items presented for transfer and to certain other inquiries, in order to better meet the needs of investors who deal with transfer agents, to promote more prompt identification of lost securities and to assist broker-dealers undergoing examination and seeking to comply with requirements relating to control of customer securities.

The applicability of § 240.17Ad-5 to certain inquiries and requests depends upon the transfer agent's receipt of information described in that section. It is possible, however, that through inadvertence the person making the inquiry or request will omit some of the information described in the rule. In such circumstance, it nevertheless is desirable that an appropriate response be made promptly by the transfer agent. Proposed paragraph (e) would apply when an inquiry fails to provide all of the information specified in the rule, or request information in excess of the time periods specified therein. In those circumstances, proposed paragraph (e) requires the transfer agent to confirm promptly his receipt of the inquiry and to respond as soon as possible. If insufficient information was provided in the inquiry to enable the transfer agent to research the question, the transfer agent should request the necessary additional information in its confirmation.

The Text of Proposed Rule 17Ad-5(e) follows:

§ 240.17Ad-5 Written inquiries and requests.

* * * * *

(e) When any person makes a written inquiry or request which would qualify under paragraphs (a), (b), (c), or (d) of this section except that it fails to provide all of the information specified in those paragraphs, or requests information in excess of the time periods specified therein, a registered transfer agent shall confirm promptly receipt of the inquiry or request and shall respond to it as soon as possible.

* * * * *

All interested persons are invited to submit their views upon proposed § 240.-17Ad-5(e) in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549, no later than August 15, 1977. Reference should be made to file No. S7-707. All comments received will be available for public inspection.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

JUNE 16, 1977.

[FR Doc.77-17767 Filed 6-23-77;8:45 am]

federal register

FRIDAY, JUNE 24, 1977
PART V



SECURITIES AND EXCHANGE COMMISSION

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DISSEMINATION OF QUOTATIONS FOR REPORTED SECURITIES

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Part 240]

[Release No. 34-13626; File No. S7-648]

DISSEMINATION OF QUOTATIONS FOR REPORTED SECURITIES

Notice of Proposed Rulemaking

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rulemaking.

SUMMARY: The Commission has published for comment a revised version of a proposed rule governing the dissemination of quotations for reported securities. The proposal, if adopted, would require all national securities exchanges and associations to establish procedures for collecting from their members bids, offers, and quotation sizes with respect to reported securities and making such bids, offers, and sizes available to quotation vendors. It would also require that bids and offers made available to vendors be "firm" subject to certain exceptions.

The proposal is intended to improve the quality of quotation information disseminated by the various market centers, and thereby facilitate the development of a viable composite quotation system. The Commission believes that the lack of reliable quotation information from the various markets is hampering private and self-regulatory efforts to establish such a system, and, in turn, is impeding development of a national market system.

DATE: Comments should be submitted on or before August 1, 1977.

ADDRESSES: Persons wishing to submit written views, data, and arguments should file six copies thereof with George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Room 892, 500 North Capitol Street, Washington, D.C. 20549. All submissions should refer to File No. S7-648 and will be available for public inspection at the Commission's Public Reference Room, Room 6101, 1100 L Street NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Mark D. Fitterman, Division of Market Regulation, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549, 202-755-1388.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission announced today that it has published for comment a revised version of proposed Rule 11Ac1-1 (17 CFR 240.-11Ac1-1) under the Securities Exchange Act of 1934 (the "Act") (15 U.S.C. 78a et seq., as amended by Pub. L. No. 94-29 (June 4, 1975)), governing dissemination of quotation information with respect to equity securities as to which last sale information is reported in the consolidated transaction reporting system (the "consolidated system") contemplated by Rule 17a-15 under the Act (17 CFR 240.17a-15) ("reported securities"). The proposal is intended to improve the quality of quotation information disseminated by the various market centers, and thereby facilitate the development of a viable composite quotation system—an important element of a national market system.

I. Background

Proposed Rule 11Ac1-1 was originally published for comment on July 29, 1976.[1] The Rule, as originally published for comment (the "July Proposal"), would have required every national securities exchange ("exchange") and national securities association ("association" to establish and maintain procedures and mechanisms for collecting quotatitons in eligible securities[2] (and, if provided, quotation sizes) from its specialists[3] and third market makers[4] and making such quotations and sizes (if provided) available to quotation vendors.[5] Specialists and third market makers would have been obliged to communicate their quotations promptly to their respective exchange or association in accordance with such exchange's or association's pocedures to permit timely dissemination of that data to quotation vendors.[6]

The July Proposal also would have required that, subject to certain exceptions, quotations covered by Rule 11Ac1-1 be "firm." In particular, the Rule would have provided that any specialist or third market maker who is presented with an order for the purchase or sale of any eligible security (other than for the purchase or sale of an odd-lot) must stand ready to execute a transaction in that security in any amount up to such specialist's or third market maker's published quotation size (or, in the event he has disseminated no quotation size, a normal unit of trading) at a price at least as favorable to the buyer or seller as the bid or asked price comprising part of that specialist's or third market maker's published quotation (i.e., the most recent quotation of such specialist or third market maker made available to quotation vendors pursuant to the Rule which is displayed by quotation vendors on a terminal or other display device at the time the order is presented).[7]

Two exceptions to the general rule on "firmness" were provided in the July Proposal. First, a specialist or third market maker would have been relieved of his obligation to effect transactions in eligible securities at his published quotation if, after the dissemination of a published quotation and before the presentation of an order, that specialist or third market maker communicated a quotation to the relevant exchange or association superseding his published quotation.[8] In addition, specialist and third market maker quotations would not have been required to be "firm" with respect to a particular eligible security for a period of three minutes following the execution of a transaction in that security on the floor of the particular specialist's exchange or by the particular third market maker (as the case may be), or following the report of a transaction in that security in the consolidated system.[9] In the event a specialist or third market who had been relieved of his obligation to effect transactions in eligible securities as the result of an intervening transaction or last sale report did not communicate to his exchange or association a quotation superseding his published quotation within this three-minute "grace period," the Rule would have provided that such specialist or third market maker would again be required to be firm with respect to his published quotation.[10]

In response to the publication of proposed Rule 11Ac1-1, the Commission received comments from the three principal vendors of market information, seven national securities exchanges or associations, the Securities Industry Association, and the Council on Wage and Price Stability. Virtually all commentators were in favor of the general thrust of the proposal—improvement in the quality of quotation information disseminated from the various market centers. Commentators, however, expressed concern about various aspects of the proposal, and pointed out various technical and practical problems with the Rule as proposed. After considering the comments received, the Commission has determined to modify the proposal in certain respects—particularly in the collection procedures and firmness requirements for quotations originating on exchanges and in the assignment of responsibility for published quotations—and to republish the proposed Rule for public comment.

II. The Revised Proposal

Under the revised proposal, the basic regulatory approach of the July Proposal would be retained. Thus, the revised version of proposed Rule 11Ac1-1 would retain the requirement that exchanges and associations establish and maintain procedures for collecting, processing and making available to quotation vendors quotation information (including size) relating to equity securities reported in the consolidated transaction reporting system. Similarly, the proposed Rule

[1] Securities Exchange Act Release No. 12670 (July 29, 1976), 41 FR 32856 (1976).

[2] In the July Proposal, the term "eligible security" was defined as any security as to which last sale information is reported in the consolidated transaction reporting system.

[3] In the July Proposal, the term "specialist" was defined as any member of a national securities exchange who is registered as a specialist pursuant to the rules and regulations of such exchange and any other member of an exchange who also performs, on the floor of that exchange, either the market making or limit order representation function of a registered specialist.

[4] In the July Proposal, the term "third market maker" was defined as a "market maker" as defined in Rule 15c3-1(c)(8) under the Act who makes markets over-the-counter in eligible securities.

[5] Proposed Rule 11Ac1-1(b)(1).

[6] Proposed Rule 11Ac1-1(c)(1).

[7] Proposed Rule 11Ac1-1(c)(2).

[8] Proposed Rule 11Ac1-1(c)(3)(ii).

[9] Proposed Rule 11Ac1-1(c)(3)(i); (c)(5).

[10] Proposed Rule 11Ac1-1(c)(5).

would continue to require that brokers and dealers subject to its provisions supply quotations to their exchange or association for dissemination to quotation vendors (although dissemination of size greater than a normal unit of trading would continue to be optional). Finally, the Rule would retain the requirement that quotations made available to and displayed by vendors be "firm" up to the size displayed, subject to the same exceptions contained in the July Proposal (i.e., for revised quotations, intervening transactions and trade reports) and a new exception intended to accommodate unusual or active market conditions.

A. Collection of Exchange Quotations

The major alteration to Rule 11Ac1–1 proposed herein relates to the manner of collecting quotation information from exchanges. Rather than limiting the persons from whom quotations are collected to specialists, the revised proposal would require each exchange, at all times such exchange is open for trading, to collect, process, and make available to quotation vendors the highest bid and lowest offer communicated at the location (or locations) designated for trading on the floor of that exchange by a responsible broker or dealer with respect to each reported security [11] listed or admitted to unlisted trading privileges on that exchange. An exception would be provided for any such bid or offer which is executed immediately after communication and any such bid or offer communicated by a responsible broker or dealer other than an exchange market maker which is cancelled or withdrawn if not executed immediately after communication.[12] The term "responsible broker or dealer" would be defined to include any member who communicates to another member on the floor of that exchange a bid or offer for a particular reported security at the location (or locations) designated by the exchange for trading in that security. However, in the event two or more members of that exchange have communicated on the floor of such exchange bids or offers for any security at the same price, each such member would be deemd a "responsible broker or dealer" with respect to that bid or offer (subject to the rules of priority and precedence then in effect on that exchange).[13]

Thus, under the revised proposal, an exchange would be responsible for making available a single quotation for each reported security reflecting the market for that security on the floor of that exchange. That quotation, however, would not necessarily be the quotation of any single market participant, such as a specialist, but would reflect the highest bid and lowest offer of all brokers and dealers willing to trade in that particular security who have expressed their interest in terms of bids and offers. Thus, the revised proposal contemplates inclusion of buying and selling interest other than that of the specialist or his book, so that, for example, the best bid could be that of a specialist acting as agent for an order on his book and the lowest offer that of a broker in the "crowd." In that event, the exchange would still make available a single quotation, but responsibility for that quotation (in terms of the firmness requirements of the Rule) would be shared—the specialist would be responsible for execution of orders to sell at his bid price, and the broker in the "crowd" would be responsible for orders to purchase at his offer price.[14]

Under the revised proposal, each bid or offer made available by an exchange to quotation vendors would have to be accompanied by a quotation size, which would be either (i) the number of shares (or units of trading) which the broker or dealer responsible for that bid or offer had specified, for purposes of dissemination to quotation vendors, that he would be willing to buy at the bid price or sell at the offer price comprising his bid or offer, or (ii) a normal unit of trading (in the event the responsible broker or dealer failed to specify a size to his exchange or association). However, in the event the bid or offer made available by an exchange represented the bids or offers of more than one responsible broker or dealer, the quotation size made available by that exchange for such bid or offer would be required to be an aggregate quotation size (i.e., the sum of the quotation sizes of all responsible brokers or dealers willing to buy or sell at that bid or offer). Thus, for example, in the event there were four brokers and dealers each making an identical bid, and one of those brokers or dealers was willing to disseminate a size of 200 shares, a second was willing to disseminate 300 shares, and the other two were unwilling to specify a size for dissemination to vendors then the exchange involved would be obligated to disseminate in connection with that bid an aggregate quotation size of 700 shares (including 100 shares for each of the brokers or dealers who were unwilling to specify a size for dissemination).[15]

The firmness provisions of the revised proposal would be similar in concept to those contained in the July Proposal. Under the revised proposal, each responsible broker or dealer, subject to certain exceptions, would be obligated to execute any order to buy or sell a reported security, other than an odd-lot order, presented to him by another broker or dealer, or any other person with whom such responsible broker or dealer customarily deals, at a price at least as favorable to such buyer or seller as such responsible broker's or dealer's published bid or published offer (exclusive of any commission, commission equivalent or differential customarily charged by such responsible broker or dealer in connection with any such order) in any amount up to his published quotation size.[16] However, if, prior to the presentation of any such order to a responsible broker or dealer, such responsible broker or dealer communicated to his exchange a revised quotation size, he would not be obligated to purchase or sell reported securities in an amount greater than that revised quotation size.

The firmness requirements of the Rule would also not apply after the responsible broker or dealer had communicated a bid or offer superseding his published bid or published offer or for a three-minute period after a transaction is effected on such responsible broker's or dealer's exchange or a transaction effected otherwise than on such responsible broker's or dealer's exchange is reported in the consolidated system.[17] In addition,

[11] The term "reported security" used in the revised proposal would differ from the term "eligible security" used in the July Proposal in that it would make the Rule applicable only to equity securities.

[12] Rule 11Ac1–1(b)(1)(i) as revised.

[13] Rule 11Ac1–1(a)(2)(i) as revised. The Rule, as revised, also would provide that, with respect to a bid or offer represented by an order to buy or sell a reported security which is transmitted from one member of that exchange to another such member who undertakes to represent such bid or offer as agent, only the last such member who undertakes to represent such bid or offer as agent would be considered the "responsible broker or dealer" with respect to that bid or offer.

[14] Under the revised proposal, each exchange would also be responsible for establishing and maintaining procedures and mechanisms for ascertaining, at all times the exchange is required to collect, process and make available to quotation vendors bids and offers for reported securities, the identity of the responsible brokers and dealers with respect to each bid and offer collected, processed and made available, and would be required, upon request of any member seeking to execute a transaction in reliance on the firmness requirements of the Rule, to disclose the identity of such responsible brokers and dealers to such member. (Rule 11Ac1–1(b)(2) as revised). The revised proposal would not, however, require exchanges to make such identifying information available to quotation vendors.

[15] The exchange involved would also be responsible for keeping track of the quotation sizes of each responsible broker or dealer and making that information available to a member seeking to effect a transaction in reliance on the firmness requirements of the Rule. (See Rule 11Ac1–1(b)(2) as revised.)

[16] The Commission is particularly interested in receiving comment on the appropriateness of imposing a firmness requirement conferring upon both institutional and retail buyers and sellers of reported securities a right to compel a responsible broker or dealer to effect a transaction under the circumstances described above, particularly in light of concepts of suitability (see Article III, Sec. 2 of the Rules of Fair Practice of the National Association of Securities Dealers, Inc.) and diligence as to customer accounts (see Rule 405 of the New York Stock Exchange, Inc.). Variants of the requirements would be to confine the firmness requirements to orders presented by other brokers and dealers or to orders presented by persons other than retail customers. If the Commission determines to retain the firmness requirement in the form described in the text (e.g., because it would be unfair to establish rights of brokers and dealers to rely upon quotations while denying such rights to others), that requirement, of course, would not be intended to supersede or contravene obligations with respect to dealings with customers imposed by other Commission or self-regulatory organization rules.

[17] For purposes of this provision of the Rule, each such transaction or trade report would trigger a new three-minute period.

in the event an order to purchase or sell a particular reported security is presented to a responsible broker or dealer on the floor of an exchange at a time when such responsible broker's or dealer's published bid or published offer is at the same price as the published bid or published offer for that security of any other responsible broker or dealer on the floor of such exchange, no such other broker or dealer would be relieved of his execution responsibilities under the Rule until (i) if the order is for an amount of reported securities which is equal to or less than the published aggregate quotation size, the member seeking to effect the order in reliance on the Rule has completed his order, or (ii) if the order is for an amount greater than the published aggregate quotation size, that member has purchased or sold an amount of such security equal to such published aggregate quotation size, regardless of any intervening trade report or revised bid or offer for the particular reported security involved or the fact that satisfaction of the order may involve more than one individual transaction in that security on that exchange.

Finally, the Commission recognizes that, under certain unusual or active market conditions, an exchange market's quotation collection procedures may not be adequate to keep up with the flow of quotation information in a particular reported security or a specialist may not be able to update his quotations in that security on a timely basis. Accordingly, the Commission proposes an additional exception from the general firmness requirements of the Rule applicable during any period an exchange determines, pursuant to rules and regulations approved by the Commission pursuant to Section 19(b)(2) of the Act, that the level of trading activity is, or that there exist unusual market conditions, such that the exchange is incapable of collecting, processing and making available to quotation vendors the data required by the Rule in a manner which accurately reflects the current state of the market on the floor of such exchange in a particular reported security.

Under this exception, the obligation of responsible brokers and dealers to effect transactions in that security at their published bid or published offer, as well as the obligation of the exchange involved to ascertain the identity and quotation size of each responsible broker and dealer and make such information available to members, would be suspended upon notification by the exchange to certain designated persons (including the Commission and the various quotation vendors). Suspension of such obligations would continue until the exchange determined that the unusual market activity or conditions had terminated and renotified the persons designated in the Rule. However, during any period during which obligations are suspended pursuant to this exception, the exchange involved would still be required to continue, to the maximum extent practicable under the circumstances, to collect, process and make available to quotation vendors bids, offers and quotation sizes of its members.

B. COLLECTION OF THIRD MARKET QUOTATIONS

The Commission believes that no major change in the Rule's requirements as to collection procedures and firmness with respect to third market makers is necessary. Under the revised proposal, each third market maker would be deemed a "responsible broker or dealer" with respect to his bids and offers, and would be obligated to effect transactions in reported securities at a price at least as favorable as his published bid or published offer, subject to the exceptions for intervening transactions effected by him, intervening trades from other markets reported in the consolidated system, and revised quotations.

Each national securities association would be required, at all times last sale information with respect to reported securities is reported in the consolidated system, to collect, process, and make available to quotation vendors the highest bid and lowest offer communicated otherwise than on the floor of an exchange by each member of such association acting in the capacity of a third market maker for a reported security. An exception from that requirement would be provided for any such bid or offer communicated by a third market maker which is executed immediately after communication or is cancelled or withdrawn if not so executed.

C. TECHNICAL CHANGES

In addition to the changes to proposed Rule 11Ac1-1 discussed above, several technical changes to the Rule were made as discussed below.

1. The definition of the term "third market maker" has been altered to make clear that (a) a market maker may also represent a customer's order as agent as part of a bid or offer made available pursuant to the Rule, and (b) a market maker shall not include any person who does not make markets for reported securities in amounts of less than block size.[18]

2. The quotation information collection provisions of the Rule have been amended to relieve an exchange of responsibility for collecting, processing and making available bids, offers and quotation sizes not only during periods when trading has been suspended, but also when trading has been halted on the particular exchange for whatever reason, as well as prior to the opening transaction on that exchange.[19]

3. The proposed Rule has been revised to permit exchanges and associations required to make quotation information available pursuant to its provisions to do so at a common location determined by mutual agreement of the exchanges and associations.[20]

4. The proposed Rule has been revised to explicitly permit the collection and dissemination of quotation information with respect to reported securities (including indications of interest as well as bids and offers) to vendors by exchanges and associations either prior to the commencement or after the termination of trading in a particular market center.[21]

5. The anticipated effective date of the Rule has been revised to January 1, 1978.[22] The Commission believes that this date will provide adequate lead time for exchanges and associations to make whatever modifications to their quotation collection and dissemination systems as are necessary to ensure compliance with the Rule, and for vendors to modify their information systems to accommodate the display of quotation information (including sizes) from the various market centers.

6. In order to avoid confusion concerning the intended neutrality of proposed Rule 11Ac1-1 in the area of charges by exchanges and associations in connection with the dissemination of quotation information, the Commission has deleted the section of the July Proposal which provided that "[n]othing in [the proposed Rule] shall preclude any exchange or association from imposing fair and reasonable charges for the dissemination of quotations."[23]

III. ADDITIONAL ISSUES

A. VENDOR REQUIREMENTS AND BEST EXECUTION

Several commentators suggested that, in conjunction with the proposed Rule, the Commission impose obligations on vendors to display quotations made available pursuant to its provisions and on brokers to route customer orders to the market center displaying the most favorable quotation at the time the order is received. The Commission believes, however, that neither of these suggestions should be incorporated in the Rule at this time.

With respect to vendor obligations, although the Commission believes that widespread dissemination of quotation information—including size—is necessary to promote effective competition among market centers and is essential to the achievement of the purposes of the Rule, it appears that adequate dissemination will be achieved without any such

[18] Rule 11Ac1-1(a)(1) as revised.

[19] Rule 11Ac1-1(b)(1)(i) as revised. An association would continue to be responsible for collecting, processing and making available quotation information except during periods when trading in a particular reported security has been suspended.

[20] Rule 11Ac1-1(a)(6) as revised.

[21] Rule 11Ac1-1(b)(4) as revised. The revised proposal, however, would not require any exchange of association to collect, process, and make available quotation information outside of normal trading hours.

[22] Rule 11Ac1-1(b)(1) as revised.

[23] Proposed Rule 11Ac1-1(b)(3). In so doing, however, the Commission notes that, under Section 11A(c)(1)(C) of the Act [15 U.S.C. 78k-1(c)(1)(C)], it continues to have authority to adopt rules and regulations designed to assure that all securities information processors may obtain quotation information from any exchange or association (or any other exclusive processor) on fair and reasonable terms.

requirements. The Commission intends, however, to monitor closely developments in this area and, should vendors fail to provide widespread and complete dissemination of quotation information—including size—to brokers, dealers and investors within a reasonable time, we will reconsider the need for regulations imposing display requirements directly on quotation vendors.

Although the Commission is not proposing at this time any requirement that brokers direct order flow on the basis of machine-displayed quotation information, the Commission believes that adoption of proposed Rule 11Ac1–1 should aid brokers in obtaining better execution of customer orders. The proposal, if adopted, should, in our view, significantly improve the quality of quotation information, and we would expect brokers to take this improvement in market information into consideration in their order routing decisions.

B. THE THREE-MINUTE PROVISION

Several commentators noted practical problems with the three-minute provision of the proposed Rule, which would operate to relieve responsible brokers or dealers of their execution obligations under the Rule for a three-minute period following either a transaction in the particular market center involved or the reporting of a transaction in the consolidated system. Several exchanges argued that exchange specialists may not always be aware of transactions in different market centers (particularly if those transactions are effected in markets other than the primary exchange market), and therefore would have difficulty in updating their quotations within the requisite three-minute period.

The Commission believes, however, that the three-minute provision of the Rule is workable and will not create major operational problems for the exchange markets. Insofar as the proposed Rule creates a need on the part of market professionals on the floors of the various exchanges to be more aware of transactions occurring elsewhere, the Commission believes it is a simple task to develop and install systems capable of notifying specialists of all transactions in their specialty stocks (regardless of the market center in which the transaction was effected).[24]

Nonetheless, the Commission requests commentators to focus on this aspect of the Rule and to advise the Commission of any other potential problems resulting from the three-minute provision which would impact on either exchange markets or on third market makers. In addition, commentators should consider, as an alternative to the three-minute provision of the Rule, the feasibility of requiring bids and offers made available pursuant to the Rule to be firm under all circumstances (unless a revised bid or offer had been communicated to the relevant exchange or association prior to receipt of an order).

C. MEASUREMENT OF THREE-MINUTE PERIOD

One commentator complained that the Rule did not define the terms that would be used to measure the three-minute "grace period" provided for responsible brokers and dealers after intervening transactions and trade reports. That commentator argued that there "may be serious confusion and continued disputes" unless the Rule clearly defines (i) the time a transaction is considered to have been effected in a particular market center, (ii) the time a quotation is considered to have been communicated to a market center for dissemination to quotation vendors, and (iii) the time a transaction is considered to have been reported in the consolidated system.

The Commission is of the view that determination of the time a transaction is considered to have been effected and the time a bid or offer is considered to have been communicated to a market center for dissemination to quotation vendors be left to the various self-regulatory organization.[25] With respect to the reporting of transactions in the consolidated system, the Commission is of the view that, for purposes of proposed Rule 11Ac1–1, as well as all other rules and regulations under the Act which refer to the consolidated system (e.g., the Commission's primary short sale rule, Rule 10a–1 (17 CFR 240.10a–1)), a transaction is considered to have been reported in the consolidated system when it is made available by the processor thereof by means of the high-speed data transmission line developed as part of the joint industry plan for the development and operation of the system.

D. ERRORS

A number of commentators expressed concern about the possibility of errors in the collection and dissemination of quotation information and were uncertain as to whether the Rule required a specialist or third market maker to effect a transaction at a price displayed on a vendor interrogation device if that price were not, in fact, the correct one. The Commission does not believe persons subject to execution responsibilities under the Rule based on machine-displayed quotation information should be responsible for transmission or display errors on the part of any exchange, association or vendor and has made some minor changes in the Rule to make clear that the Rule does not require execution based on erroneous displays or transmissions.

Under the revised proposal, if a bid or offer displayed on a vendor terminal or display device is not the actual bid or offer communicated by a responsible broker or dealer to his exchange or association, or if the quotation size (or aggregate quotation size) displayed is not the size determined pursuant to the Rule, that bid, offer or size would not be within the definition of "published bid," "published offer," "published quotation size," or "published aggregate quotation size" (as the case may be) and, therefore, no responsible broker or dealer would be required to execute a transaction based on that erroneous bid, offer or size.[26]

E. COST/BENEFIT ANALYSIS

The Commission has considered the anticipated costs and benefits associated with proposed Rule 11Ac1–1 and has concluded that the projected benefits of the proposal, although difficult to quantify, outweigh the anticipated costs to exchanges, associations and market professionals of compliance with the Rule. These projected benefits include facilitating a broker's ability to use reasonable diligence to obtain best execution of each order entrusted to him,[27] as well as the possible narrowing of spreads in certain exchange-traded issues.

Moreover, notwithstanding any specific benefit which may be derived from adoption of proposed Rule 11Ac1–1, affirmative Commission regulatory action in this area is, in our view, justified by the overriding public interest in the widespread dissemination of quotation information and by the provisions of the Act mandating Commission action to facilitate the development of a national market system. In this regard, the Commission notes that Section 11A of the Act (15 U.S.C. 78k–1), added by the Securities Acts Amendments of 1975,[28] contains a Congressional finding that it is in "the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure * * * the availability to brokers, dealers and investors of information with respect to quotations * * *."[29]

In addition, the legislative history of the 1975 Amendments indicates a clear Congressional determination that a composite quotation system is an essential element of the emerging national market system and that Congress contemplated an active Commission role in its development. For example, the Senate Committee on Banking, Housing and Urban Affairs in its report accompanying

[24] For example, consolidated last sale information, including the time of the most recent transaction, is available on most standard vendor interrogation devices.

[25] The method employed by each self-regulatory organization for determining when a transaction has taken place and when a bid or offer has been communicated to it for dissemination should be part of that self-regulatory organization's procedures and mechanisms for collecting, processing and making available quotation information required by paragraph (b)(1) of the Rule.

[26] Of course, if a bid, offer or quotation size of a responsible broker or dealer is displayed correctly on one vendor's interrogation device and incorrectly on another vendor's device, that responsible broker or dealer would still be required to be firm with respect to the correct price or size (although he could not be held to the incorrect price or size).

[27] See SEC, Policy Statement on the Structure of a Central Market System, 7–8 (1973).

[28] Pub. L. 94–29 (June 4, 1975).

[29] Section 11A(a)(C)(iii) of the Act (15 U.S.C. 78k–1(a)(1)(C)(iii)).

S. 249, the bill which became the 1975 Amendments, stated as follows:

In the securities markets, as in most other active markets, it is critical for those who trade to have access to accurate, up-to-the-second information as to the prices at which transactions in particular securities are taking place (i.e., last sale reports) and the prices at which other traders have expressed their willingness to buy or sell (i.e., quotations). For this reason, communications systems designed to provide automated dissemination of last sale and quotation information with respect to securities will form the heart of the national market system.[30]

And, as to the role of the Commission in the development of a composite quotation system, the conference report on S. 249 stated that:

(I)t is the intent of the conferees that the national market system evolve through the interplay of competitive forces as unnecessary regulatory restrictions are removed. The conferees expect, however, in those situations where competition may not be sufficient, such as the creation of a composite quotation system * * *, the Commission will use the powers granted to it in this bill to act promptly and effectively to ensure that the essential mechanisms of an integrated secondary trading system are put into place as rapidly as possible.[31]

IV. Request for Public Comment

The Securities and Exchange Commission hereby proposes Rule 11Ac1–1 (17 CFR 240.11Ac1–1) pursuant to its authority under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq., as amended by Pub. L. No. 94–29 (June 4, 1975)), and particularly Sections 2, 3, 6, 11A, 15, 15A, 17 and 23 thereof (15 U.S.C. 78b, 78c, 78f, 78k–1, 78o, 78o–3, 78q and 78w). The text of the proposed rule is as follows (changes from the prior version of proposed Rule 11Ac1–1 are indicated as follows: additions are indicated by arrows ►and◄, and deletions by brackets [and]):

§ 240.11Ac1–1 Dissemination of quotation for ►reported◄ [eligible] securities.

(a) ►*Definitions.*◄ For purposes of this section, (1) The term "third market maker" shall mean ►any person who holds himself out as being willing to buy and sell a reported security for his own account on a regular and continuous basis otherwise than on a national securities exchange in amounts of less than block size (including any such person who also represents, as agent, orders to buy or sell reported securities on behalf of any other person and communicates bids and offers to a national securities association ("association") pursuant to this section on behalf of such other persons as well as for his own account).◄ [a "market maker" as defined in § 240.-15c3–1(c)(8) (Rule 15c3–1(c)(8) under the Act) who makes markets over-the-counter in eligible securities;]

(2) The term ►"exchange market maker"◄ ["specialist"] shall mean any member of a national securities exchange ("exchange") who is registered as a specialist ►or market maker◄ pursuant to the rules and regulations of such exchange ►.◄ [, and any other member of an exchange who also performs on the floor of that exchange, either the market making or limit order representation function of a registered specialist;]

►(3) The term "responsible broker or dealer" shall mean

(i) When used with respect to bids or offers communicated on the floor of an exchange, any member of such exchange who communicates to another member on the floor of such exchange, at the location (or locations) designated by such exchange for trading in a reported security, a bid or offer for such reported security, as either principal or agent; *Provided, however,* That in the event two or more members of an exchange have communicated on the floor of such exchange bids or offers for a reported security at the same price, each such member shall be considered a "responsible broker or dealer" with respect to that bid or offer, subject to the rules of priority and precedence then in effect on that exchange; *And further provided,* That, with respect to a bid or offer which is transmitted from one member of an exchange to another such member who undertakes to represent such bid or offer as agent, only the last such member who undertakes to represent such bid or offer as agent shall be considered the "responsible broker or dealer" with respect to that bid or offer; and

(ii) When used with respect to bids and offers communicated by a third market maker to another broker or dealer or to a customer otherwise than on an exchange, the third market maker communicating the bid or offer (regardless of whether such bid or offer is for his own account or on behalf of another person).

(4)◄ [(3)] The term "quotation vendor" shall mean any securities information processor engaged in the business of disseminating to brokers and dealers, on a real-time or current and continuing basis, ►bids and offers made available pursuant to this section◄ [quotations for eligible securities], whether distributed through an electronic communications network or displayed on a terminal or other ►display◄ device ►.◄ [or otherwise;]

(5) The term "consolidated system" shall mean the consolidated transaction reporting system contemplated by § 240.-17a–15 (Rule 17a–15 under the Act) ►.◄ [;]

►(6)◄ [(4)] The term ►"reported security"◄ ["eligible security"] shall mean any ►equity◄ security as to which last sale information is reported in the consolidated system ►.◄ [;]

►(7)◄ [(6)] The term "make available," when used with respect to ►bids, offers, quotation sizes and aggregate quotation sizes◄ [quotations] supplied to quotation vendors by an exchange or [a national securities] association ["association"], shall mean to provide circuit connections at the premises of the exchange or association supplying ►such data,◄ [those quotations] ►or at a common location determined by mutual agreement of the exchanges and associations,◄ for the delivery of such ►data◄ [quotations] to ►quotation◄ [such] vendors ►.◄ [;]

►(8)◄ [(7)] The term ►s "bid" and "offer◄ ["quotation," when used with respect to bids and offers of a specialist or market maker,] shall mean the [highest current] bid price ►or◄ [and] the [lowest current] offer price most recently communicated by ►a responsible broker or dealer◄ [that specialist or market maker] to any ►other◄ broker ►or◄ [,] dealer ►,◄ or ►to any◄ customer, at which he is willing to buy or sell a particular amount of ►a reported security◄ [eligible securities], as either principal or agent, but shall not include [(i)] indications of interest ►.◄ [or (ii) any bid or offer by that specialist or third market maker made in response to any inquiry by a broker, dealer or customer with respect to that specialist's or third market maker's willingness to buy or sell eligible securities in an amount greater than that bid for or offered by that specialist or third market maker in communicating his quotation;]

►(9)◄ [(8)] the term ►s "published bid" and "published offer"◄ ["published quotation," when used in conection with an order to buy or sell eligible securities presented to a specialist or market maker,] shall mean the ►bid or offer (as the case may be) of a responsible broker or dealer for that reported security communicated by him to his exchange or association◄ [most recent quotation of such specialist or market maker made available to quotation vendors] pursuant to this section ►and◄ displayed by ►a◄ quotation vendor[s] on a terminal or other display device at the time ►an◄ [the] order is presented ►for execution to such responsible broker or dealer.◄ [;]

►(10)◄ [(9)] The term "quotation size," when used with respect to a ►responsible broker's or dealer's bid or offer for a reported security◄ [specialist's or market maker's quotation], shall mean ►(i)◄ the number of shares (or units of trading) of ►that reported◄ [an eligible] security which ►such responsible broker or dealer has specified, for purposes of dissemination to quotation vendors, that◄ [the specialist or market maker has stated] he is willing to buy at the bid price or sell at the offer price comprising his ►bid or offer, as◄ [quotation,] either [as] principal or agent ►, or, in the event such responsible broker or dealer has not so specified, (ii) a normal unit of trading for that reported security.◄ [;]

►(11)◄ [(10)] The term "published quotation size [,]" [when used in connection with an order to buy or sell

[30] S. Rep. No. 94–75, Report to Accompany S. 249, 94th Cong., 1st Sess. 9 (1975). See Subcomm. on Commerce and Finance of the House Comm. on Interstate and Foreign Commerce, Securities Industry Study, H.R. Rep. No. 92–1519, 92d Cong., 2d Sess. 123–25 (1972); Subcomm. on Securities of the Senate Comm. on Banking, Housing and Urban Affairs, Securities Industry Study, S. Doc. No. 93–13, 93d Cong., 1st Sess. 101–104 (1973).

[31] Committee on Conference, Conference Report to Accompany S. 249, H.R. Rep. No. 94–229, 94th Cong., 1st Sess. 92 (1975).

eligible securities presented to a specialist or market maker,] shall mean the [most recent] quotation size [(if any)] of ►a responsible broker or dealer communicated by him to his exchange or association◄ [that specialist or market maker made available to quotation vendors] pursuant to this section and displayed by ►a◄ quotation vendor[s] on a terminal or other display device at the time ►an◄ [the] order is presented ►for execution to such responsible broker or dealer.◄ [;]

►(12) The term "aggregate quotation size" shall mean the sum of the quotation sizes of all responsible brokers or dealers who have communicated on the floor of an exchange bids or offers for a reported security at the same price.

(13) The term "published aggregate quotation size" shall mean the aggregate quotation size calculated by an exchange and displayed by a quotation vendor on a terminal or other display device at the time an order is presented for execution to a responsible broker or dealer.

(14)◄ [(11)] The term "odd-lot" shall mean an order for the purchase or sale of ►a reported◄ [an eligible] security in an amount less than a normal unit of trading.

►(15) The term "specified persons," when used in connection with any notification required to be provided pursuant to paragraphs (b)(3)(i) and (b)(3)(ii) of this section, shall mean

(i) The Securities and Exchange Commission;

(ii) Each quotation vendor;

(iii) The Consolidated Tape Association; and

(iv) The Options Price Reporting Authority (in the case of a notification with respect to a reported security which is a class of securities underlying options admitted to trading on any exchange).◄

(b) ►*Dissemination requirements for exchanges and associations.*◄ (1) On and after ►January 1, 1978,◄ [November 1, 1976,] every exchange and association shall have established and shall maintain procedures and mechanisms for collecting ►bids, offers,◄ [quotations and, if provided,] quotation sizes ►and aggregate quotation sizes from responsible brokers or dealers who are members of such exchange or association (as the case may be)◄ [from specialists and market makers], processing such ►bids, offers◄ [quotations] and sizes, and making such ►bids, offers◄ [quotations] and sizes available to quotation vendors, ►as follows:◄ [in accordance with subparagraph (2) of this paragraph (b).

(2) Every exchange and every association shall collect, process and make available to quotation vendors quotations and quotation sizes of its specialists and market makers as follows:]

(i) Every exchange shall, at all times such exchange is open for trading, collect, process and make available to quotation vendors ►the highest bid and the lowest offer communicated on the floor of that exchange (or, in the event such exchange maintains more than one trading floor, communicated on any of such floors) by any responsible broker or dealer (excluding any such bid or offer which is executed immediately after communication and any such bid or offer communicated by a responsible broker or dealer other than an exchange market maker which is cancelled or withdrawn if not executed immediately after communication)◄ [quotations of its specialists] for each ►reported◄ [eligible] security ►listed◄ [registered] or admitted to unlisted trading privileges on that exchange ►except◄ [*Provided, however*, That no quotation for an eligible security shall be required to be collected, processed and made available by an exchange] during any period when trading in that security [on that exchange] has been suspended ►or halted, or prior to the commencement of trading in that security on any trading day, on that exchange◄;

(ii) Every association shall, at all times last sale information with respect to ►reported◄ [eligible] securities is reported in the consolidated system, collect, process and make available to quotation vendors ►the highest bid and lowest offer communicated otherwise than on the floor of an exchange by each member of such association acting in the capacity of a third market maker for a reported security (excluding any such bid or offer which is executed immediately after communication or is cancelled or withdrawn if not so executed) except◄ [quotations of third market makers who are members of such association for each eligible security for which one or more members act as a third market maker, *Provided, however*, That no quotation for an eligible security shall be required to be collected, processed and made available by an association] during any period when over-the-counter trading in that security has been suspended; ►and◄

(iii) Every ►bid and offer◄ [quotation for an eligible security] made available to quotation vendors ►by an exchange or association◄ pursuant to this section shall be accompanied by the quotation size ►or the aggregate quotation size (as the case may be) associated with it◄ [if the specialist or third market maker communicating that quotation elects to provide such size to the exchange or association for the purpose of disseminating such size to quotation vendors].

►(2) Each exchange shall, with respect to each published bid and published offer for any reported security representing a bid or offer of a member, establish and maintain procedures for ascertaining and disclosing to other members of that exchange, upon presentation of orders sought to be executed by them in reliance upon paragraph (c)(2) of this section, the identity of each responsible broker or dealer who made such bid or offer and the quotation size associated with it.

(3)(i) If, at any time an exchange is open for trading, such exchange determines, pursuant to rules and regulations approved by the Securities and Exchange Commission pursuant to Section 19(b)(2) of the Act, that the level of trading activity is, or that unusual market conditions exist, such that the exchange is incapable of collecting, processing and making available to quotation vendors the data with respect to a reported security required to be made available by subparagraph (1) of this paragraph (b) in a manner which accurately reflects the current state of the market on the floor of such exchange, such exchange shall immediately notify all specified persons of that determination. Upon such notification, responsible brokers or dealers who are members of that exchange shall be relieved of their obligation under paragraph (c)(2) of this section and such exchange shall be relieved of its obligation under subparagraph (2) of this paragraph (b) with respect to that security; *Provided, however*, That such exchange shall continue, to the maximum extent practicable under the circumstances, to collect, process and make available to quotation vendors such data for that security in accordance with subparagraph (1) of this paragraph (b).

(ii) During any period an exchange, or any responsible broker or dealer who is a member of that exchange, is relieved of any obligation imposed by this section with respect to any reported security by virtue of a notification made pursuant to subparagraph (3)(i) of this paragraph (b), such exchange shall monitor the activity or conditions which formed the basis for such notification and shall immediately renotify all specified persons when that exchange is once again capable of collecting, processing and making available to quotation vendors the data with respect to that security required to be made available by paragraph (1) of this paragraph (b) in a manner which accurately reflects the current state of the market on the floor of such exchange. Upon such renotification, any exchange or responsible broker or dealer which had been relieved of any obligation imposed by this section as a consequence of the prior notification shall again be subject to such obligation.◄

[(3) Nothing in this section shall preclude any exchange or association from imposing fair and reasonable charges for the dissemination of quotations.]

►(4) Nothing in this section shall preclude any exchange or association from making available to quotation vendors indications of interest or bids and offers with respect to a reported security at any time such exchange or association is not required to do so pursuant to subparagraph (1) of this paragraph (b).◄

(c) ►*Obligations of responsible brokers and dealers.*◄ (1) Every ►responsible broker or dealer◄ [specialist and third market maker] shall promptly communicate to his exchange or association (as the case may be), pursuant to the procedures established by that exchange or association, his ►bids, offers and quotation sizes◄ [quotations in eligible securites (and, if such specialist or third market maker so elects, his quotation sizes)].

(2) Subject to the provisions of ►subparagraphs (3) and (4) of this paragraph (c)◄ [paragraphs (c)(3) and

(c)(4) of this section], every ►responsible broker or dealer◄ [specialist and market maker] shall be obligated to execute any order ►to buy or sell a reported security◄, other than an odd-lot order, [to buy or sell eligible securities] presented to him by ►another◄ [a] broker or dealer, or any other ►person belonging to a◄ category of person►s◄ with whom such ►responsible broker or dealer◄ [specialist or market maker] customarily deals, at a price at least as favorable to such buyer or seller as the bid ►price◄ or offer ►price◄ comprising such ►responsible broker's or dealer's◄ [specialist's or market maker's] published ►bid or published offer◄ [quotation] ►(exclusive of any commission, commission equivalent or differential customarily charged by such responsible broker or dealer in connection with execution of any such order)◄ in any amount up to ►his◄ [the] published quotation size [(or, in the event no quotation size has been disseminated in connection with such published quotation, a normal unit of trading)]►; *provided, however,* That if, prior to the presentation of such an order, a responsible broker or dealer has communicated to his exchange or association (as the case may be), a quotation size superseding his published quotation size (a "revised quotation size") pursuant to subparagraph (1) of this paragraph (c), such responsible broker or dealer shall not be obligated by this section to purchase or sell a reported security in an amount greater than his revised quotation size◄

(3) Subject to the provisions of paragraph ►(b)◄ [(c)] (3) of this section ►and subparagraphs (4) and (5) of this paragraph (c)◄, no ►responsible broker or dealer◄ [specialist or market maker] shall be obligated to execute a transaction ►for any reported security◄ as provided in ►subparagraph (2) of this paragraph (c)◄ [paragraph (c)(2) of this section] if, after ►communication◄ [dissemination] of such ►responsible broker's or dealer's◄ published ►bid or published offer◄ [quotation] and before the order sought to be executed is presented, (i) a transaction in the ►reported◄ [eligible] security sought to be bought or sold has been effected on the floor of such ►responsible broker's or dealer's◄ [specialist's] exchange or with such ►responsible broker or dealer◄ [market maker], or ►a transaction in such security effected otherwise than on the floor of such responsible broker's or dealer's exchange or with such responsible broker or dealer◄ has been reported in the consolidated system, or (ii) such ►responsible broker or dealer◄ [specialist or market maker] has communicated to his exchange or association (as the case may be), pursuant to ►subparagraph (1) of this paragraph (c)◄ [paragraph (c)(1) of this section], a ►bid or offer◄ [quotation] superseding his published ►bid or published offer◄ [quotation].

►(4) Notwithstanding the provisions of subparagraph (3) of this paragraph (c), if, at the time an order to buy or sell a reported security, other than an odd-lot order, is presented to a responsible broker or dealer on the floor of an exchange, such responsible broker's or dealer's published bid or published offer (as the case may be) for that security is at the same price as the published bid or published offer for that security of any other responsible broker or dealer on the floor of that exchange, no such responsible broker or dealer shall be relieved of his obligation under subparagraph (2) of this paragraph (c) to effect a transaction in that security until the person presenting such order either has (i) completed that order (if the order is for an amount of such reported security which is equal to or less than the published aggregate quotation size), or (ii) purchased or sold an amount of such reported security equal to the published aggregate quotation size (if the order is for an amount of such reported security greater than such published aggregate quotation size).◄

[(4) Notwithstanding paragraph (c)(2) of this section, if, prior to the presentation of an order to buy or sell eligible securities, a specialist or third market maker has communicated to his exchange or association (as the case may be), pursuant to paragraph (c)(1) of this section, a quotation size superseding his published quotation size (a "revised quotation size"), he shall not be obligated by this section to purchase or sell eligible securities in an amount greater than his revised quotation size.]

(5) If a ►responsible broker or dealer◄ [specialist or market maker] does not communicate a ►bid or offer◄ [quotation] superseding his published ►bid or published offer for a reported◄ [quotations in an eligible] security within ►three (◄ 3 ►)◄ minutes after the occurrence of a transaction in that security [effected] on such ►responsible broker's or dealer's◄ [specialist's] exchange or with such ►responsible broker or dealer◄ [market maker], or within ►three (◄ 3 ►)◄ minutes of the reporting of a transaction in that security in the consolidated system ►effected otherwise than on the floor of such responsible broker's or dealer's exchange or with such responsible broker or dealer◄, such ►responsible broker or dealer◄ [specialist or market maker] shall, upon presentation of an order, be obligated to execute a transaction in accordance with the provisions of ►subparagraph (2) of this paragraph (c) of this section◄ [paragraph (c)(2) of this section] notwithstanding ►subparagraph (3)(i) of this paragraph (c)◄ [paragraph (a)(3) of this section].

(d) ►*Exemptions.*◄ The Commission may exempt from the provisions of this section, either unconditionally or on specified terms and conditions, any ►responsible broker or dealer,◄ [specialist or market maker, national securities] exchange, or [national securities] association if the Commission determines that such exemption is consistent with the public interest, the protection of investors and the removal of impediments to and perfection of the mechanism of a national market system.

(Secs. 2, 3, 6, 15, 17, 23, Pub. L. 78-291, 48 Stat. 881, 882, 885, 895, 897, 901, as amended by Secs. 2, 3, 4, 11, 14, 18, Pub. L. 94-29, 89 Stat. 97, 104, 121, 137, 155 (15 U.S.C. 78b, 78c, 78f, 78k-1, 78o, 78q, 78w, as amended by Pub. L. 94-29 (June 4, 1975)); Sec. 1, Pub. L. 75-719, 52 Stat. 1070, as amended by Sec. 12, Pub. L. 94-29, 89 Stat. 127-131 (15 U.S.C. 78o-3, as amended by Pub. L. 94-29 (June 4, 1975)); Sec. 7, Pub. L. 94-29, 89 Stat. 111 (15 U.S.C. 78k-1).)

All interested persons are invited to submit written views, data and arguments with respect to proposed Rule 11Ac1-1. Persons wishing to make such submissions should file six copies thereof with George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Room 892, 500 North Capitol Street, Washington, D.C. 20549, not later than August 1, 1977. All submissions should refer to File No. S7-648, and will be available for public inspection at the Commission's Public Reference Room, Room 6101, 1100 L Street NW., Washington, D.C.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

JUNE 14, 1977.

[FR Doc.77-17886 Filed 6-23-77;8:45 am]

federal register

FRIDAY, JUNE 24, 1977

PART VI

ENVIRONMENTAL PROTECTION AGENCY

■

STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

Petroleum Refinery Fluid Catalytic Cracking Unit Catalyst Regenerators

Title 40—Protection of Environment

CHAPTER 1—ENVIRONMENTAL PROTECTION AGENCY

[FRL 742-5]

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

Petroleum Refinery Fluid Catalytic Cracking Unit Catalyst Regenerators

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This rule revises the standard which limits the opacity of omissions from new, modified, or reconstructed petroleum refinery fluid catalytic cracking unit catalyst regenerators to 30 percent, except for one six-minute period in any one hour. The revision is being made to make the standard consistent with a revision to the test method for opacity. The standard implements the Clean Air Act and is intended to require the proper operation and maintenance of fluid catalytic cracking unit catalyst regenerators.

EFFECTIVE DATE: June 24, 1976.

ADDRESSES: Copies of the comment letters and a report which contains a summary of the issues and EPA's responses are available for public inspection and copying at the U.S. Environmental Protection Agency, Public Information Reference Unit (EPA Library), Room 2922, 401 M Street SW., Washington, D.C. Copies of the report also may be obtained upon written request from the EPA Public Information Center (PM-215), Washington, D.C. 20460 (specify Comment Summary—Petroleum Refinery Fluid Catalytic Cracking Units).

FOR FURTHER INFORMATION CONTACT:

Don R. Goodwin, Emission Standards and Engineering Division, Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number 919-688-8146, extension 271.

SUPPLEMENTARY INFORMATION:

Background

On June 29, 1973, the U.S. Court of Appeals for the District of Columbia Circuit remanded to EPA the standards of performance for Portland cement plants (*Portland Cement Association* v. *Ruckelshaus*, 486 F. 2d 375). One of the issues remanded was the use of opacity standards. On November 12, 1974, EPA responded to the remand (39 FR 39872) and on May 22, 1975, the Court affirmed the use of opacity standards (513 F. 2d 506).

In the remand response, EPA reconsidered the use of opacity standards and concluded that they are a reliable, inexpensive, and useful means of ensuring that control equipment is properly maintained and operated at all times. EPA also made revisions to the general provisions of 40 CFR Part 60 and to the Reference Method 9.

EPA reevaluated the opacity standard for petroleum refinery fluid catalytic cracking unit catalyst regenerators in light of the revisions to Reference Method 9, and proposed a revision to this standard on August 30, 1976 (41 FR 36600). The revision is not the result of a reevaluation of the technical, economic and environmental basis for the standard. Consequently, the revised opacity standard will be neither more nor less stringent than the previous standard, and will be consistent with the mass emission standard (1.0 kg/1000 kg of coke burnoff).

Summary of Comments and EPA's Responses

EPA received six letters commenting on the proposed revision (three from industry and three from State and local governments). Two commenters pointed out that the basis for the original opacity standard assumed new fluid catalytic cracking units would be of 65,000 barrels per day capacity, but the proposed revision assumed new fluid catalytic cracking units would be of less than 50,000 barrels per day capacity. Two other commenters pointed out that the original standard allowed one three-minute exception from the opacity standard of performance to accommodate soot-blowing in the carbon monoxide boiler and that the proposed change to six-minute averages did not justify adding an additional exception.

A review of the basis for the original opacity standard indicates the commenters are correct. Large, new or modified fluid catalytic cracking units will more likely be in the range of 65,000 barrels per day capacity, and one exception per hour more accurately reflects the one three-minute exception allowed under the previous test method. The effect of increased capacity on the opacity of particulate mass emissions was discussed both in the Federal Register notice proposing revision of the opacity standard and in the background information document supporting the revision. Considering the effect on opacity of the greater capacity of a 65,000-barrel-per-day fluid catalytic cracking unit compared to a 50,000-barrel-per-day unit leads to the conclusion that the opacity standard should not be revised to 25 percent, but should remain at 30 percent opacity. Accordingly, the revised opacity standard is promulgated as 30 percent opacity with one six-minute exception period per hour.

One comment concerned § 60.11(e) of the General Provisions and questioned whether in its present form it adequately accounts for the problems of petroleum refinery fluid catalytic cracking units. Section 60.11(e) provides relief for those individual sources where, because of operating variables, opacity readings are abnormally high and cause it to exceed the standard, even though it is in compliance with the mass emission standard. The mechanism for relief is that opacity readings may be taken during initial start-up mass emission testing and a special opacity standard assigned to the source.

Petroleum refinery fluid catalytic cracking units operate continuously for periods of two years or more; and over such long periods, mass and opacity emissions gradually increase. For this reason, the mass and opacity standards were set on the basis of levels achievable at the end of the run. It is to be expected, therefore, that at the beginning of the run, both mass and opacity emissions from such units will be well below the standard, even in some cases where opacity readings are abnormally high given the mass emissions. In such cases, an individualized opacity standard based on beginning-of-run readings would not necessarily prevent the facility which still meets the mass emissions standard at the end of the run from failing an end-of-run opacity test. To alleviate this problem, EPA is adding a new § 60.106 (e) to the petroleum refinery standard which, in conjunction with §§ 60.11 (e) (2), (e) (3), and (e) (4) of the General Provisions, will permit determination of an individualized opacity standard for a fluid catalytic cracking unit during any performance test and not just the initial performance test. This will ensure that a properly operated and maintained source will not be found in violation of the opacity standard, while in compliance with the applicable mass emission standard.

The proposed amendment to § 60.102 (a) (2) specified that opacity readings of portions of plumes which contain condensed, uncombined water vapor are not to be used for determining compliance with opacity standards. Since this provision has been added to § 60.11(b) of the General Provisions, it is not necessary to repeat it in Subpart J for petroleum refineries.

Miscellaneous

The opacity standard, as modified, applies to all affected facilities for which construction or modification was commenced after June 11, 1973, the date the standard was proposed.

This revision is promulgated under the authority of sections 111, 114, and 301(a) of the Clean Air Act, as amended by Public Law 91-604, 84 Statute 1683, 1687 (42 U.S.C. 1857c-6, 1857c-9) and Public Law 90-148, 81 Statute 504 (42 U.S.C. 1857g(a)).

Note.—The Environmental Protection Agency has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Orders 11821 and 11949, and OMB Circular A-107.

Dated: June 20, 1977.

Douglas M. Costle,
Administrator.

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

1. Section 60.102(a)(2) is revised to read as follows:

§ 60.102 Standard for particulate matter.

(a) * * *

(2) Gases exhibiting greater than 30 percent opacity, except for one six-minute average opacity reading in any one hour.

* * * * *

(Sec. 111, Pub. L. 91-604, 84 Stat. 1683 (42 U.S.C. 1857c-6); sec. 301(a), Pub. L. 90-148, 81 Stat. 504 (42 U.S.C. 1857g(a)).)

2. Section 60.105(e)(1) is revised to read as follows:

§ 60.105 Emission monitoring.

* * * * *

(e) * * *

(1) Opacity. All hourly periods which contain two or more six-minute periods during which the average opacity as measured by the continuous monitoring system exceeds 30 percent.

* * * * *

3. Section 60.106(e) is added to read as follows:

§ 60.106 Test methods and procedures.

* * * * *

(e) An owner or operator of an affected facility may request the Administrator to determine opacity of emissions from the affected facility during any performance test covered under § 60.8. In such event the provisions of §§ 60.11 (e)(2), (e)(3), and (e)(4) shall apply.

(Sec. 111, 114, Pub. L. 91-604, 84 Stat. 1683, 1687 (42 U.S.C. 1857c-6, 1857c-9); sec. 301(a), Pub. L. 90-148, 81 Stat. 504 (42 U.S.C. 1857g(a)).)

[FR Doc.77-18129 Filed 6-23-77;8:45 am]

federal register

FRIDAY, JUNE 24, 1977
PART VII

THE PRESIDENT
and
OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

■

NON-RUBBER FOOTWEAR IMPORTS

Presidential Proclamation 4510 and Notice of Orderly Marketing Agreements Between the United States and the Republics of China and Korea

Title 3—The President

Proclamation 4510 • June 22, 1977

Implementation of Orderly Marketing Agreements -- and the Temporary Quantitative Limitation On the Importation Into the United States of Certain Footwear

By the President of the United States

A PROCLAMATION

1. On February 8, 1977, the United States International Trade Commission (USITC) reported to the President (USITC Publication 799) the results of its investigation under section 201(b) of the Trade Act (19 U.S.C. 2251(b)) (the Trade Act). The USITC determined that footwear provided for in items 700.05 through 700.85, inclusive (except items 700.51, 700.52, 700.53, 700.54, and 700.60, and disposable footwear designed for one-time use provided for in item 700.85) of the Tariff Schedules of the United States (TSUS), are being imported into the United States in such increased quantities as to be a substantial cause of serious injury to the domestic industry producing articles like or directly competitive with the imported articles. The USITC recommended the imposition of certain tariff rate quotas on imports of the above specified articles.

2. On April 1, 1977, pursuant to section 202(b)(1) of the Trade Act (19 U.S.C. 2252(b)(1)), and after taking into account the considerations specified in section 202(c) of the Trade Act (19 U.S.C. 2252(c)), I determined to remedy the injury found to exist by the USITC through the negotiation of orderly marketing agreements with appropriate suppliers of footwear, as authorized by section 203(a)(4) of the Trade Act (19 U.S.C. 2253(a)(4)); and announced my intention to negotiate such agreements calling for limits on the export from certain foreign countries, and the import into the

United States, of certain footwear. On April 1, 1977, in accordance with section 203(b)(1) of the Trade Act (19 U.S.C. 2253(b)(1)), I transmitted a report to the Congress setting forth my determination and intention to negotiate orderly marketing agreements and stating the reasons why my decision differed from the action recommended by the USITC.

3. Section 203(e)(1) of the Trade Act (19 U.S.C. 2253(e)(1)) requires that import relief be proclaimed and take effect within 90 days after a Presidential determination to negotiate orderly marketing agreements.

4. Pursuant to the authority vested in the President by the Constitution and the statutes of the United States, including section 203(a)(4) of the Trade Act (19 U.S.C. 2253(a)(4)), orderly marketing agreements were concluded on June 14, 1977, between the Government of the United States of America and the Government of the Republic of China, and on June 21, 1977, between the Government of the United States of America and the Government of the Republic of Korea, limiting the export from the Republics of China and Korea, respectively, and the import into the United States, of footwear provided for in items 700.05 through 700.85, inclusive (except items 700.51, 700.52, 700.53, 700.54, 700.60, 700.75, and disposable footwear designed for one-time use provided for in item 700.85) of the TSUS.

5. Pursuant to section 203(k)(1) of the Trade Act (19 U.S.C. 2253(k)(1)), I have considered the relation of such actions to the international obligations of the United States.

6. In accordance with section 203(d)(2) of the Trade Act (19 U.S.C. 2253(d)(2)), I have determined that the level of import relief hereinafter proclaimed permits the importation into the United States of a quantity or value of articles which is not less than the average annual quantity or value of such articles imported into the United States from the

Republic of Korea, and from the Republic of China, in the 1974-1976 period, which I have determined to be the most recent representative period for imports of such articles.

NOW, THEREFORE, I, Jimmy Carter, President of the United States of America, acting under the authority vested in me by the Constitution and statutes of the United States, including section 203 of the Trade Act (19 U.S.C. 2253), and section 301 of title 3, United States code, do hereby proclaim:

(1) Orderly marketing agreements were entered into on June 14, 1977, and June 21, 1977, between the Government of the United States of America and the Government of the Republic of China and the Government of the Republic of Korea, respectively, with respect to trade in certain footwear, effective June 28, 1977. The orderly marketing agreements account for a major part of the United States imports of the articles covered by the agreements. Said orderly marketing agreements are to be implemented according to their terms and as directed in this proclamation, including the Annex thereto.

(2) Subpart A, part 2 of the Appendix to the TSUS is modified as set forth in the Annex to this proclamation.

(3) The President's authority under section 203(e)(2) of the Trade Act (19 U.S.C. 2253(e)(2)), to negotiate orderly marketing agreements with other foreign suppliers after import relief goes into effect is hereby delegated to the Special Representative for Trade Negotiations (hereinafter referred to as the "Special Representative"). The President's authority under section 203(e)(3) of the Trade Act (19 U.S.C. 2253 (e)(3)) to determine that any agreement negotiated pursuant to section 203 (a)(4) or 203 (e)(2) of the Trade Act (19 U.S.C. 2253 (a)(4) and (e)(2)) is no longer effective is hereby delegated to the Special Representative, to be exercised in conformity with paragraph (4)(a) below. In the

event of such a determination, the Special Representative shall prepare any proclamations that may be appropriate to implement import relief authorized by section 203(e)(3) of the Trade Act (19 U.S.C. 2253(e)(3)). The President's authority in section 203(g)(1) and (2) of the Trade Act (19 U.S.C. 2253(g)(1) and (2)) to prescribe regulations governing the entry, or withdrawal from warehouse, for consumption of articles covered by the orderly marketing agreements and to issue rules and regulations governing the entry, or withdrawal from warehouse, for consumption of like articles which are the product of countries not parties to such agreements, has been delegated to the Secretary of the Treasury pursuant to section 5(b) of Executive Order No. 11846. Such authority shall be exercised by the Secretary of the Treasury, upon direction by the Special Representative in consultation with representatives of member agencies of the Trade Policy Staff Committee.

(4) In exercising the authority delegated in paragraph (3) above, the Special Representative shall, in addition to other necessary actions, institute the following actions:

(a) Should the export restraint levels specified in the orderly marketing agreements described in paragraph (1) above, and in the Annex to this proclamation be exceeded, or should imports from countries not parties to such agreements increase in such quantities as to disrupt the effectiveness of the orderly marketing agreements, the Special Representative, after consultation with representatives of member agencies of the Trade Policy Staff Committee, may make a determination that for the purposes of section 203(e)(3) of the Trade Act the orderly marketing agreements do not continue to be effective.

(b) Beginning on June 28, 1977, if during any restraint period the quantity of imports of footwear of the types covered by the agreements, from countries other than the Republic of China and the Republic of Korea, appear likely to disrupt the effectiveness of the provisions of the orderly marketing agreements described in paragraph (1) above, the Special Representative may initiate consultations with those countries responsible for such disruptions and may prevent further entry of such articles for the remainder of that restraint period or may otherwise moderate or restrict imports of such articles from such countries pursuant to section 203(g)(2) of the Trade Act. Before exercising this authority, the Special Representative shall consult with representatives of the member agencies of the Trade Policy Staff Committee.

(c) Should the Special Representative determine, pursuant to this proclamation, to institute import restrictions on articles entered, or withdrawn from warehouse, for consumption from countries other than the Republic of China or the Republic of Korea pursuant to this proclamation, such action shall become effective not less than eight days after such determination and any necessary changes in the TSUS have been published in the Federal Register.

(5) The Special Representative shall take such actions and perform such functions for the United States as may be necessary concerning the administration, implementation, modification, amendment or termination of the agreements described in paragraph (1) of this proclamation, and any actions and functions necessary to implement paragraphs (3) and (4) of this proclamation. In carrying out his responsibilities

under this paragraph the Special Representative is authorized to delegate to appropriate officials or agencies of the United States authority to perform any functions necessary for the administration and implementation of the agreements or actions. The Special Representative is authorized to make any changes in Part 2 of the Appendix to the TSUS which may be necessary to carry out the agreements or actions. Any such changes in the agreements shall be effective on or after their publication in the Federal Register.

(6) The Commissioner of Customs shall take such actions as the Special Representative shall determine are necessary to carry out the agreements described in paragraph (1) of this proclamation, and to implement any import relief implemented pursuant to paragraphs (3) and (4) of this proclamation, or any modification thereof, with respect to the entry, or withdrawal from warehouse, for consumption into the United States of products covered by such agreements or by such other import relief.

(7) This proclamation shall be effective as of June 28, 1977, and shall continue in force through June 30, 1981, unless the period of its effectiveness is earlier expressly modified or terminated.

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

Jimmy Carter

ANNEX

Subpart A, part 2 of the Appendix to the Tariff Schedules of the United States (19 U.S.C. 1202) is modified--

(a) by adding the following new headnote:

"3. Quantitative limitation on certain footwear.--The provisions of this headnote apply to items 923.90 through 923.94, inclusive, of this subpart. The quantitative import limitations imposed are in addition to the duties provided for the restrained articles in schedule 7, part 1A. The import restrictions provided for in this subpart do not apply to footwear with an aggregate value not over $100 in any shipment, if imported for the personal use of the importer.

(a) Definitions.--For the purposes of this subpart--

(i) the term "footwear" means all the footwear provided for in schedule 7, part 1A, except the following: footwear provided for in items 700.51 through 700.54, item 700.60, item 700.75, and disposable footwear, designed for one-time use, provided for in item 700.85;

(ii) the term "athletic footwear" means footwear of special construction for baseball, football, soccer, track, skating, skiing, and other athletic games, or sports; and

(iii) the term "restraint period" refers to the period beginning June 28, 1977, and ending June 30, 1978, and thereafter to the three subsequent 12-month periods beginning July 1 in one year and ending at the close of June 30 of the following year.

(b) Export visa.--None of the footwear provided for herein exported on or after June 28, 1977, from the foreign countries involved may be entered unless such footwear is accompanied by an appropriate export visa issued by the government of the exporting country.

(c) Footwear in bonded warehouse.--All footwear exported from the Republic of China that is in bonded warehouse as of May 14, 1977, and all footwear exported from the Republic of Korea that is in bonded warehouse as of May 16, 1977, may be withdrawn for consumption without an export visa on or before the 20th day following the date of publication in the Federal Register of the orderly marketing agreements concerning footwear negotiated with such countries. Thereafter such footwear may be withdrawn for consumption only if it is accompanied by an appropriate export visa issued by the government of the exporting country.

(d) Footwear exported prior to June 28, 1977.--All footwear not covered by paragraph (c), which was exported from the foreign country involved prior to June 28, 1977, may be entered prior to September 1, 1977, without the requirement of export visas, provided that all such footwear entered on or after June 1, 1977, in excess of 33 million pairs from the Republic of China and 9 million pairs from the Republic of Korea shall be counted against the respective restraint levels for the first restraint period by pro-rating such imports among the respective TSUS items for each country as follows: For the Republic of China, item 923.90, 8 percent, item 923.91, 86 percent, and item 923.92, 6 percent; and for the Republic of Korea, item 923.93, 35 percent, and item 923.94, 65 percent. No such footwear may be entered on or after September 1, 1977, unless accompanied by an appropriate export visa issued by the exporting country and such footwear shall be counted against the applicable restraint levels.

(e) Footwear exported and entered in different restraint periods.--Footwear which is exported from the foreign country during one restraint period, but is entered more than 90 days following the beginning of the subsequent restraint period, shall be counted against the restraint levels for that subsequent restraint period. Footwear, which is exported from the foreign country during one restraint period in excess of the restraint level for such item for such period, may be entered after the beginning of the next restraint period and shall be counted against the restraint level for such item for such subsequent restraint period.

(f) Carryover.--Except as provided for in paragraph (h), if the restraint level for any item has not been filled for a restraint period, upon appropriate request of the foreign government involved, the shortfall may be entered under the same item during the following restraint period provided that the amount of shortfall so entered does not exceed 11 percent of the restraint level for the restraint period during which the shortfall occurred. If, in accordance with the provisions of paragraph (ij), all or part of a restraint level of any item has been reallocated to the restraint level of one or more of the other items, such amount will not be considered a shortfall, and therefore is not available for carryover.

(g) Exceeding restraint levels.--Upon appropriate request of the foreign government involved, restraint levels for each item may be exceeded by not more than 6 percent during any one restraint period, except as provided for in paragraph (h). If a restraint level is exceeded during a restraint period, the Special Representative for Trade Negotiations shall make a downward adjustment of the restraint level for the next succeeding restraint period in the absolute amount the preceding restraint level was exceeded.

(h) Limitation on paragraphs (f) and (g).--Paragraphs (f) and (g) may not be used in combination to increase the restraint level applicable to any item in any restraint period by more than 11 percent.

(ij) Adjustments.--Upon appropriate request of the foreign government involved for an adjustment of the restraint levels between items as provided for herein, the Special Representative for Trade Negotiations shall adjust the restraint level accordingly, such adjustments to be effective on and after the date of their publication in the Federal Register. Except as provided for later in this paragraph, an upward adjustment in a restraint level for exports from a foreign country shall not exceed the percentage of the respective base limit shown below and must be accompanied by a downward adjustment in the same absolute amount of the restraint level applicable to one or more of the other items set forth in the table below for exports during the same restraint period from the foreign country involved. The Special Representative for Trade Negotiations may, in his discretion, permit an upward adjustment of not over 50 percent of any restraint level applicable to item 923.92 in any restraint period provided that the restraint levels applicable to items 923.90 or 923.91 in the same restraint period are reduced by the same absolute amount.

Item	Restraint periods							
	June 28, 1977-June 30, 1978		July 1, 1978-June 30, 1979		July 1, 1979-June 30, 1980		July 1, 1980-June 30, 1981	
	Base limit	Maximum increase	Base limit	Maximum increase	Base limit	Maximum increase	Base limit	Maximum increase
	1,000 pairs	Percent	1,000 pairs	Percent	1,000 pairs	Percent	1,000 pairs	Percent
923.90	9,760	10	10,000	10	10,240	10	10,480	10
923.91	104,680	10	107,250	10	109,820	10	112,400	10
923.92	7,560	15	7,750	15	7,940	15	8,120	15
923.93	11,520	10	12,740	10	13,090	10	13,260	10
923.94	21,480	15	23,760	15	24,410	15	24,740	15"

(k) United States International Trade Commission (USITC) reports and surveys.--The USITC shall issue reports and conduct surveys with respect to footwear as follows:

(i) Quarterly.--Reports by calendar quarter showing monthly data on U.S. production, imports for consumption, apparent U.S. consumption, employment and prices. The initial report shall cover 1975, 1976 and the first two quarters of 1977; the last such report shall cover the quarter which ends not less than 60 days prior to the termination of the import relief. The reports shall be published within 60 days of the end of a quarter.

(ii) Annually.--Annual surveys to obtain from domestic producers data on profits, orders, capacity, inventories, prices, capital expenditures, and research and development expenditures; and to obtain from importers data on prices, orders, and inventories. The initial survey shall cover the calendar year 1976 and the calendar year 1977, and the results shall be published by May 31, 1978. The results of subsequent surveys shall be published by May 31 of each year thereafter so long as the import relief is in effect.

(b) by inserting in numerical sequence the following new provisions:

"Item	Articles	Quota Quantity (in 1,000 pairs)			
		Exported on or after--			
		June 28, 1977	July 1, 1978	July 1, 1979	July 1, 1980
	Whenever the respective aggregate quantity of footwear specified below for items 923.90 through 923.94, inclusive, the product of a specified foreign country, has been exported in any restraint period from that country and has been entered, no article in such item the product of such country exported during such restraint period may be entered, except as provided in headnote 5:				
	Republic of China:				
923.90	Footwear provided for in items 700.05 through 700.45	9,760	10,000	10,240	10,480
923.91	Footwear provided for in item 700.58	104,680	107,250	109,820	112,400
923.92	Footwear provided for in items 700.66 through 700.85 (except item 700.75 and disposable footwear, designed for one-time use provided for in item 700.85)	7,560	7,750	7,940	8,120
	Republic of Korea:				
923.93	Footwear (except athletic footwear) provided for in items 700.05 through 700.45	11,520	12,740	13,090	13,260
923.94	Athletic footwear provided for in items 700.05 through 700.45, and footwear provided for in item 700.58 and items 700.66 through 700.85 (except item 700.75 and disposable footwear, designed for one-time use provided for in item 700.85)	21,480	23,760	24,410	24,740".

[FR Doc.77-18395 Filed 6-23-77;10:43 am]

OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

NON-RUBBER FOOTWEAR

Orderly Marketing Agreements Between the United States of America and the Republic of China and the Republic of Korea

Set forth below are texts of the orderly marketing agreements that were signed by the Special Representative for Trade Negotiations, on behalf of the Government of the United States, and by representatives of the Governments of the Republics of China and Korea, limiting the export from those two countries and the import into the United States of certain non-rubber footwear. The agreement with the Republic of China was signed on June 14, 1977, and the agreement with the Republic of Korea was signed on June 21, 1977.

Attention is directed particularly to paragraph 2(d)(i) of each agreement, and to the corresponding new paragraph 3(c) added to Subpart A, part 2 of the Appendix to the Tariff Schedules of the United States by the Annex to the proclamation set forth above. Those provisions specify that non-rubber footwear articles covered by the agreement that were exported from the Republic of China and were in bonded warehouse as of May 14, 1977, and those that were exported from the Republic of Korea and were in bonded warehouse as of May 16, 1977, may be withdrawn from consumption on or before the 20th day following the date of this publication without an export visa and without being counted against any import restraint levels. After the 20th day following the date of this publication, such articles can be entered for consumption only if they are accompanied by an appropriate export visa, issued by the government of the exporting country, and will be counted against the appropriate restraint level applicable to the restraint period in which they are withdrawn

EMBASSY OF THE REPUBLIC OF CHINA
EMBASSY OF THE REPUBLIC OF CHINA
Washington, D.C., June 14, 1977.

EXCELLENCY:

I have the honor to refer to the recent discussions between representatives of the Government of the Republic of China and the Government of the United States of America with respect to exports from the Republic of China of nonrubber footwear. I have further the honor to confirm that the Government of the Republic of China will implement the measures and obligations to which it has agreed, under the following provisions:

1. The Government of the Republic of China will administer its control over exports to the United States from the Republic of China of non-rubber footwear as defined in Annex A (hereinafter referred to as "non-rubber footwear"), at the levels set forth in Annex B, for the period from June 28, 1977, through June 30, 1978, and thereafter from July 1, 1978 through June 30, 1981.

2. The Government of the United States of America will assist the Government of the Republic of China in implementing its control over exports of non-rubber footwear to the United States at the levels set forth in Annex B as follows:

His Excellency, ROBERT S. STRAUSS,
The Special Representative for Trade Negotiations, Washington, D.C.

(a) All non-rubber footwear articles exported from the Republic of China to the United States on or after June 28, 1977, will be counted against the restraint levels applicable to the restraint period in which they are exported.

(b) Except as provided in paragraphs 4 and 5, in the event that the restraint level set forth in Annex B is reached for a category prior to the end of a restraint period, the Government of the United States of America will delay further importation in the category affected until after the end of that restraint period.

(c) All non-rubber footwear articles exported from the Republic of China on or after June 28, 1977, will be denied importation for consumption by the United States unless such articles have been issued an export visa by the Government of the Republic of China.

(d) (i) All non-rubber footwear articles exported from the Republic of China that are in bonded warehouses as of May 14, 1977, may be withdrawn from warehouse for consumption on or before the 20th day following the date of publication of the Agreement embodied in these Notes. Thereafter, such articles may be withdrawn from warehouse for consumption only if they have been issued export visas by the Government of the Republic of China.

(ii) All other non-rubber footwear articles exported from the Republic of China prior to June 28, 1977, may be entered for consumption in the United States prior to September 1, 1977, provided that all such articles entered for consumption on or after June 1, 1977, in excess of 33 million pairs will be counted against the restraint levels for the first restraint year by pro-rating them among the categories specified in Annex B according to the percentages of the total annual restraint level comprised by each category.

(e) Exceptions to the specification in subparagraph (a) above that imports are to be counted against restraint levels for the restraint period in which they are exported may be made in order to (1) permit imports that are exported in one restrain period, but that are not imported for consumption until more than 90 days following the beginning of the subsequent restraint period, to be counted against the restraint levels for that subsequent restraint period; and (2) permit imports that were exported in one restraint period, but that were denied entry in that restraint period pursuant to subparagraph (b) above, to be counted against the restraint levels for the subsequent restraint period.

3. The Government of the Republic of China will use its best efforts to space exports of non-rubber footwear to the United States within each category evenly throughout the restraint period, taking into consideration normal seasonal factors.

4. (a) In the event a shortfall occurs with respect to a restraint level for a category during a restraint period, carryover may be made to the next annual restraint period of up to 11 percent of that restraint level in the previous period, but not in excess of the actual shortfall. Shortfalls in one category may not be applied to any other category.

(b) If, in accordance with paragraph 5, part of a restraint level of any category has been reallocated to the restraint level of another category, such amount will not be considered a shortfall and hence would not be available for carryover.

(c) The restraint levels for each category may be exceeded by not more than 6 percent in any one restraint period. Any restraint level that is exceeded in one restraint period will be reduced for the subsequent restraint period by the amount by which it was exceeded.

(d) Subparagraph (a) and (c) may not be used in combination to increase the restraint level applicable to any category in any restraint period by more than 11 percent.

(e) The Government of the Republic of China will provide timely notice to the Government of the United States of America of its intention to exercise the rights provided in subparagraphs (a) or (c) above, and the Government of the United States of America will endeavor to make appropriate adjustments in the applicable restraint levels.

5. (a) The restraint level specified in Annex B for leather footwear and for plastic footwear may be exceeded in a restraint period by no more than 10 percent of the total restraint level applicable to that category for that period, and the restraint level specified in Annex B for the category designated "Other" may be exceeded in a restraint period by no more than 15 percent of the total restraint level applicable to that category for that period, provided that the restraint level applicable to one or more other categories in the same restraint period is reduced by the same absolute amount.

(b) Following notification by the Government of the Republic of China at the earliest possible date of its intention concerning subparagraph (a) above, the Government of the United States of America will make appropriate adjustments of the applicable restraint levels.

6. The Government of the United States of America will notify the Government of the Republic of China as soon as possible should it become necessary for the Government of the United States of America to delay importation in any category due to filing of the applicable restraint level.

7. Commencing three months prior to the end of the second restraint period, and annually thereafter, the Government of the Republic of China and the Government of the United States of America may consult with respect to the possibility of adjusting upward, for the latter part of the second and subsequent restraint periods, the restraint levels specified in Annex B. In any consultations conducted pursuant to this paragraph, the Government of the United States of America shall take into account, inter alia, the state of its domestic footwear industry.

8. The Government of the Republic of China will promptly supply the Government of the United States of America with data on monthly exports to the United States of non-rubber footwear as such data become available. The Government of the United States of America will supply the Government of the Republic of China with data on monthly imports of non-rubber footwear, by principal countries of origin, as such data become available. Each Government agrees to supply promptly any other pertinent and readily available statistical data requested by the other Government. In accordance with current practice, United States data will be used in determining the necessity for delay by the Government of the United States of America of any imports pursuant to these Notes.

9. (a) Consultations between the Government of the Republic of China and the Government of the United States of America with respect to the implementation of these Notes will be held at least once annually.

(b) Either Government may request consultations at any time on any matters arising from the provisions of these Notes, including, inter alia, any problems that may arise relating to circumventions of the Agree-

ment embodied in these Notes. Such consultations will take place at a mutually convenient time not later than thirty days from the date on which such request is made, unless otherwise mutually agreed.

(c) Mutually satisfactory administrative arrangements or adjustments may be made to resolve problems arising in the implementation of these Notes, including differences in points of procedure or operation.

10. (a) If the Government of the Republic of China considers that, as a result of the application of the provisions of these Notes, the Republic of China is placed in an inequitable position vis-a-vis other major exporting countries in respect of exports to the United States of non-rubber footwear, the Government of the Republic of China may initiate consultations with the Government of the United States of America.

(b) The Government of the United States of America will take appropriate remedial measures in the event that it is agreed that United States imports of non-rubber footwear from other major exporting countries have increased rapidly to the disadvantage of producers in the Republic of China.

11. Any rights of trade retaliation that the Government of the Republic of China may have under existing treaties or commercial arrangements will not be exercised with respect to measures taken by the Government of the United States of America pursuant to these Notes.

12. The two Governments may amend the provisions of these Notes if such amendments are mutually agreeable.

13. No provision of these Notes will be construed as applying to prices or production of non-rubber footwear, or allocation of shipments among firms selling (except that it is recognized that such allocations may be deemed necessary and therefore directed by the Government of the Republic of China in its implementation of the provisions of these Notes) or buying non-rubber footwear.

14. Either Government may terminate the provisions of these Notes by giving sixty days prior written notice to the other Government.

15. The foregoing provisions of these Notes will be implemented by the two Governments in accordance with the laws and regulations applicable in their respective countries.

I have further the honor to request Your Excellency to confirm on behalf of the Government of the United States of America that it will implement its measures and obligations under the above provisions, and to propose that this Note and Your Excellency's Note in reply will constitute an agreement between the two Governments as characterized by the above provisions.

Accept, Excellency, the renewed assurances of my highest consideration.

JAMES C. H. SHEN,
Ambassador of the Republic of China.

ANNEX A

The following items from the Tariff Schedules of the United States Annotated (as revised May 1, 1976) are covered by the provisions of the Agreement:

Footwear provided for in items 700.05 through 700.85, inclusive (except items 700.51, 700.52, 700.53, 700.54, 700.60, 700.75, and disposable footwear designed for one-time use provided for in item 700.85), of the Tariff Schedules of the United States (TSUS).

ANNEX B

The Government of the Republic of China will apply restraints on exports to the United States of non-rubber footwear as defined in Annex A during the period specified at the levels indicated.

Exports for period

[In million pairs]

Category	Period 1	Period 2	Period 3	Period 4
T1 leather [1]	9.76	10.0	10.24	10.48
T2 plastic [2]	104.68	107.25	109.82	112.40
T3 other [3]	7.56	7.75	7.94	8.12
Total	122.00	125.00	128.00	131.00

[1] Category T1 consists of leather footwear provided for in TSUS item Nos. 700.05 through 700.45, inclusive.
[2] Category T2 consists of plastic footwear provided for in TSUS item No. 700.58.
[3] Category T3 consists of footwear of other materials provided for in TSUS item Nos. 700.65, 700.68, 700.70, 700.80, 700.83, and 700.85 (except 700.8510).

THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS
Washington, D.C., June 14, 1977.

EXCELLENCY:

I have the honor to acknowledge the receipt of Your Excellency's Note of today's date which reads as follows: * * *

[EDITORIAL NOTE: The text of the preceding Note from the Ambassador of the Republic of China, including Annexes A and B, follows.]

* * * * *

I have further the honor to confirm on behalf of the Government of the United States of America that it will implement its measures and obligations under the above provisions and to agree that your Excellency's Note and this Note will constitute an agreement between the two Governments as characterized in the above provisions.

Accept, Excellency, the renewed assurances of my highest consideration.

ROBERT S. STRAUSS,
The Special Representative for Trade Negotiations.

AGREED MINUTES

The representatives of the Government of the Republic of China and the Government of the United States of America wish to record the following understanding concerning the Notes exchanged on June 14, 1977.

1. It is understood that paragraph 10 includes countries that agree to limit exports of non-rubber footwear to the United States at approximately the same time that the Republic of China undertakes such an agreement.

2. In accordance with assurances that have been received by the Government of the United States of America, it is understood that there will not, as a result of this Agreement, be major shifts away from the normal pattern of exports to the United States in non-rubber footwear by type, material, or price range. It is further understood that shifts in exports of non-rubber footwear among types, materials, and price ranges that reflect market trends in the United States will not be considered major shifts in the sense of this paragraph.

3. It is understood that in the event that the Government of the United States of America considers that major shifts of the type described in the preceding agreed minute have occurred, it may initiate consultations with a view toward the prompt resolution of such problems.

4. In the technical administration of the Agreement embodied in these Notes, the Government of the United States of America will be guided generally by the procedures used to implement the Agreement between the United States of America and the Republic of China Regarding International Trade in Textiles.

5. It is understood that nothing in this agreement shall affect the unilateral right of the Government of the United States of America, acting in accordance with its domestic law, to take actions affecting imports of non-rubber footwear from countries other than the Republic of China.

6. It is understood that the Government of the United States of America may, in its discretion, permit shifts into the category "Other" greater than those provided for in paragraph 5(a), up to a total of 50 percent of that category, provided that the restraint levels applicable to one or more other categories in the same restraint period are reduced by the same absolute amount.

For the Government of the United States of America:

ROBERT S. STRAUSS,
The Special Representative for Trade Negotiations.

For the Government of the Republic of China:

JAMES C. H. SHEN,
Ambassador of the Republic of China.

Washington, D.C., June 14, 1977.

EMBASSY OF THE REPUBLIC OF KOREA,
Washington, D.C., June 21, 1977.

His Excellency ROBERT S. STRAUSS,
The Special Representative for Trade Negotiations, Washington, D.C.

EXCELLENCY: I have the honor to refer to the recent discussions between representatives of the Government of the Republic of Korea and the Government of the United States of America with respect to exports from the Republic of Korea of non-rubber footwear. I have further the honor to confirm that the Government of the Republic of Korea will implement the measures and obligations to which it has agreed, under the following provisions:

1. The Government of the Republic of Korea will administer its control over exports to the United States from the Republic of Korea of non-rubber footwear as defined in Annex A (hereinafter referred to as "non-rubber footwear"), at the levels set forth in Annex B, for the period from June 28, 1977, through June 30, 1978, and thereafter from July 1, 1978, through June 30, 1981.

2. The Government of the United States of America will assist the Government of the Republic of Korea in implementing its control over exports of nonrubber footwear to the United States at the levels set forth in Annex B as follows:

(a) All non-rubber footwear articles exported from the Republic of Korea to the United States on or after June 28, 1977, will be counted against the restraint levels applicable to the restraint period in which they are exported.

(b) Except as provided in paragraphs 4 and 5, in the event that a restraint level set forth in Annex B is reached for a category prior to the end of a restraint period, the Government of the United States of America will delay further importation in the category affected until after the end of that restraint period.

(c) All non-rubber footwear articles exported from the Republic of Korea on or after June 28, 1977, will be denied importation for consumption by the Government of the United States of America unless such articles have been issued an export visa by the Government of the Republic of Korea.

(d) (1) All non-rubber footwear articles exported from the Republic of Korea that are in bonded warehouses as of May 16, 1977, may be withdrawn from warehouse for consumption on or before the 20th day follow-

ing the date of publication of the Agreement embodied in these Notes. Thereafter, such articles may be withdrawn from warehouse for consumption only if they have been issued export visas by the Government of the Republic of Korea.

(ii) All other non-rubber footwear articles exported from the Republic of Korea prior to June 28, 1977, may be entered for consumption in the United States prior to September 1, 1977, provided that all such articles entered for consumption on or after June 1, 1977, in excess of 9 million pairs will be counted against the restraint levels for the first restraint year by pro-rating them among the categories specified in Annex B according to the percentages of the total annual restraint level comprised by each category.

(e) Exceptions to the specification in subparagraph (a) above that imports are to be counted against restraint levels for the restraint period in which they are exported may be made in order to (1) permit imports that are exported in one restraint period, but that are not imported for consumption until more than 90 days following the beginning of the subsequent restraint period, to be counted against the restraint levels for that subsequent restraint period; and (2) permit imports that were exported in one restraint period, but that were denied entry in that restraint period pursuant to subparagraph (b) above, to be counted against the restraint levels for the subsequent restraint period.

3. The Government of the Republic of Korea will use its best efforts to space exports of non-rubber footwear to the United States within each category evenly throughout the restraint period, taking into consideration normal seasonal factors.

4. (a) In the event a shortfall occurs with respect to a restraint level for a category during a restraint period, carryover may be made to the next annual restraint period of up to 11 percent of that restraint level in the previous period, but not in excess of the actual shortfall. Shortfalls in one category may not be applied to any other category.

(b) If, in accordance with Paragraph 5, part of a restraint level of any category has been reallocated to the restraint level of another category, such amount will not be considered a shortfall and hence would not be available for carryover.

(c) The restraint levels for each category may be exceeded by not more than 6 percent in any one restraint period. Any restraint level that is exceeded in one restraint period will be reduced for the subsequent restraint period by the amount by which it was exceeded.

(d) Subparagraphs (a) and (c) may not be used in combination to increase the restraint level applicable to any category in any restraint period by more than 11 percent.

(e) The Government of the Republic of Korea will provide timely notice to the Government of the United States of America of its intention to exercise the rights provided in subparagraphs (a) or (c) above, and the Government of the United States of America will make appropriate adjustments in the applicable restraint levels.

5. (a) The restraint level specified in Annex B for leather footwear other than athletic may be exceeded in a restraint period by no more than 10 percent of the total restraint level applicable to that category for that period, and the restraint level specified in Annex B for other footwear may be exceeded in a restraint period by no more than 15 percent of the total restraint level applicable to that category for that period, provided that the restraint level applicable to the other category in the same restraint period is reduced by the same absolute amount.

(b) Following notification by the Government of the Republic of Korea at the earliest possible date of its intention concerning subparagraph (a) above, the Government of the United States of America will make appropriate adjustments of the applicable restraint levels.

6. The Government of the United States of America will notify the Government of the Republic of Korea as soon as possible should it become necessary for the Government of the United States of America to delay importation in any category due to filling of the applicable restraint level.

7. Commencing three months prior to the end of the second restraint period, and annually thereafter, the Government of the Republic of Korea and the Government of the United States of America may consult with respect to the possibility of adjusting upward, for the latter part of the second and subsequent restraint periods, the restraint levels specified in Annex B. In any consultations conducted pursuant to this paragraph, the Government of the United States of America shall take into account, inter alia, the state of its domestic footwear industry.

8. The Government of the Republic of Korea will promptly supply the Government of the United States of America with data on monthly exports to the United States of non-rubber footwear as such data become available. The Government of the United States of America will supply the Government of the Republic of Korea with data on monthly imports of non-rubber footwear, by principal countries of origin, as such data become available. Each Government agrees to supply promptly any other pertinent and readily available statistical data requested by the other Government. In accordance with current practice, United States data will be used in determining the necessity for delay by the Government of the United States of America of any imports pursuant to these Notes.

9. (a) Consultations between the Government of the Republic of Korea and the Government of the United States of America with respect to the implementation of these Notes will be held at least once annually.

(b) Either Government may request consultations at any time on any matters arising from the provisions of these Notes, including, inter alia, any problems that may arise relating to circumventions of the Agreement embodied in these Notes. Such consultations will take place at a mutually convenient time not later than thirty days from the date on which such request is made, unless otherwise mutually agreed.

(c) Mutually satisfactory administrative arrangements or adjustments may be made to resolve problems arising in the implementation of these Notes, including differences in points of procedure or operation.

10. (a) If the Government of the Republic of Korea considers that, as a result of the application of the provisions of these Notes, the Republic of Korea is placed in an inequitable position vis-a-vis other major exporting countries in respect of exports to the United States of non-rubber footwear, the Government of the Republic of Korea may initiate consultations with the Government of the United States of America.

(b) The Government of the United States of America will take appropriate remedial measures in the event that it is agreed that United States imports of non-rubber footwear from other major exporting countries have increased rapidly to the disadvantage of producers in the Republic of Korea.

11. The rights under Article XIX(3)(a) of the General Agreement on Tariffs and Trade, if invoked by the Government of the Republic of Korea after the termination of the effectiveness of these Notes, will not be exercised with respect to measures taken by the Government of the United States of America pursuant to these Notes prior to such termination.

12. The two Governments may amend the provisions of these Notes if such amendments are mutually agreeable.

13. No provision of these Notes will be construed as applying to prices or production of non-rubber footwear, or allocation of shipments among firms selling (except that it is recognized that such allocations may be deemed necessary and therefore directed by the Government of the Republic of Korea in its implementation of the provisions of these Notes) or buying non-rubber footwear.

14. Either Government may terminate the provisions of these Notes by giving sixty days prior written notice to the other Government.

15. The foregoing provisions of these Notes will be implemented by the two Governments in accordance with the laws and regulations applicable in their respective countries.

I have further the honor to request Your Excellency to confirm on behalf of the Government of the United States of America that it will implement its measures and obligations under the above provisions, and to propose that this Note and Your Excellency's Note in reply will constitute an agreement between the two Governments as characterized by the above provisions.

Accept, Excellency, the renewed assurances of my highest consideration.

YONG SHIK KIM,
Ambassador.

ANNEX A

The following items from the Tariff Schedules of the United States Annotated (as revised May 1, 1976) are covered by the provisions of the Agreement:

Footwear provided for in items 700.05 through 700.85, inclusive (except items 700.51, 700.52, 700.53, 700.54, 700.60, 700.75, and disposable footwear designed for one-time use provided for in item 700.85), of the Tariff Schedules of the United States (TSUS).

ANNEX B

The Government of the Republic of Korea will apply restraints on exports to the United States of non-rubber footwear as defined in Annex A during the period specified at the levels indicated.

Exports for period

[In million pairs]

Category	Period 1	Period 2	Period 3	Period 4
K1 leather other than athletic [1]	11.52	12.74	13.09	13.26
K2 other [2]	21.48	23.76	24.41	24.74
Total	33.00	36.50	37.50	38.00

[1] Category K1 consists of leather footwear, other than athletic, provided for in TSUS item Nos. 700.05 through 700.45, except TSUSA item Nos. 700.2800, 700.2920, 700.3505, 700.3515, 700.4305, and 700.4505.

[2] Category K2 consists of leather athletic footwear provided for in TSUSA item Nos. 700.2800, 700.2920, 700.3505, 700.3515, 700.4305, and 700.4505, and footwear of other materials provided for in TSUS item Nos. 700.58, 700.66, 700.68, 700.70, 700.80, 700.83, and 700.85 (except 700.8510).

THE SPECIAL REPRESENTATIVE FOR
TRADE NEGOTIATIONS,
Washington, June 21, 1977.

HIS EXCELLENCY YONG SHIK KIM, Ambassador of the Republic of Korea, Washington, D.C.

EXCELLENCY,

I have the honor to acknowledge the receipt of Your Excellency's Note of today's date which reads as follows: * * *

[EDITORIAL NOTE.—The text of the preceding Note from the Ambassador of the Republic of Korea, including Annexes A and B, follows.]

* * * * *

I have further the honor to confirm on behalf of the Government of the United States of America that it will implement its measures and obligations under the above provisions and to agree that Your Excellency's Note and this Note will constitute an Agreement between the two Governments as characterized in the above provisions.

Accept, Excellency, the renewed assurances of my highest consideration.

ROBERT S. STRAUSS,
The Special Representative for Trade Negotiations.

AGREED MINUTES

The representatives of the Government of the Republic of Korea and the Government of the United States of America wish to record the following understanding concerning the Notes exchanged on June 21, 1977.

1. It is understood that paragraph 10 includes countries that agree to limit exports of non-rubber footwear to the United States at approximately the same time that the Republic of Korea undertakes such an Agreement.

2. In accordance with assurances that have been received by the Government of the United States of America, it is understood that there will not, as a result of this Agreement, be major shifts away from the normal pattern of exports to the United States in non-rubber footwear by type, material, or price range. It is further understood that shifts in exports of non-rubber footwear among types, materials, and price ranges that reflect market trends in the United States will not be considered major shifts in the sense of this paragraph.

3. It is understood that in the event that the Government of the United States of America considers that major shifts of the type described in the preceding agreed minute have occurred, it may initiate consultations with a view toward the prompt resolution of such problems.

4. In the technical administration of the Agreement embodied in these Notes, the Government of the United States of America will be guided generally by the procedures used to implement the Agreement between the United States of America and the Republic of Korea Regarding International Trade in Textiles.

For the Government of the United States of America.

ROBERT S. STRAUSS,
The Special Representative for Trade Negotiations.

For the Government of the Republic of Korea.

YONG SHIK KIM,
Ambassador of the Republic of Korea.

Washington, D.C., June 21, 1977.

DIRECTIVES TO THE UNITED STATES CUSTOMS SERVICE REGARDING IMPLEMENTATION OF THE ORDERLY MARKETING AGREEMENTS

The following letters are being furnished to the U.S. Customs Service regarding the implementation and administration of the orderly marketing agreements set forth above:

THE SPECIAL REPRESENTATIVE FOR
TRADE NEGOTIATIONS

Washington, JUNE 21, 1977

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C. 20229

DEAR MR. COMMISSIONER:

I would like to draw your attention to paragraph 2(d)(1) of the orderly marketing agreements on non-rubber footwear recently concluded between the Government of the United States and the Governments of the Republics of China and Korea, and to the corresponding new paragraph 3(c) added to Subpart A, part 2 of the Appendix to the Tariff Schedules of the United States by the Annex to the Proclamation implementing those agreements.

Those provisions specify that non-rubber footwear articles covered by the agreement what were exported from the Republic of China and were in bonded warehouse as of May 14, 1977, and those that were exported from the Republic of Korea and were in bolder warehouse as of May 16, 1977, may be withdrawn for consumption on or before the 20th day following the date of publication of the orderly marketing agreements in the FEDERAL REGISTER without an export visa and without being counted against any import restraint levels. After the 20th day following the date of such publication, such articles can be withdrawn for consumption only if they are accompanied by an appropriate export visa, issued by the government of the exporting country, and will be counted against the appropriate restraint level applicable to the restraint period in which they are withdrawn.

The Customs Service is requested to take appropriate steps to implement these provisions.

Sincerely,

ROBERT S. STRAUSS.

THE SPECIAL REPRESENTATIVE FOR
TRADE NEGOTIATIONS

Washington, JUNE 21, 1977

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C. 20229

DEAR MR. COMMISSIONER:

Pursuant to the Presidential Proclamation implementing import relief on non-rubber footwear, effective June 28, 1977, non-rubber footwear exported on or after June 28, 1977, from the Republic of China and the Republic of Korea shall not be entered, or withdrawn from warehouse, for consumption unless such footwear is accompanied by an appropriate export visa. Also, warehouse withdrawals for consumption of non-rubber footwear exported from the Republic of China that is in bonded warehouse as of May 14, 1977, and non-rubber footwear exported from the Republic of Korea that is in bonded warehouse as of May 16, 1977, will require an export visa if withdrawn for consumption on or after the 21st day following the date of publication in the FEDERAL REGISTER of the orderly marketing agreements negotiated with such countries.

You are directed to enforce the export visa requirements specified in the Presidential Proclamation, including the annex thereto. These requirements apply to that non-rubber footwear imported for consumption into the United States manufactured or produced in Korea or Taiwan, regardless of the country of exportation, and defined in the annex to the Proclamation.

The export visa shall be an original stamp on the special customs invoice showing the correct category and (a) signed by the Chief, Quota Management Division for exports from the Republic of Korea or (b) having an adjacent red seal (stamp) by the Board of Foreign Trade for exports from the Republic of China. Samples of the export visas from these countries are enclosed. The export visa shall also show one of the following category numbers as appropriate:

Republic of China	923.90
Do	923.91
Do	923.92
Republic of Korea	923.93
Do	923.94

If the category number on the export visa is not correct, entry shall be denied.

Importers whose shipments are denied entry because they are not accompanied by a visa or because of a discrepancy between the actual merchandise and the category indicated on the visa may obtain a visa or get a corrected visa from the seller in the particular country involved.

In the case of shipments from the Republic of Korea, which are denied entry for the reasons cited in the preceding paragraph, the importer may seek assistance from the Commercial Attache, Embassy of Korea, 2320 Massachusetts Avenue, N.W., Washington, D.C. 20008, telephone number 202-483-7383. You are directed to permit entry into the United States for consumption and withdrawal from warehouse for consumption of designated shipments of footwear produced or manufactured in the Republic of Korea and exported to the United States, notwithstanding that the designated shipment or shipments do not meet the aforementioned visa requirements, whenever requested to do so in writing by the embassy of the Republic of Korea. Such shipments shall be charged against the appropriate restraint level.

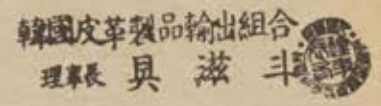
This letter will be published in the FEDERAL REGISTER.

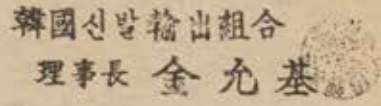
Sincerely,

ROBERT S. STRAUSS.



SAMPLE





1481, 1482, 1484 (Use separate invoice for purchased and non-purchased goods.) Form Approved. O.M.B. No. 48-R0342

R

2. DOCUMENT NR.* 3. INVOICE NR. AND DATE*

4. REFERENCES *

SNEE

6. BUYER (*if other than consignee*)

7. ORIGIN OF GOODS

PARTY *

9. TERMS OF SALE, PAYMENT, AND DISCOUNT

SPECIMEN

TIONAL TRANSPORTATION INFORMATION *

11. CURRENCY USED 12. EXCH. RATE (*if fixed or agreed*) 13. DATE ORDER ACCEPTED

14. J AND NUMBERS ON PPING PACKAGES	15. NUMBER OF PACKAGES	16. FULL DESCRIPTION OF GOODS	17. QUANTITY	UNIT PRICE 18. HOME MARKET	UNIT PRICE 19. INVOICE	20. INVOICE TOTALS
			REPUBLIC OF CHINA Board of Foreign Trade Licence No.: For Shipping to USA Only Category No. Quantity			

MINISTRY OF ECONOMIC AFFAIRS BOARD OF FOREIGN TRADE MAY. 18, 1977 SECOND DEPARTMENT (V) REPUBLIC OF CHINA

C. L. Shyu

If the production of these goods involved furnishing goods or services to the seller (*e.g., assists such as dies, molds, tools, engineering work*) and the value is not included in the invoice price, check box (21) and explain below.

22. PACKING COSTS

27. DECLARATION OF SELLER/SHIPPER (OR AGENT)

23. OCEAN OR INTERNATIONAL FREIGHT

If there are any rebates, drawbacks or bounties allowed upon the exportation of goods, I have checked box (A) and itemized separately below.

(B) ☐ If the goods were not sold or agreed to be sold, I have checked box (B) and have indicated in column 19 the price I would be willing to receive.

24. DOMESTIC FREIGHT CHARGES

I declare that there is no other invoice from this one (unless otherwise described) and that all statements contained in this and declaration are true and correct.

(C) SIGNATURE OF SELLER/SHIPPER (OR AGENT):

25. INSURANCE COSTS

26. OTHER COSTS (*Specify Below*)

SPACE FOR CONTINUING ANSWERS

CUSTOMS INVOICE REQUIRED GENERALLY IF RATE OF DUTY BASED UPON OR REGULATED BY VALUE OF GOODS AND PURCHASE PRICE OR VALUE OF SHIPMENT EXCEEDS $500. OTHERWISE USE COMMERCIAL INVOICE

ROBERT S. STRAUSS,
Special Representative for Trade Negotiations.

[FR Doc.77-18199 Filed 6-23-77;8:45 am]

federal register

FRIDAY, JUNE 24, 1977

PART VIII

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.

MODIFICATIONS TO GENERAL WAGE DETERMINATION DECISIONS

The numbers of the decisions being modified and their dates of publication in the FEDERAL REGISTER are listed with each State.

Illinois:		
	IL77–5056	June 3, 1977.
Indiana:		
	IL76–5056	Do.
	IN77–2008; IN77–2009; IN77–2016; IN77–2017.	Feb. 11, 1977.
	IN77–2082; IN77–2083; IN77–2084; IN77–2085.	May 13, 1977.
Iowa:		
	IL77–5056	June 3, 1977.
Kentucky:		
	IL77–5056	Do.
Minnesota:		
	IL77–5056	Do.
Missouri:		
	IL77–5056	Do.
Ohio:		
	OH77–2081	May 13, 1977.
Oklahoma:		
	OK77–4056	Mar. 4, 1977.
	OK77–4087	Apr. 29, 1977.
	OK77–4109	June 3, 1977.
Pennsylvania:		
	PA76–3169	May 21, 1976.
	PA76–3210	July 23, 1976.
	PA77–3016; PA77–3023	Jan. 28, 1977.
	PA77–3050	May 13, 1977.
	PA77–3060	May 20, 1977.
Tennessee:		
	TN77–1052	May 6, 1977.
Texas:		
	TX77–4108	June 3, 1977.
Virginia:		
	MD77–3041	Mar. 18, 1977.
Washington, D.C.:		
	DC77–3040	Do.
West Virginia:		
	IL77–5056	June 3, 1977.
Wisconsin:		
	IL77–5056	Do.

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:		
	AL77–1073 (AL77–1083)	June 17, 1977.
Indiana:		
	IN77–2006 (IN77–2101)	Feb. 4, 1977.
Kentucky:		
	KY76–1091 (KY77–1084)	Sept. 3, 1977.
	TN77–1026 (KY77–1084)	Mar. 18, 1977.
Iowa:		
	IA76–4185 (IA77–4117)	Nov. 19, 1976.
Maryland:		
	MD77–3018 (MD77–3080)	Jan. 14, 1977.
Pennsylvania:		
	PA76–3246 (PA77–3078)	Sept. 17, 1976.
Tennessee:		
	KY76–1091 (KY77–1084)	Sept. 3, 1976.
	TN77–1026 (KY77–1084)	Mar. 18, 1977.
Texas:		
	TX77–4008 (TX77–4118); TX77–4008 (TX77–4119); TX77–4008 (TX77–4120); TX77–4008 (TX77–4121); TX77–4008 (TX77–4122); TX77–4008 (TX77–4123); TX77–4008 (TX77–4125); TX77–4008 (TX77–4126); TX77–4008 (TX77–4127); TX77–4008 (TX77–4128); TX77–4008 (TX77–4129); TX77–4008 (TX77–4130); TX77–4008 (TX77–4131); TX77–4008 (TX77–4132); TX77–4008 (TX77–4133); TX77–4008 (TX77–4124).	Jan. 28, 1977.
Virginia:		
	AP–494 (VA77–3082)	Mar. 23, 1973.
Wisconsin:		
	WI76–2116 (WI77–2092)	Sept. 24, 1976.

Signed at Washington, D.C., this 17th day of June 1977.

RAY J. DOLAN,
Assistant Administrator,
Wage and Hour Division.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #IL77-5056 - Mod. #1 (42 FR 28759 - June 3, 1977) Illinois, Indiana, Iowa, Kentucky, Minnesota, Missouri, Ohio, West Virginia and Wisconsin.					
CHANGE:					
Description of Work: Dredging on the Illinois River between Miles 0.0 and 80.0; the Ohio River between Miles 950.0 and 127.2; the Upper Mississippi River between Miles 0.0 and 857.6; and the Kaskaskia River from the mouth to Fayetteville, Illinois.					

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. IN77-2008 - Mod. #3 (42 FR 8908 - February 14, 1977) Decatur County, Indiana					
Change:					
Asbestos workers	$12.00	.55	.50		.01
Bricklayers; Stonemasons	9.50		.30		
Electricians	11.50	4%	5%		.5%
Ironworkers:					
West ½ of Co.	11.15	.90	1.30		.05
East ½ of Co.:					
Reinforcing	10.98	.75	1.65		.02
Plasterers	9.20	.80	.50		.01
DECISION NO. IN77-2009 - Mod. #2 (42 FR 8910 - February 11, 1977) Clark, Floyd, & Harrison Counties, Indiana					
Change:					
Plasterers	$10.35				
DECISION NO. IN77-2016 - Mod. #2 (42 FR 8915 - February 11, 1977) Boone, Hamilton, Hancock, Hendricks, Johnson, Madison, Morgan, & Shelby Counties, Indiana					
Change:					
Asbestos workers	$12.00	.55	.50		.01
Bricklayers:					
Shelby Co.	10.00				
Cement masons:					
Boone (Southern ½ to & incl. Lebanon), Hamilton (Southern part), Hancock (Western part), Hendricks, Johnson, & Morgan (Northern part) Cos.	9.71	.65	.75		.04
Electricians	11.50	4%	5%		.5%
Ironworkers:					
Rem. of Boone & Remaining Cos.	11.15	.90	1.30		.05

MODIFICATIONS P. 3

DECISION NO. IN77-2016 Cont'd

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Lathers:					
Hancock Co.	$9.15		.35		.01
Painters:					
Boone, Hamilton, Hancock, Hendricks, Johnson, Morgan (Northern ½), & Shelby Cos.:					
Brush; Drywall tapers & finishers; & Rollers	9.98	.47	.20		
Sandblasters; & Spray	10.98	.47	.20		
Plasterers:					
Boone, Hamilton (Southern part to new Indiana Rte. #32), Hancock (Southern & Western part north to State Road #234 & east to Co. Rd #300-W), Hendricks, Johnson, Morgan (Northern ½), & Shelby Cos.	10.90	.80			.01
Plumbers; Steamfitters:					
Remaining Cos.	11.40	.50	.75		.04

DECISION NO. IN77-2017 - Mod. #3
(42 FR 8920 - February 11, 1977)
Adams, Blackford, Dekalb, Huntington, Jay, Noble, Steuben, Wabash, Wells, & Whitley Counties, Indiana

Change:

Bricklayers:					
Adams, Dekalb, Huntington, Noble, Steuben, Wells, & Whitley Cos.	10.54	.45	.30		.01
Carpenters:					
Adams, Huntington, Wabash, & Wells Cos.:					
Millwrights	9.98	.80	.60		.05
Piledrivermen	9.68	.80	.60		.05

MODIFICATIONS P. 4

DECISION NO. IN77-2017 Cont'd

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Dekalb, Noble, Steuben, & Whitley Cos.:					
Carpenters; Soft floor layers	9.85	6%a			.05
Millwrights; Piledrivermen	10.18	6%a			.05
Cement masons:					
Adams, Dekalb, Noble, Steuben, & Whitley Cos.	9.75	.75			.01
Electricians:					
Adams, Dekalb, Huntington, Noble, Steuben, Wells, & Whitley Cos.	11.30	.40	1%+.30		.06
Blackford & Jay Cos.	11.00	.40	1%+.30		.2%
Lathers:					
Adams, Dekalb, Huntington, Noble, Steuben, Wabash, Wells, & Whitley Cos.	9.73		.50		.01
Painters:					
Adams, Dekalb, Huntington, Noble, Steuben, Wabash, Wells (excluding area to the south city limits of Bluffton), & Whitley Cos.:					
Brush; Paperhangers; Rollers; & Tapers	8.75	.37	.35		.10
Sandblasters; Spray; Steam-cleaning & pressure water blasting	9.75	.37	.35		.10
Plasterers:					
Adams, Dekalb, Noble, Steuben, & Whitley Cos.	9.67	.60			
Roofers:					
Adams, Dekalb, Noble, Steuben, Wells, & Whitley Cos.:					
Roofers	10.15		.10		
Pitch work	10.40		.10		
Helpers	5.075		.10		
Sheet metal workers	11.08	.50	.50		.12

DECISION NO. IN77-2082 - Mod. #2
(42 FR 24588 - May 13, 1977)
Lake, LaPorte, Porter, & St. Joseph Counties, Indiana

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Carpenters:					
Lake, LaPorte, & Porter Cos.:					
Carpenters	$12.03	.50	.57		.05
Millwrights	12.13	.50	.57		.05
Cement masons:					
Building Construction:					
LaPorte Co.; Porter Co. (Eastern ½ of Co.)	11.08	.80	1.00		.03
Plasterers:					
LaPorte, Porter (Eastern ½ west to, but not incl. Chesterton) Counties	11.00	.80	1.00		.03
Plumbers:					
Lake Co. (Hammond Area)	11.52	.90	1.05		.02
Lake Co. (Gary Area), LaPorte Co. (except LaPorte City, & Michigan City); & Porter County	11.45	.75	1.50		.02
Roofers:					
Lake & Porter Cos.:					
Composition, damp & waterproof workers; Slate, tile & asbestos	12.21	.70	.50		
Truck drivers:					
St. Joseph Co. (Building Construction):					
Pickup	6.94	$13.50e	$22.00e	f	
Single axle	7.15	13.50e	22.00e	f	
Tandem or fuel	7.26	13.50e	22.00e	f	
Tri axle	7.31	13.50e	22.00e	f	
Semi trailer	7.36	13.50e	22.00e	f	

DECISION NO. IN77-2083 - Mod. #2
(42 FR 24596 - May 13, 1977)
Statewide, except Lake, LaPorte, Porter, & St. Joseph Counties, Indiana

Change:					
Cement masons:					
Adams, Allen, Dekalb, Noble, Steuben, & Whitley Cos.	9.75	.75			.01

DECISION NO. IN77-2083 Cont'd

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Blackford, Delaware, Grant, Huntington, Jay, Randolph, Wabash, & Wells Cos.	$9.75	.60			
Boone, Hamilton (So. ½ of Co., north to the new Rte. Indiana Hwy #32 incl. Noblesville), Hancock (So. & western part, north to but not incl. Wilkinson & east to, but not incl. Fortville), Hendricks, Johnson, Marion & Morgan (Northern ½ of Co.) Cos.	9.71	.65	.75		.04
Ironworkers:					
Marion Co.	11.00	.90	1.30		.05
Bartholomew, Boone (Southeastern ½ of Co.), Brown, Clinton (eastern 1/3 of Co.), Decatur (Western ½ of Co.), Delaware (Southern 2/3 of Co.), Grant (S/W Portion), Hamilton, Hancock, Hendricks, Henry, Howard, Jackson (Northern ½ of Co.), Jennings (Northern ½ of Co.), Johnson, Lawrence (Northeastern 1/6 of Co.), Madison, Monroe, Morgan, Owen, Putnam (eastern ½ of Co. excluding Greencastle), Rush, Shelby, & Tipton Cos.	11.15	.90	1.30		.05
Painters:					
Adams, Allen, Dekalb, Grant, Huntington, LaGrange, Noble, Steuben, Wabash, Whitley, & Wells (Northern ½ of Co. to & incl. Bluffton):					
Brush; Paperhangers; Rollers; & Tapers	8.75	.37	.35		.10
Sandblasters; Spray	9.75	.37	.35		.10

MODIFICATIONS P. 7

DECISION NO. IN77-2083 Cont'd

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Boone, Hamilton, Hancock, Hendricks, Johnson, Marion, Morgan (North ½ of Co.) & Shelby Cos.:					
Brush	9.98	.47	.20		
Spray	10.98	.47	.20		
Omit:					
Line construction schedules for:					
Clinton (Frankfort only) & Miami (Peru & Grissom AFB) Fountain, Vermillion, & Warren Counties					
Add:					
Line construction schedules for:					
Clinton (Frankfort only & Miami (Pery & Grissom AFB) Fountain, Vermillion, & Warren Counties					

LINE CONSTRUCTION Clinton (Frankfort only) & Miami (Peru & Grissom AFB)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINEMEN; Heavy equipment operators "A"	$10.73	.45	1%		½%
CABLE SPLICERS	11.65	.45	1%		½%
HEAVY EQUIPMENT OPERATORS "B"	8.63	.45	1%		½%
POWDERMAN; Equipment mechanic	8.44	.45	1%		½%
SENIOR GROUNDMAN - truck driver with winch	7.07	.45	1%		½%
GROUNDMAN - truck driver with winch	6.76	.45	1%		½%
SENIOR GROUNDMAN AFTER 5 YEARS	6.74	.45	1%		½%
SENIOR GROUNDMAN AFTER 12 MONTHS	6.54	.45	1%		½%
GROUNDMAN - truck driver without winch	6.05	.45	1%		½%
GROUNDMAN 0 to 12 MONTHS	5.60	.45	1%		½%

MODIFICATIONS P. 8

DECISION NO. IN77-2083 Cont'd

LINE CONSTRUCTION Fountain, Vermillion, & Warren Counties	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINEMEN; Groundman equipment operator	$11.57	.40	1%+.30		½%
GROUNDMAN TRUCK DRIVER W/WINCH	9.47	.40	1%+.30		½%
GROUNDMAN TRUCK DRIVER WO/WINCH	8.87	.40	1%+.30		½%
GROUNDMAN	8.42	.40	1%+.30		½%

DECISION NO. IN77-2084 - Mod. #2
(42 FR 24555 - May 13, 1977)
Brown, Crawford, Jackson, Jefferson, Jennings, Lawrence, Orange, Scott, Switzerland, & Washington Counties, Indiana

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Asbestos workers:					
Brown Co.	$12.00	.55	.50		.01
Bricklayers; Stonemasons:					
Crawford Co.	9.19	.85	.50		
Electricians:					
Brown Co.	10.75	.40	12%+.50		.01
Jennings Co.	11.50	4%	5%		½%
Ironworkers:					
Brown, Jackson (N. ½ of Co.), Jennings (N. ½ of Co.), & Lawrence (Except So. 2/3 of Co.)	11.15	.90	1.30		.05
Switzerland Co.:					
Reinforcing	10.98	.75	1.65		.02

DECISION NO. IN77-2085 - Mod. #2
(42 FR 24562 - May 13, 1977)
Fayette, Franklin, Henry, Ohio, Randolph, Ripley, Rush, Union, & Wayne Counties, Indiana

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Asbestos workers:					
Henry & Rush Cos.	12.00	.55	.50		.01
Bricklayers; Stonemasons:					
Ripley Co.	9.50		.30		
Electricians:					
Fayette, Franklin, Henry, Randolph, Union, & Wayne Cos.	11.00	.40	12%+.30		.2%
Ripley & Rush Cos.	11.50	4%	5%		½%
Ironworkers:					
Fayette (Part of Co.), Henry, & Rush Cos.	11.15	.90	1.30		.05

DECISION NO. IN77-2085 Cont'd

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Fayette (Part of Co.), Randolph (So. part incl. Union City, but exclu. Winchester), Union, & Wayne Cos.:					
Within 15 mi. radius of Dayton, Ohio	$10.96	.90	1.25		.04
Beyond 15 mi. radius of Dayton, Ohio	11.11	.90	1.25		.04
Fayette (Part of Co.), Franklin, Ohio, & Ripley Cos.:					
Reinforcing	10.98	.75	1.65		.02
Lathers:					
Henry & Randolph Cos.	9.15		.35		.01
Plasterers:					
Fayette, Franklin, Rush, Union, & Wayne Cos.	9.20	.80	.50		.01
Plumbers; Steamfitters:					
Ohio & Ripley Cos.	12.07	.75	1.05		.05
Sheet metal workers:					
Ohio Co.	12.035	.90	.81		.04

MODIFICATIONS P. 11

DECISION NO. OH77-2081 - Mod. #2
(42 FR 24661 - May 13, 1977)
Clark, Franklin, Greene, Lawrence, Licking, Madison, Montgomery, Muskingum, Pickaway, Pike, Ross, & Scioto Counties, Ohio

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Omit:					
Laborers for Lawrence, Pike, & Scioto Cos.:					
Add:					
Laborers:					
Lawrence, Pike, & Scioto Counties:					
Common laborers; Signalmen	$7.77	.65	.55		.10
Sheeting & Shoring men	7.87	.65	.55		.10
Bottom men; Carpenters' tenders; Mason tenders; Mortar mixers; Plasterers' tenders; & pipelayers	7.92	.65	.55		.10
Air & machine driver tool op.; Asphalt rakers & smoothers; Burning & cutting torches; Chain saws; Powered concrete buggies; Hand spikers	8.02	.65	.55		.10
Gunnite machine op.; Gunnite nozzlemen; Powdermen & blasters	8.34	.65	.55		.10

MODIFICATIONS P. 12

DECISION NO. OK77-4056 - Mod. #4
(42 FR 12663 - March 4, 1977)
Comanche County, Oklahoma

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
CARPENTERS:					
Carpenters	$7.90	.45	.25		.04
Millwrights-Piledrivermen	8.40	.45	.25		.04
Power saw operator	8.025	.45	.25		.04

DECISION NO. OK77-4087 - Mod. #2
(42 FR 22107 - April 29, 1977)
Tulsa, Creek, Craig, Ottawa, Delaware, Mayes and Rogers Counties, Oklahoma

CHANGE:					
ELECTRICIANS:					
Electricians	$10.65	.46	1%+.40	.30	.07
Cable splicers	10.85	.46	1%+.40	.30	.07
PLUMBERS	11.27	.35	.55		.08
SOFT FLOOR LAYERS	7.71		.35	.74+b	.03

DECISION NO. OK77-4109 - Mod. #1
(42 FR 28807 - June 3, 1977)
Oklahoma, Cleveland, Caddo, Canadian, Grady, Kingfisher, Logan, Lincoln, McClain, Seminole and Pottawatomie Counties, Oklahoma

CHANGE:					
PAINTERS:					
Brush	$8.45	.50	.35	.35	.03
Spray under 30 feet	8.95	.50	.35	.35	.03
Spray over 30 feet	9.45	.50	.35	.35	.03
Sandblasting under 30 feet	8.95	.50	.35	.35	.03
Sandblasting over 30 feet	9.45	.50	.35	.35	.03
Hazardous work	8.95	.50	.35	.35	.03
Paperhanging	9.45	.50	.35	.35	.03
Tapers using machine tools	8.95	.50	.35	.35	.03
ELEVATOR CONSTRUCTORS	8.855	.545	.35	2½%+a+b	.02
ELEVATOR CONSTRUCTORS HELPER	70%JR	.545	.35	2½%+a+b	.02

MODIFICATIONS P. 13

DECISION #PA76-3169 - Mod. # 4
(41 FR 21133 - May 21, 1976)
Bucks, Chester, Delaware, Montgomery & Philadelphia Counties, Pennsylvania

Change:

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
HEAVY & HIGHWAY CONSTRUCTION:					
Carpenters	$10.57	2.13	1.30	a	.12
Laborers:					
Powdermen, Multiple wagon drill op.	8.75	.95	.65		
Finished surface asphalt rakers, ops., pipelayers, caulkers, conduit and duct layers	8.55	.95	.65		
Other pneumatic tools ops., Laborers stripping concrete forms, carrying or handling lumber, steel & steel mesh and other concrete materials, form pinners, tool room men, Mortar mixers, Concrete pitmen & spaders, Grade men, Asphalt shovelers, Men working in shoring, Men working in lagging, Laborers assisting in the setting of cut stone, granite or artificial stone, hod carriers, Scaffold builders	8.45	.95	.65		
Wagon drill operators	8.60	.95	.65		
YARD WORKERS:					
Laborers, Scale mixermen, Burnermen Dustmen. Feeders	8.35	.95	.65		
FREE AIR TUNNELS:					
Miners, Miners bore driver, Basters Drillers, Pneumatic Shield oprs., Welders & burners	9.00	.95	.65		
Miners' helpers, Form setters	8.85	.95	.65		
Trackmen, Brakemen, Groutmen, Bottom shaft men, All others in free air tunnels	8.70	.95	.65		
Circular caisson excavation bottom men	8.85	.95	.65		
Underpinning excavation bottom men	8.75	.95	.65		
All other laborers on construction work, with the exception of workers in compressed air	8.45	.95	.65		

MODIFICATIONS P. 14

DECISION #PA76-3210 - Mod. # 5
(41 FR 30486 - July 23, 1976)
Columbia, Montour & Snyder Counties, Pennsylvania

Change:

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Bricklayers & Stonemasons:					
Zone 1	$9.50	.55	.65		
Cement Masons					
Zone 1	10.10				.01
Electricians					
Zone III	10.56	.45	1%+.31		1/4%
Glaziers					
Zone II	9.39	.40	.40		.01
Laborers:					
Zone 2					
Class I	7.20	.40	.35		
Class II	7.20	.40	.35		
Class III	7.35	.40	.35		
Zone 3					
Class I	7.55	.30	.35		
Class II	7.70	.30	.35		
Class III	8.02	.30	.35		
Class IV	8.12	.30	.35		
Class V	7.20	.30	.35		
Painters					
Zone II					
Brush	9.30	.50	.30		.05
Tapers	9.56	.50	.30		.05
Hazardous	10.56	.50	.30		.05
Area covered by Painters (Zone II - Columbia, Montour & Snyder Counties)					
Piledrivermen	10.77	2.13	1.30	d	.12
Soft floor layers	8.88	.40	.50		.03
Sprinkler Fitters	11.86	.65	.95		.08

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
OMIT:					
Painters:					
ZONE I					
Brush	$8.20				
Steel	8.62				
Stack, spray tanks, bridges, & sandblasting	9.00				
ZONE III					
Brush	6.75				
Spray	8.00				

MODIFICATIONS P. 15

DECISION NO. PA77-3016 - Mod. #5 (42 FR 5632 - January 28, 1977) Bucks, Chester, Delaware, Montgomery , Philadelphia Counties, Pennsylvania	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Rehabilitation work on residential structures to include demolition, repair, and alteration, or any existing structures of not more than four (4) stories which is intended for predominently residential use:					
Dry wall finishers	$8.75	.89	.50		.03
Electricians:					
Zone I	12.02	.72	.48		.24
Zone II	11.20	.50	.40		.17
Zone III	11.34	.50	.37		.06
Plumbers - Zone I	11.24	.81	1.30		.14
Roofers - Zone I					
Composition, damp and waterproofers	9.32	.65	.55		
Tile layers	9.25	1.10	.90		.14
Building Construction					
Bricklayers					
Zone 1	10.88	1.10	1.00		.02
Zone 3	10.96	.95	1.07		.02
Laborers:					
Class 1	8.50	.90	.65		
Class 2	8.60	.90	.65		
Class 3	8.65	.90	.65		
Class 4	8.80	.90	.65		
Class 5	8.90	.90	.65		
Class 6	8.44	.90	.65		
Painters:					
Zone 3					
Brush	8.95	.70	.55		
Steel & Spray	10.00	.70	.55		
Roller	8.95	.70	.55		

MODIFICATIONS P. 16

DECISION #PA77-3023 - Mod. # 3 (42 FR 5640 - January 28, 1977) Butler, Cambria, Erie, Fayette, Mercer, Washington, Westmoreland, Lawrence, Somerset, Allegheny, Beaver, Armstrong, Blair, Cameron, Centre, Clarion, Clearfield, Crawford, Forest, Greene, Indiana, McKean, Venango, Warren, Bedford, Jefferson, Clinton, Elk, Franklin, Fulton, Huntingdon, Mifflin, and Potter Counties, Pennsylvania	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Ironworkers, reinforcing:					
Butler, Cambria, Erie, Fayette, Mercer, Washington, Westmoreland, Lawrence, Somerset, Allegheny, Beaver, Armstrong, Blair, Cameron, Centre, Clarion, Clearfield, Crawford, Forest, Greene, Indiana, McKean, Venango, Warren, Bedford, Jefferson, Clinton, Elk, Fulton and Potter Counties	$7.945	.785	1.03		.01
ADD:					
LINE CONSTRUCTION:					
Franklin County					
Journeyman Lineman	10.28	.30	.102		.051
Experienced Winch Truck	7.20	.30	.072		.036
2nd 1000 Hrs.	7.02	.30	.070		.035
1st. 1000 Hrs.	6.85	.30	.068		.034
Experienced Truck Driver	6.68	.30	.066		.033
2nd. 1000 Hrs.	6.51	.30	.065		.032
1st. 1000 Hrs.	6.34	.30	.063		.031
Experienced Groundman	6.17	.30	.061		.030
2nd. 1000 Hrs.	6.00	.30	.060		.030
1st. 1000 Hrs.	5.82	.30	.058		.028

DECISION #PA77-3050 - Mod. # 1 (42 FR 24669 - May 13, 1977) Lackawanna, Susquehanna, Wayne, and, Wyoming Counties, Pennsylvania	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Bricklayers & Stonemasons:					
Scranton in Lackawanna County	$10.70	.75	.80		.01
Carpenters:					
Lackawanna, Susquehanna and Wayne Counties	10.40	.43	.50		.05
Wyoming County:					
East of Susquehanna River	10.40	.43	.50		.05
Lathers	10.54		.10		.01
Millwrights:					
Lackawanna, Susquehanna & Wayne Counties	10.98	.43	.50		.05
Wyoming County:					
East of Susquehanna River	10.98	.43	.50		.05
West of Susquehanna River	11.29	.40	.50		.03
Painters:					
Brush & Roller	8.60		1.00		
Spray	10.10		1.00		
Steel	9.60		1.00		
Plumbers	11.49	.40	.75		.04
Soft floor layers	8.88	.40	.50		.03
Sprinkler Fitters	11.86	.65	.95		.08
Pipe Fitters	11.50	.39	.75		.04
Truck Drivers:					
Class I	8.47				
Class II	8.54				
Class III	9.03				

DECISION #PA77-3060 - Mod. # 1 (42 FR 26179 - May 20, 1977) Adams, Berks, Bradford, Carbon, Columbia, Cumberland, Dauphin, Juniata, Lackawanna, Lancaster, Lebanon, Lehigh, Luzerne, Lycoming, Monroe, Montour, Northampton, Northumberland, Perry, Pike, Schuylkill, Snyder, Sullivan, Susquehanna, Tioga, Union, Wayne, Wyoming & York Counties, Pennsylvania	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
OMIT:					
LINE CONSTRUCTION:					
Franklin County(Only)					
Journeyman Lineman	$10.28	.30	.102		.051
Experienced Winch Truck	7.20	.30	.072		.036
2nd. 1000 Hrs.	7.02	.30	.070		.035
1st. 1000 Hrs.	6.85	.30	.068		.034
Experienced Truck Driver	6.68	.30	.066		.033
2nd 1000 Hrs.	6.51	.30	.065		.032
1st. 1000 Hrs.	6.34	.30	.063		.031
Experienced Groundman	6.17	.30	.061		.030
2nd. 1000 Hrs.	6.00	.30	.060		.030
1st. 1000 Hrs.	5.82	.30	.058		.028

MODIFICATIONS P. 19

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Decision # TN77-1052 - Mod. # 1 (42 FR 23427 - May 6, 1977) Anderson and Roane Counties (Oak Ridge Energy Research and Development site only), Tennessee.					
Change:					
Sheet metal workers	$10.22	.47	.50		.04
DECISION #TX77-4108 - Mod. #1 (42 FR 28810 - June 3, 1977) Tom Green County, Texas					
Change:					
Bricklayers	$ 8.50				

MODIFICATIONS P. 20

DECISION #MD77-3041 - Mod. # 5 (42 FR 15268 - March 18, 1977) Montgomery and Prince Georges Counties, Maryland; Arlington County, Virginia; D. C. Training School, and for WMATA - Rapid Rail Transit System Projects Only, Alexandria, Virginia	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
BUILDING CONSTRUCTION (INCLUDING WMATA - RRTS					
Carpenters	$10.45	.80	.60		.05
Millwrights	10.94	.80	.60		.05
Piledrivermen	10.68	.80	.60		.05
Soft floor layers	10.45	.80	.60		.05
Marble Setters	11.60	.80	.65		.07
Stone Masons	11.60	.80	.65		.07

MODIFICATIONS P. 21

DECISION #DC77-3040 - Mod. # 5 (42 FR 15293 - March 18, 1977) Washington, D. C.	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE					
BUILDING AND HEAVY CONSTRUCTION: INCLUDING WMATA - RRTS					
Carpenters	$10.45	.80	.60		.05
Soft floor layers	10.45	.80	.60		.05
Millwrights	10.94	.80	.60		.05
Piledrivermen	10.68	.80	.60		.05
Marble Setters	11.60	.80	.65		.07
Stone Masons	11.60	.80	.65		.07
SEWER & WATER EXCLUDING WMATA - RRTS)					
Carpenters	10.45	.80	.60		.05
OMIT: In it's entirety (DEMOLITION, EXCLUDING METRO PROJECTS - (RAPID RAIL TRANSIT SYSTEM)					
Laborers	6.40	.35	.40		.05
Burners	6.90	.35	.40		.05
Power Equipment Operators					
Cranes	11.80	.55	.55		.12
Loaders	11.40	.55	.55		.12
Truck Drivers	4.00				

STATE: Alabama
DECISION NO.: AL77-1083
COUNTIES: *See below
DATE: Date of Publication
Supersedes Decision NO.: AL77-1073 dated June 17, 1977 in 42 FR
DESCRIPTION OF WORK: Heavy Construction

*Counties: Calhoun, Etowah, Green, Jefferson, Pickens, St. Clair, Shelby, Sumter, Talladega, Tuscaloosa and Walker

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Bricklayers	9.50				
Carpenters:					
Green, Pickens, Sumter and Tuscaloosa Counties	7.90				.06
Jefferson, Shelby, Walker and that portion of St. Clair and Talladega County West of Highway 231 from the Blount County line South to Interstate 20. Also that protion of St. Clair and Talladega Counties South of Interstate 20 and West of U.S. Alternate 231 South, not including the City of Talladega and that portion of Talladega County South, of the City of Talladega and West and South of the Talladega National Forest	8.10	.45	.30		.07
Calhoun, Etowah and Remainder of St. Clair and Talladega Counties	6.98	.45	.30		.06
Electricians	10.10	.30	1%+.40		½ of 1%
Ironworkers	8.50	.60	.815		.04
Laborers:					
Air tool operator	5.80	.30	.30		.05
Asphalt lute man	5.80	.30	.30		.05
Asphalt raker	5.80	.30	.30		.05
Batch truck dumper	5.65	.30	.30		.05
Caisson hole men (10'dia.)	6.40	.30	.30		.05
Chain saw operator	5.80	.30	.30		.05
Concrete saw operator	5.80	.30	.30		.05
Dry cement handlers (bulk or bag)	5.80	.30	.30		.05
Hand blade operator	5.65	.30	.30		.05
General laborer	5.65	.30	.30		.05
Mortar mixers	5.75	.30	.30		.05
Muckers	5.75	.30	.30		.05
Pipelayers	5.75	.30	.30		.05
Powdermen & blasters	6.48	.30	.30		.05

AL77-1083 - (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Laborers (Cont'd):					
Side rail setters	5.80	.30	.30		.05
Vibrator operator	5.80	.30	.30		.05
Wagon drill operator	6.05	.30	.30		.05
Oxagon operator	7.15	.30	.30		.05
Tunnel work (free air)					
Chuck tender	6.20	.30	.30		.05
Head miner	6.65	.30	.30		.05
Pneumatic concrete gun operator & nozzlemen	6.35	.30	.30		.05
Tunnel laborer	6.05	.30	.30		.05
Tunnel miner	6.45	.30	.30		.05
Plumbers and Pipefitters	9.45	.30	.30		.05
Truck drivers	5.75	.20	.45		.05
Welders - Rate for craft.					

AL77-1083 - (Cont'd)

POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	9.11	.40	.30		.10
CLASS B	8.57	.40	.30		.10
CLASS C	8.22	.40	.30		.10
CLASS D	7.61	.40	.30		.10

CLASS A: Asphalt plant, asphalt spreader, backhoe, boat operator, (inboard), boom tractor, bulldozer, cableways, cherry picker, compressors-2, or more within 200 ft. radius, concrete plants-stationary, mixer operator, concrete pump, conveyor-2 or more up to 4, core driller-crane-derrick-dragline-deck hoist on construction barges, crane-hydro, dinky locomotive, distributors-bituminous surface, dredge operator, farm tractor with attachments (30 HP or more-which are an intergral part of tractor), fork lift, front end loader, gradall, headhouse operator, heavy duty, mechanic, hoist-2 drums or more, ice plant in connection with concrete, mixers-5 bags or over, motor graders, pile driver, push tractor, quarry master and rock crusher, rollers-asphalt, scraper, scrapers in tandem (operator to receive 25¢ per hour for each additional scraper), shovels, trenching machines and all similar equipment.

CLASS B: Crawler tractor, hoist-1 drum, pumps-2 or more 4 inch & over, under 5 within 200 ft, radius, rollers (other than asphalt), winch truck, well points and other equipment used for dewaterin.

CLASS C: Air compressor, blade graders-pull type, farm tractor with attachments, finishing machine-screed mounted self-propelled, mixers-under 5 bags.

CLASS D: Outboard boats, air compressor-125 and under, (oiler-helper), conveyor-one (1) tended by oiler, mechanic helper, pumps-under 4 inch-3 or under, welding machines-3 or under, oiler or helper-in-board boats, deck hand.

SUPERSEDEAS DECISION

STATE: INDIANA COUNTIES: *SEE BELOW
DECISION NUMBER: IN77-2101 DATE: Date of Publication
Supersedes Decision No. IN77-2006 dated February 4, 1977, in 42 FR 7046.
DESCRIPTION OF WORK: Building Construction (Does not include single family homes and garden type apartments up to and including 4 stories).

*Allen, Bartholomew, Benton, Dearborn, Delaware, Grant, Marion, Monroe, Tippecanoe Vanderburgh, & Vigo

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
Allen & Grant Cos.	$11.45	.50	.75		
Bartholomew, Benton, Delaware, Marion, Monroe, Tippecanoe, & Vigo Cos.	12.00	.55	.50		.01
Dearborn Co.	11.61	.60	.85		.02
Vanderburgh Co.	11.50	.45	.40		.03
BOILERMAKERS:					
Dearborn Co.	9.40	.75	1.00	1.40	.02
Remaining Cos.	11.70	.80	1.00		.03
BRICKLAYERS; Marble setters; Stonemasons; Terrazzo workers; & Tile setters:					
Allen Co.:					
Bricklayers; Marble setters & Stonemasons	10.54	.45	.30		.01
Bartholomew & Monroe Cos.:					
Bricklayers; Marble setters; Stonemasons; Terrazzo workers; & Tile setters	9.90	.40	.30		.02
Benton & Tippecanoe Cos.:					
Bricklayers; Marble setters; & Stonemasons	9.85	.48	.35		.01
Terrazzo workers & Tile setters	9.85	.48	.35		.01
Dearborn Co.	9.50		.30		
Delaware Co.:					
Bricklayers; Marble setters; & Stonemasons	9.85	.50	.45		.01
Tile setters	9.60	.50	.45		.01
Grant Co.:					
Bricklayers; Marble setters; Stonemasons; Terrazzo workers; & Tile setters	9.45	.70	.40		
Marion Co.:					
Bricklayers; Stonemasons	10.60	.40	.30		.06
Marble setters; Tile setters	10.46	.30	.30		.04
Terrazzo workers	10.20	.30	.30		.03
Vanderburgh Co.:					
Bricklayers; Stonemasons	10.38	.85	.50		
Marble setters; Terrazzo workers; & Tile setters	10.30		.50		

DECISION NO. IN77-2101

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Vigo Co.:					
Bricklayers; Stonemasons	$10.35	.40	.70		.01
Marble setters; Terrazzo workers; & Tile setters	9.95	.40	.70		.01
CARPENTERS; Millwrights; Piledrivermen; & Soft floor layers:					
Allen Co.:					
Carpenters; Soft floor layers	9.85	6%a			.05
Millwrights; Piledrivermen	10.18	6%a			.05
Bartholomew Co. (Camp Atterbury) & Marion Co.:					
Carpenters; Millwrights	11.05	.50	.60		.08
Bartholomew Co. (Rem. of Co.):					
Carpenters; Soft floor layers	9.69	.55	.65		.03
Millwrights	10.19	.55	.65		.03
Piledrivermen; Burners; Welders	9.94	.55	.65		.03
Benton & Tippecanoe Cos.:					
Carpenters & Soft floor layers	9.36	.40	.40		.02
Millwrights & Piledrivermen	9.71	.40	.40		.02
Dearborn Co.:					
Carpenters & Soft floor layers	9.74	.55	.65		.03
Millwrights	10.24	.55	.65		.03
Piledrivermen; Burners; Welders	9.99	.55	.65		.03
Delaware Co.:					
Carpenters & Soft floor layers	9.60	.55	.35		.08
Millwrights	9.90	.55	.35		.08
Piledrivermen	9.80	.55	.35		.08
Grant Co.:					
Carpenters	9.48	.80	.60		.05
Millwrights	9.98	.80	.60		.05
Piledrivermen	9.68	.80	.60		.05
Monroe Co.:					
Carpenters & Soft floor layers	9.10	.60	.35		.01
Millwrights & Piledrivermen	9.35	.60	.35		.01
Vanderburgh Co.:					
Carpenters & Soft floor layers	9.65	.40	.35		
Millwrights	10.34	.45	.70		
Piledrivermen	9.90	.40	.35		
Vigo Co.:					
Carpenters & Soft floor layers	9.38	.45	.55		.02
Millwrights	9.88	.35	.40		.02
Piledrivermen	9.63	.45	.55		.02

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CEMENT MASONS:					
Allen Co.	$9.75	.75			.01
Benton & Tippecanoe Cos.	8.60	.45	.65		
Dearborn Co.	7.50				
Delaware & Grant Cos.	9.75	.60			
Marion Co.	9.71	.65	.75		.04
Vanderburgh Co.	9.80	.65	.55		
Vigo Co.	10.20	.60	.25		
ELECTRICIANS:					
Allen Co.	11.30	.40	1%+.30		.06
Bartholomew & Marion Cos.	11.50	4%	5%		.5%
Benton & Tippecanoe Cos.	10.80	.40	1%		½%
Dearborn Co.:					
Up to & incl. 18-mi. radius from Hamilton Co., Ohio Court House	11.30	.70	1%+.40		.5%
Over 18-mi. radius up to & incl. 21-mi. radius from Hamilton Co., Ohio Court House	11.60	.70	1%+.40		.5%
Over 21-mi. radius up to & incl. 25-mi. radius from Hamilton Co., Ohio Court House	11.70	.70	1%+.40		.5%
Over 25-mi. radius from Hamilton Co., Ohio Court House	11.85	.70	1%+.40		.5%
Delaware Co.	11.00	.40	1%+.30		.2%
Grant Co.	10.75	.40	1%+.30		.2%
Monroe Co.	10.75	.40	1%+.50		.01
Vanderburgh Co.	11.65	.40	1%		½%
Vigo Co.	11.35	.40	1%+.50		.01
ELEVATOR CONSTRUCTORS:					
Allen & Grant Cos.:					
Elevator constructors	9.66	.495	.32	4%+b+c	.02
Helpers	70%JR	.495	.32	4%+b+c	.02
Helpers (Prob.)	50%JR				
Bartholomew, Benton, Delaware, Marion, Monroe, Tippecanoe, & Vigo Cos.:					
Elevator constructors	10.68	.545	.35	4%+b+c	.02
Helpers	70%JR	.545	.35	4%+b+c	.02
Helpers (Prob.)	50%JR				

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Dearborn Co.:					
Elevator constructors	$11.15	.545	.35	4%+b+c	.02
Helpers	70%JR	.545	.35	4%+b+c	.02
Helpers (Prob.)	50%JR				
Vanderburgh Co.:					
Elevator constructors	10.74	.545	.35	4%+b+c	.02
Helpers	70%JR	.545	.35	4%+b+c	.02
Helpers (Prob.)	50%JR				
GLAZIERS:					
Allen & Grant Cos.	9.53	d		.40+e	.04
Bartholomew, Delaware, Marion, Monroe, Tippecanoe, & Vigo Cos.	11.59				
Benton Co. (E. of Rte #41, S. to Gravel Hill)	9.05	.40	.30		
Dearborn Co.	10.10		.35		.005
Vanderburgh Co.	10.105	.48	.50	.25	
IRONWORKERS:					
Allen, Delaware (Northeastern 1/3 of Co.), & Grant (excluding s/w portion) Cos.	10.75	.75	.95		.01
Bartholomew, Delaware (Southern 2/3 of Co.), Grant (s/w portion) & Monroe Cos.	11.15	.90	1.30		.05
Marion Co.	11.00	.90	1.30		.05
Benton & Tippecanoe Cos.	9.99	.75	1.05		.02
Dearborn Co.:					
Ornamental; Structural	11.08	.75	.85		.03
Reinforcing	10.98	.75	1.65		.02
Vanderburgh Co.	8.15	.25	.25		
Vigo Co.	10.15	.75	1.70		.10
LATHERS:					
Allen Co.	9.73		.50		.01
Bartholomew, Marion, Monroe, & Vigo Cos.	10.54	.61	.35		.04
Benton & Tippecanoe Cos.	9.49	.55	.35		.01
Dearborn Co.	11.67		.25		.025
Delaware & Grant Cos.	9.15		.35		.01
Vanderburgh Co.	11.17		.20		.01
LEADBURNERS	9.25	.35		f	.01

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
MARBLE SETTERS' HELPERS; Terrazzo workers' helpers; Tile setters' helpers:					
Allen Co.	6.95				
Vigo Co.	7.40	.40	.70		.01
PAINTERS:					
Allen & Grant Cos.:					
Brush; Paperhangers; Rollers; & Tapers	8.75	.37	.35		.10
Sandblasters; Spray	9.75	.37	.35		.10
Bartholomew Co.:					
Brush; Drywall taping & finishing; & Rollers	9.45		.50		
Sandblasting; Spray; Swing stage	10.45		.50		
Benton & Tippecanoe Cos.:					
Brush	8.45				
Structural steel	8.70				
Sandblasting	9.50				
Spray	11.72				
Dearborn Co.:					
Brush; Roller; Wallwashing; Drywall taping & finishing; Wallpaper & vinyl hanging; Floor sanding; Seamless flooring & finishing; Sandblasting; Hopper tending; Steamcleaning	9.30				
Spray	9.80				
Delaware Co.:					
Brush; Taping	8.55		.60		
Sandblasters; Spray	9.30		.60		
Steeplejack; Water towers	9.55		.60		
Marion Co.:					
Brush; Drywall tapers & finishers; Rollers	9.98	.47	.20		
Sandblasters; Spray	10.98	.47	.20		
Monroe Co.:					
Brush; Drywall; Paperhanging; Roller; & Vinyl	8.40			.30	
Structural steel	9.15			.30	
Sandblasting; Spray	9.40			.30	

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Vanderburgh Co.:					
Brush; Roller	$8.95	.65	.30		
Sandblasting	9.70	.65	.30		
Spray	9.95	.65	.30		
Vigo Co.:					
Brush; Drywall finishing; Paperhangers; & Rollers	8.50			.25	
Spray	9.50			.25	
Structural steel to 30 ft.	8.75			.25	
Structural steel 30 ft. to 100 ft.	9.50			.25	
Structural steel over 100 ft.	10.50			.25	
PIPEFITTERS; Steamfitters:					
Dearborn Co.	11.35	.875	1.15		.08
PIPEFITTERS; Plumbers; & Steamfitters:					
Bartholomew (Camp Atterbury), & Marion Cos.	11.40	.50	.75		.04
Benton, Tippecanoe, & Vigo Cos.	12.05	.50	.90		.10
PLASTERERS:					
Allen Co.	9.67	.60			
Benton (Eastern 2/3 west to & incl. Boswell, Earl Park, & Raub) & Tippecanoe Cos.	9.50	.55			
Dearborn Co.	7.50				
Delaware & Grant Cos.	8.40	.65			.01
Marion Co.	10.90	.80			.01
Vanderburgh Co.	10.58				
Vigo Co.	9.75	.50	.50		
PLUMBERS; Gas Fitters:					
Dearborn Co.	12.07	.75	1.05		.05
PLUMBERS; Steamfitters:					
Allen Co.	10.05	.35	.65		.07
Bartholomew (excluding Camp Atterbury) Co.	11.20	.50	.30		.05
Delaware Co.	10.80	.50	.55	g	.15
Grant Co.	10.90	.50	.55		.05
Monroe Co.	10.95	.50	.75		.15
Vanderburgh Co.	12.18	.50	.90		.06

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS:					
Allen Co.:					
Roofers	$10.15		.10		
Pitch work	10.40		.10		
Helpers	5.075		.10		
Bartholomew, Marion, & Monroe Cos.:					
Composition; Waterproofers	10.43	.35	.40		
Slate, Tile, Asbestos, & pre-cast slab	10.68	.35	.40		
Helpers	8.93	.35	.40		
Benton & Tippecanoe Cos.:					
Composition	10.10	.40	.28		
Slate, Tile, & Asbestos	10.35	.40	.28		
Dearborn Co.	11.47		.85		.01
Delaware Co.:					
Slate, Tile, & Asbestos; Composition; Damp & waterproofers	8.70	.40	.20		
Coal tar pitch	8.95	.40	.20		
Grant Co.	6.80		.10		
Vanderburgh Co.:					
Composition	9.23	.50	.40		
Concrete slab & gypsum plank	9.48	.50	.40		
Slate & Tile	9.48	.50	.40		
Helpers	6.31	.50	.40		
Vigo Co.:					
Roofers; Kettlemen	9.35	.40	.20		
SHEET METAL WORKERS:					
Allen & Grant Cos.	11.08	.50	.50		.12
Bartholomew, Delaware, Marion & Monroe Cos.	11.25	.60	.60		.08
Benton & Tippecanoe Cos.	10.50	.40&h	.33		.06
Dearborn Co.	12.035	.90	.81		.04
Vanderburgh Co.	10.15	.40	.35		.02
Vigo Co.	11.22	.31&h	.45		.05
SPRINKLER FITTERS	11.65	.65	.95		.08
TERRAZZO WORKERS; Tile setters:					
Allen Co.	8.85				
TERRAZZO WORKERS' HELPERS:					
Bartholomew, Delaware, Grant, Marion, Monroe, & Tippecanoe Cos.	8.95				

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS:					
Allen Co.:					
Up to & incl. 1 ton	$8.555	i	j		
Sweeper attached & Dist. water wagon	8.855	i	j		
1½ to & incl. 3 tons; Forklift	8.655	i	j		
Tandem; Double bottoms; Lowboys; Tri-axle; Winch; Boom	8.755	i	j		
Semi	8.705	i	j		
Euclid; Earthmover	9.005	i	j		
Benton & Tippecanoe Cos.:					
Pickups when hauling equipment, etc.	6.60	k	l	m	
Single axles; Straight trucks; Warehousemen	6.75	k	l	m	
Helpers; Greasers; Tiremen	6.70	k	l	m	
Tandem axles; Straight trucks & Doglegs	6.85	k	l	m	
Bituminous distributors	6.90	k	l	m	
Semi-trucks & mechanics; Tri-axle	7.05	k	l	m	
Marion Co.:					
Up to & incl. 3 tons & Helpers	7.865	n	o	p	
Over 3 tons; Semi-trailers; Tandem (Double bottom); Winch Trucks when used with winch	8.015	n	o	p	
Truck mechanics	7.94	n	o	p	

DECISION NO. 1977-2101

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day;
E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:

a. 6% for Health & Welfare includes pension
b. 6 paid holidays: A through F
c. Employer contributes 4% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years, & 2% for employee who has worked in business less than 5 years.
d. When an employee has been employed by an employer for 6 continuous months, the employer will contribute $5.00 per week toward his Hospital/Medical premiums if the employer does not have a pre-established Hospital/Medical plan. If an employee has met the 6-month qualification & is off work for any reason for over 30 continuous calendar days, the employer will not make the above $5.00 weekly contribution to the employee until the employee returns to work on a regular basis
e. 6 paid holidays: A through F provided such employees work the last scheduled day prior to & the next scheduled work day after the holiday unless permission for not working on such days is granted by the employer
f. 9 paid holidays: A through F plus Washington's Birthday, Good Friday, & Christmas Eve, providing employee has worked 45 full days during the 120 calendar days prior to the holiday, & the regular scheduled work days immediately preceding and following the holiday.
g. 2 paid holidays: C&D
h. 3% of gross earnings to SASMI
i. $20.00 per week per employee
j. $22.00 per week per employee
k. $17.00 per week per employee
l. $14.00 per week per employee
m. 1 week's paid vacation after 1 year's employment; 2 weeks after 3 years; 3 weeks after 10 years
n. $20.00 per week per employee
o. $22.00 per week per employee
p. Each employee who has been in the employ of the same employer for 1 year & has accumulated 1000 hours of service shall receive 1 week's vacation with pay of 40 hours at straight time; each employee who has been in the employ of the same employer for 10 years or more & has accumulated 1000 hours of service shall receive 3 weeks' vacation with pay of 120 hours at straight time hourly rate.

LABORERS (BUILDING CONSTRUCTION):

	AREA I	AREA IA	AREA IB	AREA IIA
	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates
GROUP I	$8.25	$8.05	$7.85	$7.05
GROUP II	8.45	8.25	8.05	7.25
GROUP III	8.55	8.35	8.15	7.35
GROUP IV	9.25	9.05	8.85	8.05
GROUP V:				
A.	8.45	8.45	----	----
B.	8.325	8.325	----	----
C.	8.55	8.55	----	----
D.	8.525	8.525	----	----

	AREA IIB	AREA IIIA	AREA IIIB	AREA IIIC
	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates
GROUP I	$7.25	$7.50	$7.40	$7.65
GROUP II	7.45	7.70	7.60	7.85
GROUP III	7.55	7.80	7.70	7.95
GROUP IV	8.25	8.50	8.40	8.65

	Fringe Benefits Payments			
	H & W	Pensions	Vacation	Education and/or Appr. Tr.
AREA I	.60	.50		.09
ALL OTHER AREAS	.60	.45		.09

AREAS

AREA 1: All territories west of Cline Avenue Lake Michigan Shorelines to Illinois State Line & Newton & Jasper Counties; All territories east of Cline Avenue, Lake County; All territory north of U. S. Highway No. 20, Porter County, including all Lake Michigan Shore Front east of Cline Avenue in Lake County

AREA 1A: Porter County South of U. S. Highway No. 20, Starke, LaPorte Counties

AREA 1B: Elkhart, Kosciusko, LaGrange, Marshall & St. Joseph Counties

AREA 11A: Fayette, Henry, Rush, Wayne, Union, Blackford, Delaware, Grant, Hamilton, Hancock, Jay, Madison & Randolph Counties

AREA 11B: Adams, Allen, DeKalb, Steuben, Huntington, Noble, Wabash, Wells, Whitley, Benton, Boone, Carroll, Cass, Clinton, Montgomery, Pulaski, Tippecanoe, White, Fulton, Howard, Miami, & Tipton Counties

AREA 111A: Marion & Shelby Counties

AREA 111B: Clay, Fountain, Greene, Hendricks, Owen, Parke, Putnam, Sullivan, Vermillion, Vigo, Warren, Bartholomew, Brown, Dearborn, Decatur Franklin, Jackson, Johnson, Jennings, Lawrence, Martin, Monroe, Morgan, Ohio, Orange, Ripley, Clark, Crawford, Floyd, Harrison, Jefferson, Perry, Scott, Switzerland, & Washington Counties

AREA 111C: Daviess, DuBois, Gibson, Knox, Pike, Posey, Spencer, Vanderbur & Warrick Counties

LABORERS

GROUP I: Building & Construction laborers; Scaffold builders (other than for masons or plasterers); Ironworker helpers; Mechanic tenders; Civil engineer helpers & surveyor helpers; Rodmen & Chainmen; Window washers & cleaners; Waterboys & Toolhousemen; Roofer's helpers; Railroad workers; Masonry wall washers (interior & exterior); Cement finisher helpers; Carpenter helpers; Helpers of all other crafts not listed; Mason tenders for Areas 1, 1A, 1B, and Counties of Adams, Allen, DeKalb, Steuben, Huntington, Noble, Wabash, Wells, & Whitley; All portable water pumps with discharge up to 3 inches

GROUP II: Waterproofing; Handling of creosote lumber or like treated material (excluding railroad material); Asphalt rakers & lumpmen; Kettlemen; Air tool operators, vibrators, chipping hammer operators and all pneumatic tool operators; Earth compactors; Jackmen & sheetmen working ditches deeper than 6 ft. in depth; Laborers working ditches 6 ft. in depth or deeper; Assembly of Unicrete pump; Chain saw operators; Tile layers (sewer or field) & sewer pipe layers (metallic or non-metallic); Motor driven wheelbarrows & concrete buggies; Hyster operators; Pump crete assemblers; Conveyor assemblers; Core drill operators; Cement, lime or silica Clay handlers (bulk or bag); Handling of toxic materials damaging to clothing; Pneumatic spikers; Deck engine & winch operators; Water main & cable ducking (metallic & non-metallic)

GROUP III: Plasterers' tenders; Mason tenders, except for Areas 1, 1A, 1B, and Counties of Adams, Allen, DeKalb, Steuben, Huntington, Noble, Wabash, Wells, & Whitley; Mortar mixers; Welders (acetylene or electric); Cutting torch or burner; Cement nozzle laborers; Cement gun operators; Scaffold builders when working for plasterers; Scaffold builders when working for masons (except in Areas 1, 1A, 1B, and Counties of Adams, Allen, DeKalb, Steuben, Huntington, Noble, Wabash, Wells, & Whitley)

GROUP IV: Dynamite men

GROUP V:
A. Boiler setter laborers (Fire brick tear out with air tools)
B. Boiler setter laborers (Fire brick)
C. Boiler setter laborers (Mortar mixers)
D. Expediter, bottom man & bell man

POWER EQUIPMENT OPERATORS

Allen, Benton, Delaware, Grant, Marion, & Tippecanoe Counties

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	$10.55	.40	.40		.05
GROUP 2	9.70	.40	.40		.05
GROUP 3	8.35	.40	.40		.05
GROUP 4	7.55	.40	.40		.05

CLASSIFICATIONS

GROUP 1: Air Compressor (pressurizing shafts, tunnels and divers), Air Tugger, Auto Patrol, Backfiller, Backhoe, Boom Cat, Boring Machine, Bulldozer, Caisson Drilling Machine, Cherry Picker, Compactor (w/dozer blade) Concrete Plant, Concrete Pump, Crane w/all attachments, Crane-Electric Overhead, Derrick, Ditching Machine (18" and over), Dredge, Elevator (when hoisting material or tool) Forklift (machinery), Formless Paver, Generator (power for welders or compressors), Gradall, Helicopter, Helicopter Winch Operator, Highlift-Front End Loader, Hoist, Locomotive, Mechanic on job site, Mucking Machine, Panel Board, Concrete Plant, Piledriver, Push Cat, Scoop and Tractor, Scraper-rubber-tired, Spreader-tractor mounted, Straddle Carrier-Ross type, Sub-base Finish, Machine (C.M.I. or similar tower crane), Tractor w/backhoe (over ½ yd.) Welder

GROUP 2: A-Frame Truck, Batcher Plant (automatic dry batch), Bending Machine-power driven, Bituminous Mixer, Bituminous Paver, Bituminous Plant Engineer, Boatman, Bullfloat, Compactor or Tamper-self-propelled, Concrete Mixer (21 cu. ft. or over), Concrete spreader-power driven, Dinkey Engine, Ditching Machine (less than 18"), Drilling Machine, Finish Machine and Bullfloat, Finishing Machine, Fireman, Piledriving and Boilers, Forklift-Masonry and Material, Gunnite Machine, Head Greaser, Mechanic in Shop, Mesh Depresser-mesh placer, P.C.C.-Concrete Belt Placer, Roller-Asphalt Stone and Sub-base, Sheepstone Roller self-propelled, Shop Mule, Spreader or Base Paver-self-propelled, Subgrader, Throttle Valve w/air compressor or boiler, Tractor w/backhoe (½ yard and under), Tractor-High lift-Farm-type, Tractor-Industrial type, Tractor w/winch, Well Points, Winch Truck

GROUP 3: Air Compressor (210 cu. ft. and over); Bituminous Distributor, Chair Cart, Concrete Curing Machine, Concrete Saw, Dope pot-power agitated, Flexplane, Form Grader, Hydrohammer, Jacks-Hydraulic-power driven, Minor Equipment Operator, Paving Joint Machine, Post Hole Digger, Roller-earth, Throttle Valve, Track Jack-power driven, Tractor-farm type, Truck Crane Driver

GROUP 4: Air Compressor (less than 210 cu. ft.) Concrete Mixer (under 21 cu. ft.), Conveyor, Generator, Mechanical Heater, Oiler, Power Broom, Pump, Welding Machine, Helpers

POWER EQUIPMENT OPERATORS

Bartholomew, Dearborn, & Vanderburgh Counties

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP A	$10.58	.35	.35		.05
GROUP B	9.49	.35	.35		.05
GROUP C	8.75	.35	.35		.05

CLASSIFICATIONS

GROUP A: A-Frame winch truck, air compressor over 600 cu. ft., air tugger, auto-grade (CMI), auto patrol backhoe, ballast regulator (RR), batcher plant (electric control concrete), bending machine (pipe), bituminous plant, bituminous mixer travel plant, bituminous power roller, bulldozer, cable way, Chicago boom, clamshell, concrete mixer (21 cu. ft. or over), crane, craneman, crusher plant, derrick boat, dinkey, dope pots (pipeline), dragline, dredge operator, drill operator, elevating grader, concrete paver, elevator, Ford hoe, (or similar type equipment), forklift formless paver, gantry crane, gradeall, grademan, grout pump, Hetherington paver, highlift hoist, hopto. hough loader (or similar type), hydro crane, hydro hammer, locomotive crane, locomotive, mechanic mobile mixer, motor crane, motor crane oiler and one(1) piece of minor equipment, mucking machine, multiple tamping machine (RR), overhead crane, pile driver, pulls, push dozer, push boats, roller (sheepfoot), Ross carrier, scoop shovel, side boom, swing crane, tail boom, tar machine (pipeline), throttle valve, trench machine, welder pump, truck mounted drill 2 to 4 pieces of minor equipment, well point, whirleys

GROUP B: Air compressor (200 cu. ft. per minute capacity or more) brakeman, bull float, concrete mixer (over 10S and under 21S), concrete spreader or puddler, deck engine drill helper, electric vibrator Kompactor (earth or rock), finishing machine, fireman, greaser (on grease facilities servicing heavy equipment), material pump motor boats, motor crane oiler, oiler and one piece of minor equipment, portable loader, post hole digger, power broom, rock roller, roller-wobble wheel (earth and rock), spike machine (RR), seaman tiller, spreader rock, sub-grader, tamping machine, truck mounted drill oiler, welding machine widener (Apsco or similar type)

GROUP C: Air compressor (under 200 cu. ft. per minute), biutminous distributor, cement gun, conveyor, desk hand, earth roller form grader, generator, guard rail driver, heater, oiler, paving joint machine, steam Jenny, vibrator, water pump, concrete saw

1 of 2

POWER EQUIPMENT OPERATORS

Monroe, & Vigo Counties

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	$10.55	.40	.50		.08
GROUP II	10.45	.40	.50		.08
GROUP III	10.25	.40	.50		.08
GROUP IV	8.00	.40	.50		.08

CLASSIFICATIONS

GROUP I Master Mechanics

GROUP II Utility Operator

GROUP III Power Cranes, Draglines, Derricks, Electric Overhead Cranes, Shovels, Crudall, Mechanics, Repair and Maintenance of all Equipment, Tractor Highlift, Fork lifts, Tournadozer, Mixer over 1½S Capacity, Tournamixer, Two Drum Machine or Two Cage Hoists, Cableways, Tower Machines, Motor Patrol, Boom Tractor, Boom or Winch Truck, Truck Crane, Tournapull, Tractor operating Scoops, Bulldozer, Push Tractor, Finishing Machine on Asphalt, Large Rollers & Rollers on Asphalt, Gravel, Macadam and Brick Surface, Ross Carrier or similar Machine, Gravel Processing Machine, Asphalt Plant Engineer or Pug Mill, Two Air Compressors, Hetherington Paver Operator, Farm Tractor with half Yard bucket and/or Back Hoe Attachment, Trench Machines cutting over 24", Dredging Equipment, Central Mix Plant Engineer, CMI or similar type Machine, Concrete Spreader, Cherry Picker, Standard or Dinkey Locomotives, Scoopmobiles, Euclid Loader, Soil Cement Machines, Back Filler, Elevating Machine, Power Blade, Asphalt Plant Engineer, Well Drilling Machines, Paint Machine, Pipe Cleaning Machines, Pipe Wrapping Machine, Pipe Bending Machine, Apsco Paver, Boring Machine, Tractor Without Winch, Head Equipment Greasers, Barber Green Loaders, Formless Paver, Well Point System Hydra Ax, Resco Concrete Saw, Marine Scoops, Brush Mulcher, Brush Burner, Mesh Placer, Tree Mover, Helicopter Crew (3), Pile Driver Skid or Crawler, Stump Remover, Root Rake, Tug Boat Operator, Refrigerating Machine Freezing Operator, Chair Cart - Self Propelled, Hydra Seeder, Straw Blower, Concrete Mixers with Skip, all one Drum Hoists with Tower or Boom, Dredge Engineer, Dredge Operator, Rock Spreader, Truck or Skid Mounted Tower Crane, Engine or Rock Crusher Plant, Boiler Operator, Concrete Plant Engineer, Loaders, Hydra Crane Caissons, Shaft or any similar type Drilling Machine, Concrete Curb Machine - Self Propelled, Winch or Hydraulic Boom Truck

POWER EQUIPMENT OPERATORS 2 of 2

GROUP IV Mixers 1½S capacity or less, Trench Machine cutting 24" and under, Farm Tractor with less than half yard bucket and other Attachments except Back Hoe, Truck Crane Oiler, Power Subgrader, Bull Float, Form Grader, Finishing Machine Pavement Breaker, Rock Crushers, One Drum Machine, One Air Compressor, Concrete Pump, Gunite Machine, Air Tuggers, Truck Crane Drivers, House Elevators when used for hoisting Material, Two to Four Generators or Welding Machine, Mechanized Heaters irrespective of Motor Power when used for temporary heat, Small Rollers on Earth, Engine Tenders, Firemen, Wagon Drill, Flexplane, Conveyor, Two to Four Water Pumps, Siphon and Pulsometer, Switchman on Paint Pots, Fireman on Asphalt Plants, Distributor Operator on Trucks, Tampers, Power Broom, Post Hole Digger, Self-propelled Concrete Saw, Striping Machine (Motor Driven), Form Tamper, Seaman Tiller, Bulk Cement Plant Equipment Greaser, Track Jack, Mud Jack; Operator to do Winter Repair Work in Shop between November 1st and March 1st, Concrete Buggies motor driven, Oilers, Barrel Type Mixer, One Welding Machine or One Water Pump, Air Valves or Steam Valves from Plant, Concrete Mixers without Skip, Curing Machine, Concrete & Blacktop Curb Machine, Dock Hands

Cranes with booms from 149 ft. to 199 ft. including jib. receive additional $.75 per hour
Cranes with boom over 199 ft. including job receive additional $1.25 per hour.

Allen, Bartholomew, Benton, Dearborn, Delaware, Grant, Marion, Monroe, Tippecanoe, & Vigo Counties

LINE CONSTRUCTION

EXCLUSIVE OF CALUMET AREA

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
Linemen; Technicians	$ 9.68	.45	1%		.5%
Heavy equipment operator "A"	9.19	.45	1%		.5%
Heavy equipment operator "B"	7.57	.45	1%		.5%
Powder man & equipment mechanic	7.39	.45	1%		.5%
Senior groundman truck driver w/w	6.32	.45	1%		.5%
Groundman truck driver with winch	6.07	.45	1%		.5%
Groundman truck driver w/o winch	5.32	.45	1%		.5%
Senior groundman after 5 years	6.06	.45	1%		.5%
Senior groundman after 12 months	5.89	.45	1%		.5%
Groundman 0-12 months	4.99	.45	1%		.5%

CALUMET AREA

Linemen; Technicians	9.98	.45	1%		.5%
Heavy equipment operator "A"	9.26	.45	1%		.5%
Heavy equipment operator "B"	7.63	.45	1%		.5%
Powder man & equipment mechanic	7.45	.45	1%		.5%
Senior groundman truck driver w/w	6.43	.45	1%		.5%
Groundman truck driver with winch	6.14	.45	1%		.5%
Groundman truck driver w/o winch	5.39	.45	1%		.5%
Senior groundman after 5 years	6.18	.45	1%		.5%
Senior groundman after 12 months	6.01	.45	1%		.5%
Groundman 0-12 months	5.09	.45	1%		.5%

LINE CONSTRUCTION

Vanderburgh County

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINEMEN; Line truck operators; Hole digger; Stool handling cable splicer	$11.65	.40	1%		
GROUNDMAN	10.29	.40	1%		
TRUCK DRIVER	10.60	.40	1%		

TRUCK DRIVERS

Bartholomew, Dearborn, Delaware, Grant, & Monroe Counties

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
GROUP 1	$8.05	13.50a	14.00a	b	
GROUP 2	8.10	13.50a	14.00a	b	
GROUP 3	8.15	13.50a	14.00a	b	
GROUP 4	8.20	13.50a	14.00a	b	
GROUP 5	8.25	13.50a	14.00a	b	
GROUP 6	8.30	13.50a	14.00a	b	
GROUP 7	8.40	13.50a	14.00a	b	
GROUP 8	8.45	13.50a	14.00a	b	
GROUP 9	8.50	13.50a	14.00a	b	
GROUP 10	8.55	13.50a	14.00a	b	
GROUP 11	8.70	13.50a	14.00a	b	

CLASSIFICATIONS

GROUP 1: Drivers on single axle, lowboy helper or flagman, drivers on air compressors and welding machines including those pulled by cars, pick-up trucks, tractors, fork-lifts, dumpsters

GROUP 2: Drivers on Mixer Trucks 2 yards

GROUP 3: Mechanic Helpers and Greasers

GROUP 4: Drivers on Batch Trucks wet or dry 3 batches or under

GROUP 5: Drivers on Tandem Axle Trucks (including Dog-legs), Drivers on Oil Distributors Drivers on Mixers Trucks 3 yards, Winch Trucks

GROUP 6: Drivers on Single axle, semi-trucks, Drivers on batch trucks wet or dry or dry over 3 batches, Drivers on pavement breakers

GROUP 7: Drivers on Tandem-Axle semi-trucks, Drivers on trac-o-trucks, Euclids, Tournapull when pulling other than self-loading equipment up to and including 10 yards, Drivers on mixer trucks 4 yards, Mechanics

GROUP 8: Drivers on Tri-axle Trucks

GROUP 9: Drivers on Low-Boy, Drivers on Tandem, Tandem Axle Semi-trucks

GROUP 10: Drivers on Trac-O-Trucks, Euclids, Tournapulls when pulling other than self-loading equipment 11 yards to and including 16 yards, Drivers on mixer trucks above 4 yards

GROUP 11: Drivers on Trac-O-Trucks, Euclids, Tournapull when pulling other than self-loading equipment over 16 yards, Helicopter pilot

FOOTNOTES:

a. Per Week per employee

b. 1 week paid vacation after 1 year service, 2 weeks after 3 years, and 3 weeks after 10 years.

DECISION NO. IN77-2101

TRUCK DRIVERS: Vanderburgh County	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App.
GROUP 1	$7.345	.325	12.00a		
GROUP 2	7.455	.325	12.00a		
GROUP 3	7.565	.325	12.00a		
GROUP 4	7.635	.325	12.00a		
GROUP 5	7.675	.325	12.00a		
GROUP 6	7.405	.325	12.00a		
GROUP 7	7.515	.325	12.00a		
GROUP 8	7.175	.325	12.00a		
GROUP 9	7.245	.325	12.00a		

CLASSIFICATIONS

GROUP 1
Single axle straigh trucks, batch truck, wet or dry, over 3(3/4E) batches
GROUP 2
Tandem trucks or dog-legs, trucks over 15 ton payload, single-axle semi-truck (3 axle unit) Low-boys single axle (3-axle unit) Low-boys single axle (3-axle unit), Winch trucks or A-frames when used to transport material; Batch truck wet or dry, over 3(3/4E) batches, farm tractors pulling trailers
GROUP 3
Tandem axle semi-trucks (4-axle unit), drivers on equipment when not self-loaded or pusher loaded such as Koehring or similar dumpsters, track trucks Euclid bottom dump & hug bottom dump, Tournatrailers, Tournarockers or similar equipment 12 cu. yds. & under; Low-Boys, Tandem axle (4 axle unit), drivers on pavement breakers
GROUP 4
Tandem-Tandem Semi-Trucks (5-axle unit Low Boys Tandem (5-axle unit)
GROUP 5
Drivers on equipment when not self-loaded or pusher loaded on such Koehring or similar dumpsters, track trucks Euclid bottom dump & hug bottom dump, Toutnatrailers, Tournarockers or similar equipment over 12. cu. yds. Truck Mechanic Drivers on mixer trucks all types
GROUP 6
Drivers on bituminous distributors two-man
GROUP 7
Drivers on bituminous distributors one-man
GROUP 8
Drivers of pickup trucks when hauling equip. supplies & materials to & from & on the job site.
GROUP 9
Helpers, Greasers, Tire Men & Members tenders batch boards

FOOTNOTES:
a. Per Week Per Employee

DECISION NO. IN77-2101

TRUCK DRIVERS: Vigo County	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App.
GROUP I	$ 7.085	.50	14.00a		
GROUP II	7.585	.50	14.00a		
GROUP III	7.785	.50	14.00a		
GROUP IV	7.935	.50	14.00a		

FOOTNOTE:
a. Per Week Per Employee

CLASSIFICATIONS

GROUP I
Single axle trucks seven (7) cu. yds. or less than ten and one-half (10½) tons, dumpsters, scoopmobiles five (5) cu. yds. and under or less than seven and one-half (7½) tons, mixer trucks three (3) cu. yds. and under, air compressors and welding machines, including those pulled by separate units, batch trucks -- wet or dry -- 2-3/4E" batches or less, truck drivers helpers, warehousemen, mechanic's helpers, greasers and tiremen, and all pick up trucks, Drivers on dumpsters or similar dumpsters, mounted on a four (4) wheel truck rated two (2) cu. yds. or less, and small pallet type fork lift operator and drivers on pilot vehicles
GROUP II
Drivers on tandem axle trucks eighteen (18) cu. yds. or twenty-four (24) tons gross, six (6) wheel trucks, Koehring or similar dumpsters, track trucks, euclids, hug bottom dumps, tournapulls, tournatrailers, tournarockers, or similar equipment when used for transportation purposes under nine (9) cu. yds. or less than thirteen and one-half (13½) tons, tandems and semi trailer service trucks, mixer trucks over three (3) cu. yds. and including six and one-half (6½) cu. yds., fork lift, four (4) wheel A-Frame trucks when used for transportation purposes, four (4) wheel winch trucks, pavement breakers batch trucks -- wet or dry -- over 2 up to and including 4-"3/4E" batches, two (2) men oil distributors
GROUP III
Koehring or similar dumpsters, track trucks, semi trailer water trucks, Euclids, hug bottom dumps, tournapulls, tournatrailers, tournarockers, tractor trailers, tandem, A-Frame winch trucks, hydrolift trucks or similar equipment when used for transportation purposes, mixer trucks over six and one-half (6½) cu. yds. batch trucks -- wet or dry -- over 4-"3/4E" batches, single axle low boy trailers, and contractor's mechanics when working on equipment operated by employees within this bargaining unit, six (6) wheel pole trailers and one (1) man oil distributors
GROUP IV
Drivers on heavy equipment over sixteen (16) cu. yds., or twenty-four (24) tons, such as Koehring or similar dumpsters, track trucks, Euclids, hug bottom dumps, tournapulls, tournarockers, or similar equipment when used for transportation purpoces, pole trailers over six (6) wheels, water pulls, low boy trailers tandem axles or more no weight limitation, diesel and/or heavy equipment mechanics when working on equipment operated by employees within this bargaining unit

SUPERSEDEAS DECISION

STATE: Iowa COUNTY: Pottawattamie
DECISION NO.: IA77-4117 DATE: Date of Publication
Supersedes Decision NO. IA76-4185, dated November 19, 1976 in 41 FR 51285
DESCRIPTION OF WORK: Building Construction (does not include single family homes and garden type apartments up to and including 4 stories), and Heavy and Highway Construction.

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$12.62	.40	.51		.03
BOILERMAKERS	10.30	.85	1.00		.02
BRICKLAYERS; Stonemasons	10.18	.50	.40		
CARPENTERS:					
Carpenters	9.33	.40	.30	.60	.03
Piledrivermen	9.455	.40	.30	.60	.03
Millwrights	9.58	.40	.30	.60	.03
CEMENT MASONS	9.82	.50	.40		
DRYWALL TAPERS & FINISHERS	10.34	.55		.50	.04
ELECTRICIANS	12.38	.68	1%+.65		.06
ELEVATOR CONSTRUCTORS	10.99	.545	.35	4%+a	.02
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.545	.35	4%+a	.02
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR				
GLAZIERS	10.55	.55	.35		.01
IRONWORKERS:					
Ornamental; Reinforcing; Structural	8.88	.50	.55	1.00	.05
LABORERS:					
Common laborers	7.17	.50	.40		.05
Mason Tenders; mortar mixers	7.315	.50	.40		.05
Pipelayers	7.45	.50	.40		.05
Plasterers' tenders	7.485	.50	.40		.05
LINE CONSTRUCTION:					
Cable Splicers; Lineman; welders; Technicians; all rigs setting assembled "H" fixtures & steel transmission structures	9.32	.45	5%	b	½%
Groundman; truck driver (without winch); experienced (not less than 6 months)	6.06	.45	5%	b	½%
Groundman; truck driver (with winch)	6.24	.45	5%	b	½%
Blaster; Special equipment operator (hole digging machines, all tractors, transmission lines equipment other than assembled "H" fixtures)	7.46	.45	5%	b	½%
Groundman - 1st 6 months	5.13	.45	5%	b	½%

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS:					
Brush; Paperhangers	8.55		.25		
Highwork; spray; stage; structural steel	9.10		.25		
PLASTERERS	9.68	.50	.40		
PLUMBERS	11.19	.60	.75		.10
ROOFERS:					
Slate; Tile	9.68	.15	.20		.01
Composition	9.98	.15	.20		.01
SHEET METAL WORKERS	11.14	.50			.06
SPRINKLER FITTERS	11.48	.65	.95		.08
STEAMFITTERS	11.24	.60	.75		.15
TERRAZZO WORKERS; TILE SETTERS; MARBLE SETTERS	7.70		.25		
TERRAZZO, TILE AND MARBLE SETTERS FINISHERS	6.50				
TRUCK DRIVERS:					
Single axle	8.025	.50	.40		
Tandem axle	8.10	.50	.40		
Trailer; lowboys	8.225	.50	.40		
Lumber carriers	8.40	.50	.40		

FOOTNOTES:

a. Employer contributes 4% 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 CONSTRUCTION POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
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

CLASSIFICATION DEFINITIONS

POWER EQUIPMENT OPERATORS

Group 1 - Cranes, including those being used as backhoe, dragline, clamshell, etc.,; tower crane; truck cranes and cherry pickers over 15 ton 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 or 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 (15 tons and under); 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

Group 3 - Tractors (under 35 HP) with or without attachments; endloaders (under 35 HP) with or without attachments; air compressors (over 125 CFM); Pumps 3" or over; welding machines 600 amps or combination thereof; conveyors; firemen (boiler); generator (75 K.W. and over); fork lifts (other than above Group No. 2); gunnite machine; self-propelled rollers; stump chippers; self propelled tampers; air and electric tuggers (other than above); ditching machine under 8"

Group 4 - Oilers; mechanical heaters; truck crane drivers; permanent elevators

Heavy & Highway Construction

Heavy & Highway Construction
Area A - City of Council Bluffs and the area within 3 miles from the city limits
Area B - From Missouri River east to, but not including U. S. Highway 59 except area A
Area C - Remainder of Pottawattamie County

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS - Areas A,B,& C	6.54				
CEMENT MASONS					
Area A	9.28	.50	.40		
Area B & C	6.70	.38			
LABORERS:					
Area A:					
Common Laborer	6.20	.50	.40	.20	.05
Towboat & Dredge Deckhands	6.30	.50	.40	.20	.05
Form setters' helpers	6.40	.50	.40	.20	.05
Rakers & Screedmen on Asphalt Work; mortar mixers; chain saw operator	6.38	.50	.40	.20	.05
Pipelayers; concrete saw operator	6.45	.50	.40	.20	.05
Form setters & precast manhole setters, inlet builders and manhole setters	6.83	.50	.40	.20	.05
Area B & C:					
Group 1	5.70	.30	.20		
Group 2	5.45	.30	.20		
Group 3	5.20	.30	.20		
Group 4	5.05	.30	.20		
Group 5	4.95	.30	.20		

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, swingi stage, life belt, tag line or block and tackle; drill operator of air tracs, wagor drills and similar drills

GROUP 2 - Tree climber; form setters; rakers; 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

LABORERS CLASSIFICATION DEFINITIONS CONT'D

GROUP 5 - Fence erectors; handling and placing of metal mesh, dowel bars, reinforcing bars and chairs, dumpmen and spotters; carrying reinforcing rods; corrugate culvert pipe; concrete drainage pipe; stake chaser, seeding, mulching and planting of trees, shrubs and flowers; water boy; common labor; rodmen; tending to carpente: hot asphalt labor

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS					
Bulldozer					
Areas A,B, & C	5.00				
Cranes					
Areas A,B, & C	6.69				
Backhoes, front end loaders, mechanics, motor patrols, rollers (asphalt), scrapers, C.M.I. pavers, slip form paver					
Area A	8.62	.60	.60		.05
Areas B & C	7.49	.60	.60		.05
Concrete finishing machine, self propelled roller					
Area A	8.22	.60	.60		.05
Area B & C	7.09	.60	.60		.05
TRUCK DRIVERS					
Area A:					
Single axle	7.28	.50	.30		
Tandem axle, euclids, power lift form trucks	7.34	.50	.30		
Three axle tandem	7.39	.50	.30		
Lowboys, tractor trailer, water pulls	7.47	.50	.30		
Tandem dump with auxiliary end dump trailer	7.52	.50	.30		
Lumber carrier	7.64	.50	.30		
Areas B & C	6.64	.45			

SUPERSEDEAS DECISION

STATES: Kentucky & Tennessee

LOCATION: Fort Campbell (Located in Christian County, Ky. and Montgomery County, Tn.)

DECISION NO.: KY77-1084

DATE: Date of Publication

Supersedes Decisions No. KY76-1091, dated September 3, 1976, in 41 FR 37470 and No. TN77-1026, dated March 18, 1977, in 42 FR 15246.

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	$10.25	.45	.35		
BOILERMAKERS:					
Kentucky portion	10.80	.75	1.00		.02
Tennessee portion	9.50	.75	1.00		.02
BRICKLAYERS, STONE MASONS, MARBLE MASONS, TILE SETTERS, TERRAZZO WORKERS, CEMENT MASONS & PLASTERERS	8.50	.30	.30		
CARPENTERS & SOFT FLOOR LAYERS	8.30	.35	.25		.05
ELECTRICIANS:					
Wiremen:					
Kentucky portion	10.75	.40	1%		¼ of 1%
Tennessee portion	8.85	.40	1%		¼ of 1%
Cable Splicers:					
Kentucky portion	11.00	.40	1%		¼ of 1%
Tennessee portion	9.10	.40	1%		¼ of 1%
ELEVATOR CONSTRUCTORS:					
Mechanics	8.46	.545	.35	4%+a+b	.02
Helpers	5.92	.545	.35	4%+a+b	.02
Probationary Helpers	4.23				
GLAZIERS	8.25	.45	.35		.02
IRONWORKERS:					
Structural, Ornamental, Reinforcing, Machinery Mover, Rigger, Machinery Erector, & Fence Erector	9.25	.50	.50		.10
Sheeter	9.50	.50	.50		.10
LATHERS	8.15	.20	.40		.01
MILLWRIGHTS & PILEDRIVERS	8.55	.35	.25		.05
PAINTERS:					
Brush & Roller	8.80		.40		.10
Spray work, Drywall finishing	9.05		.40		.10
Structural steel, Swing stage & chair, & Motor stage	9.15		.40		.10
Paperhanger	9.30		.40		.10
Sandblasting	9.55		.40		.10
PLUMBERS & PIPEFITTERS	9.64	.55	.55		.07

DECISION NO. KY77-1084

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS:					
Composition, Slate, Tile, Asbestos, Asphalt Shingles	$ 7.15	.40	.25	.15	
SHEET METAL WORKERS	10.30	.44	.31		.04
SPRINKLER FITTERS:					
Kentucky portion	11.65	.65	.95		.08
Tennessee portion	10.35	.65	.95		.08

FOOTNOTES:

a. Six Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, & Christmas Day.

b. Employer contributes 4% of the basic hourly rate for 5 years or more of service, or 2% of the basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.

DECISION NO. KY77-1084

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
Group 1	$ 6.03	.35	.47		
Group 2	6.18	.35	.47		
Group 3	6.53	.35	.47		

LABORERS' CLASSIFICATION DEFINITIONS

Group 1 - General laborers; wrecking labor on buildings, clearing right-of-way and building site; carpenter tenders; truck spotters and dumpers; axe and cross cut saw filer; concrete pudlers and form strippers.

Group 2 - All power driven tools; hod carriers; mason tenders; finisher tenders; mortar mixers; jack hammers; vibrators; wagon drill; core drill; test drill; well drill; concrete pump machine; tunnel boring machine; men in tunnel and crib ditch work; signal men; riprap rock setters and handlers; asphalt rakers; tampers and smoothers; pipelayers; grout pump men; chain saw; pipe clearing; doping and wrapping; swampers and straight cable hooking; cement guns; grade checkers machine excavating; batch plant scale man; sand hog free air; sand hog compressed air; cutting torch man on salvage work; road form setters; brick slingers; hand spikers; power buggy; handling of creosote material; sandblasters; curing of concrete and apply hardner; air and gas tampers; concrete saw; power posthole diggers and green cut men on concrete work.

Group 3 - Powdermen; blasters

DECISION NO. KY77-1084

POWER EQUIPMENT OPERATORS: (KENTUCKY PORTION)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	9.80	.35	.35		.05
CLASS B	7.51	.35	.35		.05
CLASS C	6.89	.35	.35		.05

CLASS A:
Auto patrol, batcher plant, bituminous paver, cableway, central compressor plant, clamshell, concrete mixer (21 cu. ft. or over), concrete pump, crane, crusher plant, derrick, derrick boat, ditching and trenching machine, dragline, dredge operator, dredge engineer, elevating grader and all types of loaders, hoetype machine, hoisting engine (2 or more drums) locomotive, motor scraper, carry-all scoop, bulldozer, heavy duty welder, mechanic, orangepeel bucket, pile driver, power blade, motor grader, roller (bituminous), scarifier, shovel, tractor shovel, truck crane, winch truck, push dozer, highlift, forklift, (regardless of lift height), all types of boom cats, core drill, hopt tow or push boat, concrete paver, Gradeall, hoist, hyster, pumpcrete, Ross carrier, side boom, tail boom, rotary drill, hydro hammer, mucking machine, rock spreader attached to equipment, scoopmobile, KeCal loader, tower cranes (French, German and other types), hydr crane, Backfiller, gurries, sub-grader

CLASS B:
All air compressors (600 cu. ft. per min. or greater capacity), bituminous mixer, joint sealing machine, concrete mixer (under 21 cu. ft.), form grader, roller (rock), tractor (50 hp. and over) bull float, finish machine, outboard motor boat, flexoplane, fireman, boom type tamping machine, truck crane oiler, greaser on grease facilities servicing heavy equipment, switchman or brakeman, mechanic helper, Whirley oiler, self-propelled compactor, tractair and road widening trencher and farm tractor with attachments except backhoe, highlift and end loader, elevator (regardless of ownership when used for hoisting any building material), hoisting engine (one drum or buck hoist), well points, grout pump, throttle-valve man, tugger, electric vibrator compactor

CLASS C:
Bituminous distributor, cement gun, conveyor, mud jackm joint machine, roller (earth), tamping machine, tractors (under 50 hp.), vibrator, oiler, concrete saw, burlap and curing machine, hydro-seeder, power form handling equipment, deckhand oiler, hydraulic post driver, and drill helper

DECISION NO. KY77-1084

POWER EQUIPMENT OPERATORS:

(TENNESSEE PORTION)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS A	$ 8.85	.40	.40		
CLASS B	8.35	.40	.40		
CLASS C	7.86	.40	.40		
CLASS D	7.46,	.40	.40		

CLASS A: Shovels, backhoes, draglines, cranes, derricks, gantreys, gradall, winches with boom, motor patrol, trenching machines (18" or over), pile driver, tug boat operator, mechanic, forklift, central mixing plant, locomotive engineers, straddle carrier, core drills, tower cranes, hydro-cranes, austin western and all similar type cranes, drilling of piling (all types), tugger, hoist more than one drum, earth freezing equipment, sideboom, dredge operator & engineer, hopto, pump crete, mucking machine, cableway, finishing machine, central compressor, derrick boat, concrete pump, welders, helicopters, de-watering system (all types) sweeper, bulldozers, pans, pulls, scrapers, traxcavators, front end loaders, concrete placing machines, two tower cranes requiring three operators.

CLASS B: Trenching machines (18" or smaller), tandem rollers, pavers, mixer mobiles, backfillers, blade graders, dinkey operators, elevating graders, winches operated from trucks and tractors without booms, distributors bituminous surfaces, hoist (1) drum, mixers, grout pumps, motor boat, switchman, brake man, elevator earth compactors, tractors, conveyors.

CLASS C: Locomotive fireman on boilers, air compressor (stationary), earth drills, scale operators, motor crane driver and oiler, pumps 4" and larger, oilers on gantreys, greasers, drill helpers.

CLASS D: Air compressor, mechanic helper, firemen (low pressure pumps under 4") oilers, welding machine operators, deckhand.

SUPERSEDEAS DECISION

STATE: Maryland LOCATION: Baltimore City
DECISION NO.: MD77-3080 DATE: Date of Publication
Supersedeas Decision No.: MD77-3018 dated January 14, 1977 in 42 FR 3145
DESCRIPTION OF WORK: Highway Construction (does not include airport runways and taxiways; bridges over navigable waters; 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.
CARPENTERS	9.80	.75	.69		.07
CEMENT MASONS	10.00	.60	.55		.04
ELECTRICIANS	10.60	.70	1%+.80		⅛
IRONWORKERS:					
Structural & reinforcing	9.97	.80	1.53		.06
Fence erectors	9.62	.80	1.53		.06
LABORERS	6.10	.30	.50		.075
TRUCK DRIVERS:					
Pickups	6.85	.95	.70	a+b	
Dumps	7.03	.95	.70	a+b	
Drop-frame, gooseneck, trailer driver	7.23	.95	.70	a+b	
Euclids & dumpsters	7.34	.95	.70	a+b	

FOOTNOTES:
a. 9-paid holidays: New Year's Day, Good Friday, Memorial Day, Fourth of July, Labor Day, Thanksgiving Day, Christmas Eve, Christmas Day and employee's Birthday, providing employee has worked one day and was available for work during the holiday week.

b. Employees who have worked 125 days in the previous contract year and have 1 year of service, 1 week's paid vacation: 2 years of service, 2 weeks paid vacation; 10 years of service, 3 weeks paid vacation.

DECISION NO. MD77-3080

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
HIGHWAY CONSTRUCTION					
GROUP I	9.08	.85	.85	a	.11
GROUP II	8.58	.85	.85	a	.11
GROUP III	8.08	.85	.85	a	.11
GROUP IV	7.08	.85	.85	a	.11
GROUP V	-				
a	9.48	.85	.85	a	.11
b	9.68	.85	.85	a	.11
c	9.88	.85	.85	a	.11
d	10.08	.85	.85	a	.11
e	10.33	.85	.85	a	.11

FOOTNOTE:
a. Paid Holidays, New Year's Day; Memorial; Independence Day; Labor Day; Thanksgiving Day and Christmas Day provided the employee works three days in the work week in which the holiday occurs.

POWER EQUIPMENT OPERATORS: HIGHWAY CONSTRUCTION

GROUP I - Backfiller, backhoe, batching plants, cableway, case type hoe (with a front end bucket over 1-½ yds.), concrete mixing plants, concrete paver, derrick, derrick boat, double concrete pump, dragline, elevating grader, excavating scoop (25 yds. and over), front end loader (1-3/4 yds and over), grader, gradall hoist (2 active drums or more), pile driving machine, power crane, power shovel repair mechanic, standard guage locomotive, trenching machine, tunnel mucking machine, twin engine scoop, welder, whirley rig

GROUP II - Asphalt spreader, bulldozer, bull float, case type hoe (with a front end bucket 1-½ yds. and under), concrete mixer (with a slip), concrete pump, concrete spreader, ditch-witch type trencher, excavating scoop (under 25 yds.), finishing machine, front end loader (under 1-3/4 yds.), grout pump, hi-lift, longitudinal float, narrow-guage locomotive, one drum hoist, power roller, screeding machine, stone crusher, stone spreader, tractor with attachments (2 or more provided both attachments are being used), sub-grader, well-drill.

DECISION NO. MD77-3080

POWER EQUIPMENT OPERATORS: HIGHWAY CONSTRUCTION - CONT'D

GROUP III - Compressors, conveyors, firemen, fuel truck, grease truck, light plants, mighty midget with compressor, space heaters, welding machines well-point system

GROUP IV - Oilers (all types)

GROUP V - Long boom cranes, including jibs, and on piledriver machines with leads:

a. 130 Ft. to 169 Ft.
b. 170 Ft. to 209 Ft.
c. 210 Ft. to 249 Ft.
d. 250 Ft. to 299 Ft.
e. 300 Ft. and over

SUPERSEDEAS DECISION

State: Pennsylvania COUNTIES: Lawrence & Mercer
DECISION NO.: PA77-3078 DATE: Date of Publication
Supersedes Decision No. PA76-3246, dated September 17, 1976, in 41 FR 40405.
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	$11.04	.35	.50		.02
Boilermakers	9.815	7.5%	7%		.01
Bricklayers & Stonemasons	10.73	.60	.75		.02
Carpenters:					
Lawrence County	10.45	6%	8%	6%	25%
Mercer County	10.34	1.07	1.00		.04
Cement masons:					
Lawrence County	11.44				
Mercer County	10.62	.64	1.70		
Electricians:					
Lawrence County	10.66	8%	1%+.19	1.00	1½%
Mercer County	11.45	.35	1%+.45		.01
Elevator Constructors	10.99	.545	.35	4%+b+c	.02
Elevator Constructors Helpers	70% JR	.545	.35	4%+b+c	.02
Elevator Constructors' Helpers (Prob.)	50%JR				
Glaziers	10.37	.40	.20		.01
Ironworkers, structural, Ornamental & Reinforcing	11.76	.40	1.15		.07
Laborers:					
Laborers, carryable, pumps, west brick buggy or similar, vibrator operators, walk behind fork lift or similar (non self-propelled) stripper & mover of forms, cement masons, footers, window cleaner, tool room man, all material conveyor (regardless of power used, including starting & stopping)	8.75	.79	.66		
West brick buggy or similar (self-propelled), power wheelbarrows and buggies, walk behind forklift or similar, (self-propelled) wagon drill runners' helper, (including drill mounted on truck, track					

DECISION NO. PA77-3078

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Laborers' (Cont'd)					
or similar), blaster's helper, all operators of compacting equipment, pipe layer, burner, jackhammer man concrete buster	8.875	.79	.66		
Hod Carrier, scaffold builder, bell and bottom man on furnaces and stacks, mortar mixer, mortar mixing machine (regardless of power used, including starting and stopping) grout machine feeder and pump operators and concrete saw operator, wagon drill operators	9.00	.79	.66		
Gunnite nozzleman	9.25	.79	.66		
Blaster	9.45	.79	.66		
Landscaping:					
Landscape Laborers	6.05	.40	.50		
Skilled Landscape Laborer	6.20	.40	.50		
Landscape Tractor Operator	6.55	.40	.50		
Lead Burners	10.75	.40	.25	a	.01
Line Construction:					
Linemen, dynamite man, heavy equipment operator	10.30	.35	1%		3/8%
Winch truck operator	7.28	.35	1%		3/8%
Groundman	6.79	.35	1%		3/8%
Marble Setters:					
Lawrence County	10.73	.60	.75		.02
Mercer County	12.305				
Marble Setters helpers:					
Lawrence County	7.95		.10		
Mercer County	11.455				
Millwrights:					
Lawrence County	9.86	6%	6%	22%	1/2%
Mercer County	11.13	1.07	1.00		.04
Painters:					
Commercial:					
Brush & Roller	10.10	.55	.80		
Spray	11.10	.55	.80		
Industrial:					
Brush & Roller	10.60	.55	.80		
Spray	11.60	.55	.80		

DECISION NO. PA77-3078

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Piledrivermen:					
Lawrence County	$10.60	5%	10%		50%
Mercer County	11.13	1.01	1.00		.04
Plasterers:					
Lawrence County	11.79				
Mercer County; Shenango, Sandy Lake & Pedomia Twps.	11.79				
Remainder of County	10.73	.60	.75		.02
Plumbers & Steamfitters:					
Lawrence County	11.74	.66	.61		.05
Mercer County	11.75	.50	.80		.05
Roofers	11.21	.60	.70		.01
Sheet Metal Workers:					
Lawrence County	10.08	.82	1.23		.13
Mercer County	11.84	.75	.79		.04
Soft Floor Layers:					
Lawrence County	9.95	6%	6%	.60	5%
Mercer County	9.80	1.07	1.00		.04
Sprinkler Fitters	11.86	.65	.95		.08
Terrazzo Workers & Tile Setters:					
Lawrence County	10.73	.60	.75		.02
Mercer County	12.305				
WELDERS - Receive rate of craft					

PAID HOLIDAYS (Where Applicable):
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:
a. 8 paid holidays, A through F and Washington's Birthday, Good Friday, and Christmas Eve, provided the employee has worked 45 days for the empoloer during the 120 days prior to the holiday, and is available for work the days preceding and following the holiday.

b. Employer contributes 4% basic hourly rate for 5 years or more of service or 2% basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.

c. Six paid holidays: A through F.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS					
CLASS 1	$11.625	.65	.80		.09
CLASS 1-A	11.875	.65	.80		.09
CLASS 1-B	12.125	.65	.80		.09
CLASS 1-C	12.375	.65	.80		.09
CLASS 2	11.475	.65	.80		.09
CLASS 3	10.40	.65	.80		.09
CLASS 3-A	10.90	.65	.80		.09
CLASS 4	10.40	.65	.80		.09
CLASS 5	9.65	.65	.80		.09
CLASS 6	9.40	.65	.80		.09
CLASS 6-A	9.50	.65	.80		.09
CLASS 6-B	9.65	.65	.80		.09
CLASS 6-C	10.15	.65	.80		.09

CLASSIFICATION DEFINITIONS
POWER EQUIPMENT OPERATORS

CLASS 1 - Austin-Western or similar type Under 25 ton, austin-western or similar type 25 ton or over, auto grader (CMI or similar, backhoe, batch plant when conveyors are used for direct feedling or discharge, batch plant no conveyors for direct feeding or discharge (without oiler), cableway, caisson drill, central mix plant, cranes (excluding overhead)(truck or crawler type), cranes tower (mobile) cranes tower (stationary) (climbing type) use of oiler to be discussed at pre job) cranes tower (climbing type) cranes hydraulic self contained over 18 ton cranes hydraulic self contained - 18 ton or less, derrick traveler (self propelled), derrick (all types)(when assistance required it will be an oiler or apprentice) derrick boats, dragline, dredge, engineer maintenance, franki or similar type pile driver, gradall (remote control or otherwise), helicopter (when used for erection purposes), helicopter hoist operators (when used for erection purposes), hi-lift 4 yds. or over, hoist-hod (2 cages up to 10 floors) Chicago Boom Attached hoist (50 ft. or over) (stacks, stoves or furnaces) hoist (slipform jobs hop to or similar type with 180° swing hop to or similar type with 360° swing kocal koehring scooper, metro chip harvester or similar type, mix mobile or similar type (with self-loading attachment), mix mobiling or similar type, mucking machine (tunnel), multiple bowl machines, pipe driver (sonic or similar type) (when assistance required it will be an oiler or apprentice), post driver-guard rail (truck mounted), post driver-guard rail (skid type), pumpkrete - mobile or similar type, quad nine, shovels (all types), slip form paver (CMI or similar), tractors - Boom Mounted (all types), tractors (all types with hydraulic backhoe attached), tug boat, whirley

CLASS 1-A - Austin-Western or similar type under 25 ton with jib, austin-western or similar type 25 ton or over with jib, cranes (boom or mast 100 ft. or over up & including 150 ft. +$.25) (truck or crawler type), cranes mobile (any type 15 ton or over placed on any bldg. structure + $.25), hoist-hod (2 cages over 10 floors) Class I rate +$.25, hoist single cage with

CLASS 1-B - Cranes (boom or mast over 150 ft. up to & including 200 ft. + $.50) (truck or crawler type), engineer lead

CLASS 1-C - Cranes (boom or mast over 200 ft. + .75)

CLASS 2- Asphalt plant operator, Athey loader, Auger - truck or tractor, mounted, back filling machine, boat material or personnel carrying (powered) boat - job work (inboard or outboard), bulldozer, cable layer, compactor with blade, compressor (1) and air tugger (1) (combination), compressor (1) and gunite machine (1) (combination), concrete belt placer, crane - overhead, crushinf & screening plants, drill - davey or similar type drill - core (truck or skid mounted), drill - well & core (truck mounted), elevator (New buildings),euclid loader, excavating equipment (all Other), forklift-lull or similar, grader, grader-elevating, greaser-equipment (head), hi-lift - less than 4 yds., hoist - one drum (4 floors or over), hoist - hod (buildings 4 floors or more), hoist - (2 drums or more in one unit), jumbo operator, locomotive, lift slab machine (hydraulic) mixer - paving, muching machine, pipe cleaning machine,refrigeration plant (used for construction jobs that is, cooling concrete & holding banks), ross carrier (or similar type), scoop (single bowl) (self-powered & tractor drawn), spreader - concrete, asphalt and stone, tower mobile (hoisting or lowering material), trencher, well point systems, (The following machines shall be considered minor), compressors (3 within a reasonable distance); generators electric (3) (over) 5 KW up to 20 KW), pumps (1½" discharge or less) (4 to 5 within reasonable distance), pumps (3) (over 1½" discharge) (within reasonable distance), welding machines (4 to 6 within reasonable distance) (other than electrically driven), grout pump (10 H. P. or over), elevator (when used for alterations & remodeling all buildings), paver operator - asphalt (spreader), pumpkrete or similar type (not self-propelled), pumpcrete machine operator (stationary), tire repairman (when assigned job), welder (repairman)

CLASS 3 - Boiler, compactor (ridden or self-propelled), compressor (over 125 CFM and air pump), compressor (1) and sand blasting machine (1), (combination), crane (carry), curb builder (self-propelled), drills-well & horizional truck mounted, forklifts (ridden or self-propessed), hoist one drum (regradless of power used), pavement breaker (self-propelled or ridden), pipe dream, roller, saw (concrete), soil stabilizer (pump type), stone crusher, stone spreader self- propelled, tractors (when used for snaking and hauling), tube finisher (CMI or similar type), tugger, truck, (winch) truck or hydraulic boom (when hoisting & placing), (The following machines shall be considered minor) compressors (2), generators (2), mortar machine over 10 cu. ft., and single unit conveyor, pumps (1½" discharge or less (2 to 3), pumps (over 1½" discharge (2) in bank) (within reasonable distance), welding machine (2 to 3), (other than electrically driven)

CLASS 3-A - Conveyors 4 units or more

CLASS 4 - Ballast regulator, boring machine, broom, power (except push type), compressor - single (over 65 CFM), conveyor over 1 and up to 3 units (regardless of power used) form line machine, generator (over 5 KW), hoist (monorail) (regardless of power used) hoist roof (regardless of power used), huck machine or similar type, mixer concrete (regardless of power used) mixer mortar - over 10 cu. ft. (regardless of power used) pump (over 1½" discharge regardless of power used) spray cure machine (power driven) steam jenny (or similar type) syphon (steam or air) welding machine single (300 amp or over) (other than electrically driven) plant, private or industrial air of steam valve

CLASS 5 - . Compressor - 65 cubic ft. or under (regardless of power used) conveyor one (1) unit (regardless of power used) heaters - up to and including 6 jack motor hydraulic (single type) power driven ladavator, mixer mortar, (10 cubic ft. or under), mulching machine, pin puller (powered) pulverizer, pump - 1½" discharge or less, seeding machine, spreader side delivery, shoulder (attachment) tie tamper (multiple heads) tractor farm (when used for landscaping) water blaster, oiler-truck crane 50 ton up to not incl. 100 ton

CLASS 6 - Brake man, deck hand,helicopter signalman, oiler, mechanic helper

CLASS 6-A Crane truck oiler & fireman

CLASS 6-B Oiler - Truck crane 50 ton up to & incl. 100 ton

CLASS 6-C Oiler - Truck crane 100 ton and over

DECISION PA77-3078

TRUCK DRIVERS Building Construction	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	App. Tr.
Class 1	$8.34	6.5%	5.6%	a	
Class 2	8.39	6.5%	5.6%	a	
Class 3	8.41	6.5%	5.6%	a	
Class 4	8.50	6.5%	5.6%	a	
Class 5	8.43	6.5%	5.6%	a	
Class 6	8.70	6.5%	5.6%	a	
Class 7	8.52	6.5%	5.6%	a	
Class 8	8.68	6.5%	5.6%	a	

FOOTNOTE:

a. Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day and Veterans Day and Good Friday, provided the employee is available for work the day before and the day after the holiday and has been employed by the employer a minimum of 40 hours each calendar month for two consecutive months.

CLASSIFICTIONS DEFINITIONS

Class 1: Warehouseman , Chauffeur, and Ambulance Driver, Service Truck (pickup, Jeep, Busses, Station Wagon, Panel truck, Escort Vehicle, including Fuel and Water Trucks)

Class 2: Dump and Flat Top (including Fuel and Water Trucks, Fork Lift in Warehouse or job site storage area and single Axle Trucks with power tailgate); Distributor Truck over 33,000 lbs. gross weight (Oil, Tar Asphalt products Two man operation, Both men)

Class 3: Transit Mix, Single Axle

Class 4: Transit Mix, Tandem

Class 5: Heavy Duty Tractor and Trailer with High Bed, 4 wheels

Class 6: Heavy Duty Tractor and Trailer with Low Bed, 6 to 16 Wheels and Pole Trailer and Wide Load

Class 7: Distributor Truck up to 33,000 lbs. gross weight (Oil, Tar Asphalt products) One Man Operation; Truck with Dolly and Scissor Truck; Truck with Dump Trailer or Tandem, including Fuel and Water, Tandem Axle Truck with power Tailgate and Scissor Truck; Euclids or Equivalent, Tri-axle including Mixer, drivers towing equipment

Class 8: Winch Truck and Form Truck

SUPERSEDEAS DECISION

STATE: Texas

COUNTIES: Archer, Armstrong, Baylor, Briscoe, Carson, Castro, Childress, Clay, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hall, Hansford, Hardeman, Hartley, Hemphill, Hutchinson, Lipscomb, Montague, Moore, Ochiltree, Oldham, Parmer, Potter, Randall, Roberts, Sherman, Swisher, Wheeler, Wichita & Wilbarger

DECISION NO.: TX77-4118

DATE: Date of Publication

Supersedes Decision No. TX77-4008, dated January 28, 1977, in 42 FR 5644

DESCRIPTION OF WORK: Heavy (does not include tunnels & dams) and Highway (does not include building structures in rest area projects) Construction and Paving & Utilities Incidental to General Building Construction. This wage determination does not apply to any residential construction (single family house 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.
Asphalt Heaterman	$ 3.25				
Asphalt Raker	4.10				
Batching Plant Scaleman	4.90				
Carpenter	4.80				
Carpenter Helper	3.75				
Concrete Finisher (Paving)	4.70				
Concrete Finisher Helper (Paving)	3.00				
Concrete Finisher (Structures)	5.05				
Concrete Finisher Helper (Structures)	3.95				
Form Builder (Structures)	4.75				
Form Builder Helper (Structures)	4.50				
Form Liner (Paving and Curb)	4.00				
Form Setter (Paving and Curb)	4.00				
Form Setter Helper (Paving and Curb)	3.50				
Form Setter (Structures)	5.05				
Form Setter Helper (Structures)	4.40				
Laborer, Common	3.00				
Laborer, Utility Man	3.45				
Manhole Builder, Brick	4.00				
Mechanic	5.05				
Mechanic Helper	3.50				
Oiler	4.00				
Serviceman	3.90				
Painter (Structures)	5.00				
Pipelayer	3.75				
Pipelayer Helper	3.25				
Powderman	4.20				
Reinforcing Steel Setter (Paving)	4.35				
Reinforcing Steel Setter (Structures)	4.75				
Reinforcing Steel Setter Helper	3.15				

DECISION NO. TX77-4118

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Sign Erector	$ 3.50				
Spreader Box Man	3.75				
Swamper	3.25				
Power Equipment Operators:					
Asphalt Distributor	4.45				
Asphalt Paving Machine	4.65				
Broom or Sweeper Operator	3.25				
Bulldozer, 150 HP and Less	4.20				
Bulldozer, over 150 HP	4.95				
Concrete Paving Curing Machine	3.75				
Concrete Paving Finishing Machine	4.80				
Concrete Paving Form Grader	3.75				
Concrete Paving Mixer	4.80				
Concrete Paving Saw	4.30				
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (less than 1½ CY)	4.55				
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (1½ CY and Over)	5.05				
Crusher or Screening Plant Op.	4.75				
Foundation Drill Operator (Crawler Mounted)	5.60				
Foundation Drill Operator (Truck Mounted)	5.85				
Foundation Drill Operator Helper	4.00				
Front End Loader (2½ CY & Less)	4.00				
Front End Loader (Over 2½ CY)	4.75				
Mixer (Over 16 CY)	4.65				
Motor Grader Operator, Fine Grade	5.05				
Motor Grader Operator	4.65				
Roller, Steel Wheel (Plant-Mix Pavements)	3.50				
Roller, Steel Wheel (Other-Flat Wheel or Tamping)	3.85				
Roller, Pneumatic (Self-Propelled)	3.70				
Scrapers (17 CY and Less)	4.15				
Scrapers (Over 17 CY)	4.60				
Side Boom	4.00				

DECISION NO. TX77-4118

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Power Equipment Operators (Cont'd):					
Tractor (Crawler Type) 150 HP and Less	$ 3.75				
Tractor (Crawler Type) over 150 HP	4.25				
Tractor (Pneumatic) 80 HP and Less	3.75				
Tractor (Pneumatic) over 80 HP	4.25				
Traveling Mixer	4.35				
Trenching Machine, Light	4.00				
Trenching Machine, Heavy	4.00				
Wagon Drill, Boring Machine or Post Hole Driller Operator	3.75				
Truck Drivers:					
Single Axle, Light	3.45				
Single Axle, Heavy	3.45				
Tandem Axle or Semitrailer	3.45				
Lowboy-Float	3.55				
Transit-Mix	3.50				
Vibrator Man (Hand Type)	3.05				
Weighman (Truck Scales)	3.50				
Welder	5.05				

SUPERSEDEAS DECISION

Page 2

STATE: Texas

COUNTIES: Bailey, Borden, Cochran, Cottle, Crosby, Dawson, Dickens, Fisher, Floyd, Foard, Gaines, Garza, Hale, Haskell, Hockley, Jones, Kent, King, Knox, Lamb, Lubbock, Lynn, Motley, Scurry, Shackelford, Stephens, Stonewall, Terry, Throckmorton, Yoakum & Young

DECISION NO.: TX77-4119

DATE: Date of Publication

Supersedes Decision No. TX77-4008, dated January 28, 1977, in 42 FR 5644

DESCRIPTION OF WORK: Heavy (does not include tunnels & dams) and Highway (does not include building structures in rest area projects) Construction and Paving & Utilities Incidental to General Building Construction. This wage determination does not apply to any residential construction (single family homes and garden type apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Air Tool Man	$ 3.00				
Asphalt Heaterman	3.40				
Asphalt Raker	3.70				
Asphalt Shoveler	3.00				
Batching Plant Scaleman	4.25				
Batterboard Setter	3.00				
Carpenter	4.45				
Carpenter Helper	3.85				
Concrete Finisher (Paving)	4.50				
Concrete Finisher Helper (Paving)	3.35				
Concrete Finisher (Structures)	4.20				
Concrete Finisher Helper (Structures)	3.75				
Electrician	6.25				
Electrician Helper	3.80				
Form Builder (Structures)	3.75				
Form Setter (Paving and Curb)	4.50				
Form Setter Helper (Paving and Curb)	3.75				
Form Setter (Structures)	5.05				
Form Setter Helper (Structures)	3.75				
Laborer, Common	3.00				
Laborer, Utility Man	3.50				
Mechanic	4.50				
Mechanic Helper	3.75				
Oiler	3.75				
Serviceman	3.80				
Pipelayer	4.00				
Pipelayer Helper	3.50				
Powderman	4.15				
Reinforcing Steel Setter (Structures)	4.25				
Spreader Box Man	4.00				
Swamper	3.00				

DECISION NO. TX77-4119

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Power Equipment Operators:					
Asphalt Distributor	$ 3.95				
Asphalt Paving Machine	4.10				
Broom or Sweeper Operator	3.00				
Bulldozer, 150 HP and Less	3.85				
Bulldozer, over 150 HP	4.00				
Concrete Paving Finishing Machine	4.35				
Concrete Paving Saw	4.00				
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (less than 1½ CY)	4.25				
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (1½ CY and Over)	5.05				
Crusher or Screening Plant Op.	4.40				
Elevating Grader	4.00				
Foundation Drill Operator (Crawler Mounted)	5.85				
Foundation Drill Operator (Truck Mounted)	6.00				
Foundation Drill Operator Helper	4.00				
Front End Loader (2½ CY & Less)	3.50				
Front End Loader (Over 2½ CY)	4.20				
Motor Grader Operator, Fine Grade	5.00				
Motor Grader Operator	4.50				
Roller, Steel Wheel (Plant-Mix Pavements)	3.50				
Roller, Steel Wheel (Other-Flat Wheel or Tamping)	3.40				
Roller, Pneumatic (Self-Propelled)	3.00				
Scrapers (17 CY and Less)	3.75				
Scrapers (Over 17 CY)	4.00				
Side Boom	3.25				
Tractor (Crawler Type) 150 HP and Less	3.40				
Tractor (Crawler Type) over 150 HP	4.25				
Tractor (Pneumatic) 80 HP & Less	3.25				
Tractor (Pneumatic) over 80 HP	3.70				

DECISION NO. TX77-4119

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Power Equipment Operators (Cont'd):					
Traveling Mixer	$ 3.25				
Trenching Machine, Light	3.00				
Wagon Drill, Boring Machine or Post Hole Driller Operator	3.75				
Truck Drivers:					
Single Axle, Light	3.00				
Single Axle, Heavy	3.50				
Tandem Axle or Semitrailer	3.25				
Lowboy-Float	3.00				
Weighman (Truck Scales)	3.00				
Welder	5.05				

SUPERSEDEAS DECISION

STATE: Texas

COUNTIES: Andrews, Brown, Callahan, Coke, Coleman, Comanche, Concho, Crane, Crockett, Eastland, Ector, Erath, Glasscock, Howard, Irion, Kimble, Loving, Martin, McCulloch, Menard, Midland, Mills, Mitchell, Nolan, Reagan, Runnels, San Saba, Schleicher, Sterling, Sutton, Taylor, Tom Green, Upton, Ward & Winkler

DECISION NO.: TX77-4120 DATE: Date of Publication

Supersedes Decision No. TX77-4008, dated January 28, 1977, in 42 FR 5644

DESCRIPTION OF WORK: Heavy (does not include tunnels & dams) and Highway (does not include building structures in rest area projects) Construction and Paving & Utilities Incidental to General Building Construction. This wage determination does not apply to any residential construction (single family homes and garden type apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Air Tool Man	$ 2.75				
Asphalt Heaterman	3.25				
Asphalt Raker	3.65				
Asphalt Shoveler	2.75				
Batching Plant Scaleman	3.75				
Batterboard Setter	3.65				
Carpenter	4.20				
Carpenter Helper	2.75				
Concrete Finisher (Paving)	4.25				
Concrete Finisher Helper (Paving)	3.25				
Concrete Finisher (Structures)	4.35				
Concrete Finisher Helper (Structures)	3.25				
Electrician	4.00				
Form Builder (Structures)	4.50				
Form Builder Helper (Structures)	4.00				
Form Setter (Paving and Curb)	4.15				
Form Setter Helper (Paving and Curb)	2.75				
Form Setter (Structures)	5.05				
Form Setter Helper (Structures)	3.60				
Laborer, Common	2.50				
Laborer, Utility Man	3.30				
Manhole Builder, Brick	3.00				
Mechanic	4.00				
Mechanic Helper	3.45				
Oiler	3.60				
Serviceman	3.65				
Painter (Structures)	3.50				
Pipelayer	3.50				
Pipelayer Helper	2.90				
Powderman	4.00				
Powderman Helper	2.75				

DECISION NO. TX77-4120

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Reinforcing Steel Setter (Structures)	$ 4.35				
Reinforcing Steel Setter Helper	3.50				
Spreader Box Man	3.65				
Power Equipment Operators:					
Asphalt Distributor	3.75				
Asphalt Paving Machine	4.00				
Broom or Sweeper Operator	3.25				
Bulldozer, 150 HP and Less	4.00				
Bulldozer, over 150 HP	4.00				
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (less than 1½ CY)	4.25				
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (1½ CY and Over)	5.05				
Crusher or Screening Plant Op.	4.00				
Elevating Grader	4.10				
Foundation Drill Operator (Crawler Mounted)	4.60				
Foundation Drill Operator (Truck Mounted)	5.50				
Front End Loader (2½ CY & Less)	3.80				
Front End Loader (Over 2½ CY)	4.00				
Motor Grader Operator, Fine Grade	4.80				
Motor Grader Operator	4.30				
Roller, Steel Wheel (Plant-Mix Pavements)	3.50				
Roller, Steel Wheel (Other-Flat Wheel or Tamping)	3.00				
Roller, Pneumatic (Self-Propelled)	3.00				
Scrapers (17 CY and Less)	3.80				
Scrapers (Over 17 CY)	4.00				
Self-Propelled Hammer	3.50				
Side Boom	3.50				
Tractor (Crawler Type) 150 HP and Less	3.10				
Tractor (Crawler Type) over 150 HP	3.50				
Tractor (Pneumatic) 80 HP and Less	3.00				

DECISION NO. TX77-4120

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Power Equipment Operators (Cont'd):					
Tractor (Pneumatic) over 80 HP	$ 3.50				
Traveling Mixer	2.75				
Trenching Machine, Light	3.70				
Trenching Machine, Heavy	3.80				
Wagon Drill, Boring Machine or Post Hole Driller Operator	3.50				
Truck Drivers:					
Single Axle, Light	3.00				
Single Axle, Heavy	3.35				
Tandem Axle or Semitrailer	3.25				
Lowboy-Float	3.35				
Winch	3.40				
Weighman (Truck Scales)	2.95				
Welder	4.00				

SUPERSEDEAS DECISION

STATE: Texas

COUNTIES: Brewster, Culberson, El Paso, Hudspeth, Jeff Davis, Pecos, Presidio, Reeves & Terrell

DECISION NO.: TX77-4121

DATE: Date of Publication

Supersedes Decision No. TX77-4008, dated January 28, 1977, in 42 FR 5644

DESCRIPTION OF WORK: Heavy (does not include tunnels & dams) and Highway (does not include building structures in rest area projects) Construction and Paving & Utilities Incidental to General Building Construction (not to be used for Utilities Incidental to General Building Construction in El Paso County). This wage determination does not apply to any residential construction (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.
Asphalt Heatersman	$ 3.00				
Asphalt Raker	3.10				
Asphalt Shoveler	2.50				
Batching Plant Scaleman	3.50				
Batterboard Setter	2.50				
Carpenter	4.25				
Carpenter Helper	3.60				
Concrete Finisher (Paving)	4.00				
Concrete Finisher Helper (Paving)	3.00				
Concrete Finisher (Structures)	3.75				
Concrete Finisher Helper (Structures)	2.75				
Concrete Rubber	2.95				
Electrician	6.60				
Electrician Helper	5.10				
Form Builder (Structures)	3.40				
Form Builder Helper (Structures)	3.00				
Form Liner (Paving and Curb)	2.85				
Form Setter (Paving and Curb)	3.80				
Form Setter Helper (Paving and Curb)	3.25				
Form Setter (Structures)	3.80				
Form Setter Helper (Structures)	3.00				
Laborer, Common	2.50				
Laborer, Utility Man	3.00				
Mechanic	4.25				
Mechanic Helper	3.35				
Oiler	3.00				
Servicenan	3.60				
Painter (Structures)	5.50				
Painter Helper (Structures)	3.70				
Piledrivermen	4.40				
Pipelayer	3.15				
Pipelayer Helper	2.75				
Powderman	4.50				
Powderman Helper	3.30				
Reinforcing Steel Setter (Paving)	3.50				
Reinforcing Steel Setter (Structures)	3.60				

DECISION NO. TX77-4121

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Reinforcing Steel Setter Helper	$ 3.00				
Sign Erector	3.50				
Spreader Box Man	3.25				
Stumper	3.10				
Power Equipment Operators:					
Asphalt Distributor	3.10				
Asphalt Paving Machine	3.35				
Broom or Sweeper Operator	3.30				
Bulldozer, 150 HP and Less	3.75				
Bulldozer, over 150 HP	4.00				
Concrete Paving Curing Machine	4.25				
Concrete Paving Finishing Machine	4.65				
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (less than 1½ CY)	4.10				
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (1½ CY and Over)	4.60				
Crusher or Screening Plant Op.	3.80				
Front End Loader (2½ CY and Less)	3.55				
Front End Loader (Over 2½ CY)	3.75				
Hoist (Double Drum and Less)	3.10				
Motor Grader Operator, Fine Grade	4.70				
Motor Grader Operator	4.00				
Roller, Steel Wheel (Plant-Mix Pavements)	3.35				
Roller, Steel Wheel (Other-Flat Wheel or Tamping)	3.30				
Roller, Pneumatic (Self-Propelled)	3.30				
Scrapers (17 CY and Less)	3.75				
Scrapers (Over 17 CY)	4.00				
Tractor (Crawler Type) 150 HP and Less	3.35				
Tractor (Crawler Type) over 150 HP	3.80				

DECISION NO. TX77-4121

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Power Equipment Operators (Cont'd):					
Tractor (Pneumatic) 80 HP and Less	$ 3.00				
Tractor (Pneumatic) over 80 HP	3.25				
Traveling Mixer	4.15				
Trenching Machine, Light	3.50				
Trenching Machine, Heavy	4.25				
Wagon Drill, Boring Machine or Post Hole Driller Operator	3.75				
Truck Drivers:					
Single Axle, Light	2.75				
Single Axle, Heavy	3.00				
Tandem Axle or Semitrailer	3.10				
Lowboy-Float	3.00				
Transit-Mix	3.10				
Weighman (Truck Scales)	2.85				
Welder	4.35				

SUPERSEDEAS DECISION

STATE: Texas

COUNTIES: Atascosa, Bandera, Bexar, Comal, Dimmit, Edwards, Frio, Guadalupe, Kendall, Kerr, Kinney, LaSalle, Maverick, McMullen, Medina, Real, Uvalde, Val Verde, Wilson & Zavala

DECISION NO.: TX77-4122

DATE: Date of Publication

Supersedes Decision No. TX77-4008, dated January 28, 1977, in 42 FR 5644

DESCRIPTION OF WORK: Heavy (does not include tunnels & dams) and Highway (does not include building structures in rest area projects) Construction and Paving & Utilities Incidental to General Building Construction. This wage determination does not apply to any residential construction (single family homes and garden type apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Air Tool Man	$ 2.75				
Asphalt Heaterman	3.25				
Asphalt Raker	3.30				
Asphalt Shoveler	2.50				
Batching Plant Scaleman	3.60				
Batterboard Setter	3.65				
Carpenter	4.00				
Carpenter Helper	3.20				
Concrete Finisher (Paving)	3.75				
Concrete Finisher Helper (Paving)	3.25				
Concrete Finisher (Structures)	3.85				
Concrete Finisher Helper (Structures)	3.25				
Concrete Rubber	3.00				
Electrician	6.50				
Electrician Helper	3.60				
Form Builder (Structures)	4.25				
Form Builder Helper (Structures)	3.20				
Form Liner (Paving and Curb)	4.00				
Form Setter (Paving and Curb)	3.75				
Form Setter Helper (Paving and Curb)	3.45				
Form Setter (Structures)	4.00				
Form Setter Helper (Structures)	3.10				
Laborer, Common	2.50				
Laborer, Utility Man	2.75				
Manhole Builder, Brick	3.00				
Mechanic	4.05				
Mechanic Helper	3.50				
Oiler	3.40				
Serviceman	3.25				
Painter (Structures)	4.90				
Painter Helper (Structures)	3.00				
Piledriverman	4.75				
Pipelayer	3.50				
Pipelayer Helper	2.85				

DECISION NO. TX77-4122

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Pneumatic Mortarman	$ 2.65				
Powderman	3.75				
Powderman Helper	2.50				
Reinforcing Steel Setter (Paving)	4.00				
Reinforcing Steel Setter (Structures)	4.15				
Reinforcing Steel Setter Helper	3.40				
Steel Worker (Structural)	3.50				
Sign Erector	3.35				
Spreader Box Man	3.80				
Swamper	3.25				
Power Equipment Operators:					
Asphalt Distributor	3.50				
Asphalt Paving Machine	3.90				
Broom or Sweeper Operator	3.00				
Bulldozer, 150 HP and Less	3.75				
Bulldozer, over 150 HP	4.00				
Concrete Paving Mixer	3.25				
Concrete Paving Spreader	4.35				
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (less than 1½ CY)	3.90				
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (1½ CY and Over)	4.90				
Crusher or Screening Plant Op.	3.75				
Elevating Grader	3.50				
Form Loader	3.25				
Foundation Drill Operator (Crawler Mounted)	6.00				
Foundation Drill Operator (Truck Mounted)	5.50				
Foundation Drill Operator Helper	3.75				
Front End Loader (2½ CY & Less)	3.60				
Front End Loader (Over 2½ CY)	4.00				
Motor Grader Operator, Fine Grade	5.00				
Motor Grader Operator	4.25				

DECISION NO. TX77-4122

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Power Equipment Operators (Cont'd):					
Roller, Steel Wheel (Plant-Mix Pavements)	$ 3.00				
Roller, Steel Wheel (Other-Flat Wheel or Tamping)	3.00				
Roller, Pneumatic (Self-Propelled)	3.05				
Scrapers (17 CY and Less)	3.50				
Scrapers (Over 17 CY)	3.75				
Self-Propelled Hammer	3.00				
Tractor (Crawler Type) 150 HP and Less	2.85				
Tractor (Crawler Type) over 150 HP	4.00				
Tractor (Pneumatic) 80 HP and Less	3.00				
Tractor (Pneumatic) over 80 HP	3.25				
Traveling Mixer	3.50				
Trenching Machine, Light	3.50				
Trenching Machine, Heavy	4.25				
Wagon Drill, Boring Machine or Post Hole Driller Operator	3.50				
Truck Drivers:					
Single Axle, Light	2.90				
Lowboy-Float	3.35				
Winch	3.50				
Welder	4.25				
Welder Helper	3.90				

SUPERSEDEAS DECISION

STATE: Texas

COUNTIES: Brooks, Cameron, Duval, Hidalgo, Jim Hogg, Kenedy, Starr, Webb, Willacy & Zapata

DECISION NO.: TX77-4123

DATE: Date of Publication

Supersedes Decision No. TX77-4008, dated January 28, 1977, in 42 FR 5644

DESCRIPTION OF WORK: Heavy (does not include tunnels & dams) and Highway (does not include building structures in rest area projects) Construction, Incidental Shore Work and Paving & Utilities Incidental to General Building Construction. This wage determination does not apply to any residential construction (single family homes and garden type apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Air Tool Man	$ 2.75				
Asphalt Heaterman	3.25				
Asphalt Raker	3.25				
Asphalt Shoveler	3.50				
Batching Plant Scaleman	3.40				
Carpenter	4.00				
Carpenter Helper	2.80				
Concrete Finisher (Paving)	3.35				
Concrete Finisher Helper (Paving)	2.75				
Concrete Finisher (Structures)	3.50				
Concrete Finisher Helper (Structures)	3.35				
Electrician	7.50				
Form Builder (Structures)	4.00				
Form Builder Helper (Structures)	3.50				
Form Liner (Paving and Curb)	3.00				
Form Setter (Paving and Curb)	3.75				
Form Setter Helper Paving and Curb)	2.85				
Form Setter (Structures)	3.75				
Form Setter Helper (Structures)	3.00				
Laborer, Common	2.65				
Laborer, Utility Man	3.30				
Manhole Builder, Brick	3.50				
Mechanic	4.05				
Mechanic Helper	3.60				
Oiler	3.15				
Serviceman	3.25				
Piledrivermen	3.95				
Pipelayer	2.85				
Pipelayer Helper	2.65				
Powderman	3.75				
Reinforcing Steel Setter (Paving)	3.80				
Reinforcing Steel Setter (Structures)	4.05				
Reinforcing Steel Setter Helper	2.65				
Spreader Box Man	3.55				

DECISION NO. TX77-4123

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Power Equipment Operators:					
Asphalt Distributor	$ 3.25				
Asphalt Paving Machine	3.50				
Broom or Sweener Operator	2.85				
Bulldozer, 180 HP and Less	3.75				
Bulldozer, over 150 HP	4.00				
Concrete Paving Saw	3.50				
Crane, Clamshell, Backhoe, Derrick, Draglins, Shovel (less than 1½ CY)	3.70				
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (1½ CY and Over)	4.70				
Crusher or Screening Plant Op.	3.00				
Foundation Drill Operator (Truck Mounted)	4.50				
Foundation Drill Operator Helper	3.75				
Front End Loader (2½ CY and Less)	3.45				
Front End Loader (Over 2½ CY)	3.80				
Mixer (16 CF and Less)	3.75				
Motor Grader Operator, Fine Grade	4.50				
Motor Grader Operator	3.50				
Roller, Steel Wheel (Plant-Mix Pavements)	3.35				
Roller, Steel Wheel (Other-Flat Wheel or Tamping)	2.75				
Roller, Pneumatic (Self-Propelled)	3.00				
Scrapers (17 CY and Less)	3.50				
Scrapers (Over 17 CY)	3.75				
Self-Propelled Hammer	3.15				
Tractor (Crawler Type) 150 HP and Less	2.80				
Tractor (Crawler Type) over 150 HP	4.10				
Tractor (Pneumatic) 80 HP and Less	3.00				
Tractor (Pneumatic) over 80 HP	3.65				
Traveling Mixer	3.30				
Trenching Machine, Light	3.75				

DECISION NO. TX77-4123

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Truck Drivers:					
Single Axle, Light	$ 2.65				
Single Axle, Heavy	2.75				
Lowboy-Float	3.50				
Winch	3.50				
Welder	3.75				

SUPERSEDEAS DECISION

STATE: Texas

COUNTIES: Aransas, Bee, Calhoun, DeWitt, Goliad, Jackson, Jim Wells, Karnes, Kleberg, Lavaca, Live Oak, Nueces, Refugio, San Patricio & Victoria

DECISION NO.: TX77-4124

DATE: Date of Publication

Supersedes Decision No. TX77-4008, dated January 28, 1977, in 42 FR 5644

DESCRIPTION OF WORK: Heavy (does not include tunnels & dams) and Highway (does not include building structures in rest area projects) Construction, Incidental Shore Work and Paving & Utilities Incidental to General Building Construction. This wage determination does not apply to any residential construction (single family homes and garden type apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Air Tool Man	$ 2.50				
Asphalt Heaterman	3.25				
Asphalt Raker	3.50				
Asphalt Shoveler	2.90				
Batching Plant Scaleman	3.25				
Batterboard Setter	3.80				
Carpenter	4.00				
Carpenter Helper	3.30				
Concrete Finisher (Paving)	4.05				
Concrete Finisher Helper (Paving)	2.50				
Concrete Finisher (Structures)	4.00				
Concrete Finisher Helper (Structures)	3.25				
Concrete Rubber	3.10				
Electrician	7.65				
Electrician Helper	3.15				
Form Builder (Structures)	4.00				
Form Builder Helper (Structures)	3.75				
Form Liner (Paving and Curb)	3.50				
Form Setter (Paving and Curb)	3.70				
Form Setter Helper (Paving and Curb)	3.00				
Form Setter (Structures)	4.10				
Form Setter Helper (Structures)	3.40				
Laborer, Common	2.50				
Laborer, Utility Man	3.00				
Manhole Builder, Brick	3.75				
Mechanic	4.25				
Mechanic Helper	3.90				
Oiler	3.25				
Serviceman	3.50				
Painter (Structures)	4.00				
Painter Helper (Structures)	3.50				
Piledriverman	3.75				
Pipelayer	3.50				
Pipelayer Helper	3.25				
Reinforcing Steel Setter (Structures)	3.65				
Reinforcing Steel Setter Helper	3.50				
Spreader Box Man	3.60				

DECISION NO. TX77-4124

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Power Equipment Operators:					
Asphalt Distributor	$ 3.75				
Asphalt Paving Machine	4.25				
Broom or Sweeper Operator	3.60				
Bulldozer, 150 HP and Less	4.00				
Bulldozer, over 150 HP	4.50				
Concrete Paving Curing Machine	3.50				
Concrete Paving Finishing Machine	3.00				
Concrete Paving Form Grader	3.50				
Concrete Paving Gang Vibrator	3.50				
Concrete Paving Grinder	3.50				
Paving Sub Grader	3.50				
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (less than 1½ CY)	4.00				
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (1½ CY and Over)	4.60				
Crusher or Screening Plant Op.	3.50				
Elevating Grader	4.00				
Front End Loader (2½ CY and Less)	3.50				
Front End Loader (Over 2½ CY)	4.00				
Mixer (Over 16 CF)	4.25				
*Motor Grader Operator, Fine Grade	5.00				
Motor Grader Operator	4.25				
Roller, Steel Wheel (Plant-Mix Pavements)	3.50				
Roller, Steel Wheel (Other-Flat Wheel or Tamping)	3.00				
Roller, Pneumatic (Self-Propelled)	3.00				
Scrapers (17 CY and Less)	3.50				
Scrapers (Over 17 CY)	4.00				
Tractor (Crawler Type) 150 HP and Less	3.00				
Tractor (Crawler Type) over 150 HP	3.90				
Tractor (Pneumatic) 80 HP and Less	3.00				
Tractor (Pneumatic) over 80 HP	3.15				

DECISION NO. TX77-4124

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Power Equipment Operators (Cont'd):					
Traveling Mixer	3.25				
Trenching Machine, Light	3.25				
Wagon Drill, Boring Machine or Post Hole Driller Operator	3.75				
Truck Drivers:					
Single Axle, Light	2.90				
Single Axle, Heavy	3.00				
Tanden Axle or Semitrailer	3.00				
Lowboy-Float	3.50				
Winch	3.15				
Vibrator Man (Hand Type)	2.50				
Welder	3.90				
Welder Helper	3.50				

STATE: Texas

COUNTIES: Austin, Bastrop, Blanco, Burnet, Caldwell, Colorado, Fayette, Gillespie, Gonzales, Hays, Lee, Llano, Mason, Travis & Williamson

DECISION NO.: TX77-4125

DATE: Date of Publication

Supersedes Decision No. TX77-4008, dated January 28, 1977, in 42 FR 5644

DESCRIPTION OF WORK: Heavy (does not include tunnels & dams) and Highway (does not include building structures in rest area projects) Construction and Paving & Utilities Incidental to General Building Construction. This wage determination does not apply to any residential construction (single family homes and garden type apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Air Tool Man	$ 3.30				
Asphalt Bestorman	3.25				
Asphalt Raker	4.00				
Batching Plant Scaleman	3.75				
Carpenter	4.20				
Carpenter Helper	3.55				
Concrete Finisher (Paving)	4.75				
Concrete Finisher Helper (Paving)	3.75				
Concrete Finisher (Structures)	4.10				
Concrete Finisher Helper (Structures)	3.75				
Concrete Rubber	2.85				
Electrician	7.75				
Electrician Helper	2.75				
Form Builder (Structures)	4.00				
Form Builder Helper (Structures)	3.75				
Form Liner (Paving and Curb)	3.75				
Form Setter (Paving and Curb)	4.00				
Form Setter Helper (Paving and Curb)	3.50				
Form Setter (Structures)	4.00				
Form Setter Helper (Structures)	3.00				
Laborer, Common	2.50				
Laborer, Utility Man	3.00				
Mechanic	4.70				
Mechanic Helper	4.00				
Oiler	3.75				
Serviceman	3.60				
Painter (Structures)	4.25				
Pipelayer	3.30				
Pipelayer Helper	3.00				
Powderman	4.40				
Powdermen Helper	3.75				
Reinforcing Steel Setter (Structures)	4.60				
Reinforcing Steel Setter Helper	3.60				

DECISION NO. TX77-4125

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Steel Worker (Structural)	$ 4.50				
Steel Worker Helper (Structural)	3.70				
Sign Erector	3.50				
Sign Erector Helper	2.95				
Spreader Box Man	3.10				
Power Equipment Operators:					
Asphalt Distributor	3.75				
Asphalt Paving Machine	4.00				
Broom or Sweeper Operator	3.10				
Bulldozer, 150 HP and Less	3.65				
Bulldozer, over 150 HP	4.00				
Concrete Paving Curing Machine	4.00				
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (less than 1½ CY)	4.00				
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (1½ CY and Over)	4.80				
Foundation Drill Operator (Crawler Mounted)	5.75				
Foundation Drill Operator (Truck Mounted)	5.50				
Foundation Drill Operator Helper	4.00				
Front End Loader (2½ CY and Less)	3.55				
Front End Loader (Over 2½ CY)	4.00				
Motor Grader Operator, Fine Grade	4.50				
Motor Grader Operator	4.25				
Roller, Steel Wheel (Plant-Mix Pavements)	3.55				
Roller, Steel Wheel (Other-Flat Wheel or Tamping)	3.00				
Roller, Pneumatic (Self-Propelled)	3.00				
Scrapers (17 CY and Less)	3.75				
Scrapers (Over 17 CY)	4.00				
Tractor (Crawler Type) 150 HP and Less	2.75				
Tractor (Crawler Type) over 150 HP	3.50				

DECISION NO. TX77-4125

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Power Equipment Operators (Cont'd):					
Tractor (Pneumatic) 80 HP and Less	$ 3.25				
Tractor (Pneumatic) over 80 HP	3.75				
Trenching Machine, Light	3.25				
Trenching Machine, Heavy	4.50				
Wagon Drill, Boring Machine or Post Hole Driller Operator	3.55				
Truck Drivers:					
Single Axle, Light	3.00				
Single Axle, Heavy	3.00				
Tandem Axle or Semitrailer	3.00				
Vibrator Man (Hand Type)	3.00				
Welder	5.00				

SUPERSEDEAS DECISION

STATE: Texas

COUNTIES: Bell, Bosque, Coryell, Falls, Freestone, Hamilton, Hill, Lampasas, Limestone, McLennan & Navarro

DECISION NO.: TX77-4126

DATE: Date of Publication

Supersedes Decision No. TX77-4008, dated January 28, 1977, in 42 FR 5644

DESCRIPTION OF WORK: Heavy (does not include tunnels & dams) and Highway (does not include building structures in rest area projects) Construction and Paving & Utilities Incidental to General Building Construction (not to be used for Paving & Utilities Incidental to General Building Construction in Bell & Coryell Counties). This wage determination does not apply to any residential construction (single family homes and garden type apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Air Tool Man	$ 3.25				
Asphalt Heaterman	3.40				
Asphalt Raker	4.00				
Batching Plant Scaleman	4.40				
Carpenter	4.00				
Carpenter Helper	3.00				
Concrete Finisher (Paving)	4.50				
Concrete Finisher Helper (Paving)	3.50				
Concrete Finisher (Structures)	4.50				
Concrete Finisher Helper (Structures)	3.00				
Concrete Rubber	3.35				
Electrician	6.00				
Electrician Helper	4.00				
Form Builder (Structures)	4.00				
Form Builder Helper (Structures)	3.50				
Form Setter (Paving and Curb)	4.20				
Form Setter (Structures)	4.30				
Form Setter Helper (Structures)	3.50				
Laborer, Common	2.90				
Laborer, Utility Man	3.00				
Mechanic	4.55				
Mechanic Helper	4.10				
Oiler	3.25				
Serviceman	3.50				
Painter (Structures)	5.25				
Piledrivermen	4.00				
Pipelayer	3.85				
Pipelayer Helper	3.00				
Powderman	4.40				
Reinforcing Steel Setter (Structures)	4.20				
Reinforcing Steel Setter Helper	3.00				
Sign Erector	3.25				
Sign Erector Helper	3.00				
Spreader Box Man	4.00				
Swamper	3.30				

DECISION NO. TX77-4126

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Power Equipment Operators:					
Asphalt Distributor	$ 3.85				
Asphalt Paving Machine	3.85				
Broom or Sweeper Operator	3.85				
Bulldozer, 150 HP and Less	4.00				
Bulldozer, over 150 HP	4.50				
Concrete Paving Curing Machine	4.00				
Concrete Paving Saw	4.75				
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (less than 1½ CY)	4.00				
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (1½ CY and Over)	4.50				
Crusher or Screening Plant Op.	4.15				
Foundation Drill Operator (Truck Mounted)	5.50				
Foundation Drill Operator Helper	3.50				
Front End Loader (2½ CY & Less)	4.00				
Front End Loader (Over 2½ CY)	4.25				
Motor Grader Operator, Fine Grade	5.00				
Motor Grader Operator	4.00				
Roller, Steel Wheel (Plant-Mix Pavements)	3.25				
Roller, Steel Wheel (Other-Flat Wheel or Tamping)	3.55				
Roller, Pneumatic (Self-Propelled)	3.40				
Scrapers (17 CY and Less)	3.75				
Scrapers (Over 17 CY)	4.00				
Tractor (Crawler Type) 150 HP and Less	3.25				
Tractor (Crawler Type) over 150 HP	3.75				
Tractor (Pneumatic) 80 HP & Less	3.25				
Tractor (Pneumatic) over 80 HP	3.75				
Traveling Mixer	3.60				
Trenching Machine, Light	3.25				
Trenching Machine, Heavy	4.05				

DECISION NO. TX77-4126

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Power Equipment Operators (Cont'd):					
Wagon Drill, Boring Machine or Post Hole Driller Operator	$ 3.80				
Truck Drivers:					
Single Axle, Light	3.40				
Tandem Axle or Semitrailer	3.45				
Lowboy-Float	3.95				
Welder	4.50				
Welder Helper	3.25				

SUPERSEDEAS DECISION

STATE: Texas

COUNTIES: Cooke, Denton, Hood, Jack, Johnson, Palo Pinto, Parker, Somervell, Tarrant (does not include Dallas-Fort Worth Regional Airport) & Wise

DECISION NO.: TX77-4127

DATE: Date of Publication

Supersedes Decision No. TX77-4008, dated January 28, 1977, in 42 FR 5644

DESCRIPTION OF WORK: Heavy (does not include tunnels, dams & work performed on the site of water or sewage treatment facilities) and Highway (does not include building structures in rest area projects) Construction and Paving & Utilities Incidental to General Building Construction (not to be used for Utilities Incidental to General Building Construction in Tarrant County). This wage determination does not apply to any residential construction (single family homes and garden type apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Air Tool Man	$ 3.00				
Asphalt Hesterman	3.50				
Asphalt Raker	3.75				
Asphalt Shoveler	3.25				
Batching Plant Scaleman	4.25				
Carpenter	4.25				
Carpenter Helper	3.80				
Concrete Finisher (Paving)	4.65				
Concrete Finisher Helper(Paving)	3.75				
Concrete Finisher (Structures)	4.75				
Concrete Finisher Helper (Structures)	4.00				
Concrete Rubber	3.50				
Electrician	6.75				
Electrician Helper	4.00				
Form Builder (Structures)	4.25				
Form Builder Helper (Structures)	4.00				
Form Liner (Paving and Curb)	4.50				
Form Setter (Paving and Curb)	4.50				
Form Setter Helper (Paving and Curb)	3.65				
Form Setter (Structures)	4.50				
Form Setter Helper (Structures)	3.00				
Laborer, Common	3.00				
Laborer, Utility Man	3.30				
Mechanic	4.50				
Mechanic Helper	3.85				
Oiler	3.95				
Serviceman	3.75				
Piledrivermen	4.50				
Pipelayer	4.00				
Pipelayer Helper	3.50				
Powderman	4.75				
Reinforcing Steel Setter(Paving)	3.30				
Reinforcing Steel Setter (Structures)	4.25				
Reinforcing Steel Setter Helper	3.00				

DECISION NO. TX77-4127

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Steel Worker (Structural)	$ 4.15				
Steel Worker Helper (Structural)	3.75				
Sign Erector	4.00				
Sign Erector Helper	3.90				
Spreader Box Man	4.00				
Power Equipment Operators:					
Asphalt Distributor	4.25				
Asphalt Paving Machine	4.00				
Broom or Sweeper Operator	3.50				
Bulldozer, 150 HP and Less	4.00				
Bulldozer, over 150 HP	4.50				
Concrete Paving Curing Machine	4.35				
Concrete Paving Finishing Machine	4.30				
Concrete Paving Longitudinal Float	4.50				
Concrete Paving Mixer	4.00				
Concrete Paving Saw	3.40				
Concrete Paving Spreader	3.85				
Paving Sub Grader	4.00				
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (less than 1½ CY)	4.55				
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (1½ CY and Over)	4.75				
Form Loader	3.25				
Foundation Drill Operator (Truck Mounted)	4.75				
Foundation Drill Operator Helper	3.75				
Front End Loader (2½ CY and Less)	3.95				
Front End Loader (Over 2½ CY)	4.75				
Mixer (Over 16 CF)	3.75				
Mixer (16 CF and Less)	3.75				
Motor Grader Operator, Fine Grade	4.50				
Motor Grader Operator	4.25				
Roller, Steel Wheel (Plant-Mix Pavements)	4.00				
Roller, Steel Wheel (Other-Flat Wheel or Tamping)	3.85				

DECISION NO. TX77-4127

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Power Equipment Operators (Cont'd):					
Roller, Pneumatic (Self-Propelled)	$ 3.70				
Scrapers (17 CY and Less)	4.00				
Scrapers (Over 17 CY)	4.50				
Self-Propelled Hammer	4.25				
Tractor (Crawler Type) 150 HP and Less	3.80				
Tractor (Crawler Type) over 150 HP	4.75				
Tractor (Pneumatic) 80 HP and Less	3.60				
Tractor (Pneumatic) over 80 HP	3.90				
Traveling Mixer	3.95				
Wagon Drill, Boring Machine or Post Hole Driller Operator	3.80				
Truck Drivers:					
Single Axle, Light	3.35				
Single Axle, Heavy	3.50				
Tandem Axle or Semitrailer	3.50				
Lowboy-Float	4.50				
Weighman (Truck Scales)	3.00				
Welder	4.65				

SUPERSEDEAS DECISION

STATE: Texas

COUNTIES: Collin, Dallas (does not include Dallas-Fort Worth Regional Airport), Ellis, Grayson & Rockwall

DECISION NO.: TX77-4128

DATE: Date of Publication

Supersedes Decision No. TX77-4008, dated January 28, 1977, in 42 FR 5644

DESCRIPTION OF WORK: Heavy (does not include tunnels, dams & work performed on the site of water or sewage treatment facilities) and Highway (does not include building structures in rest area projects) Construction and Paving & Utilities Incidental to General Building Construction. This wage determination does not apply to any residential construction (single family homes and garden type apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Air Tool Man	$ 3.15				
Asphalt Heaterman	3.75				
Asphalt Raker	4.45				
Asphalt Shoveler	3.25				
Batching Plant Scaleman	4.00				
Carpenter	4.60				
Carpenter Helper	3.60				
Concrete Finisher (Paving)	4.75				
Concrete Finisher Helper (Paving)	3.50				
Concrete Finisher (Structures)	4.40				
Concrete Finisher Helper (Structures)	3.75				
Concrete Rubber	3.25				
Electrician	6.75				
Electrician Helper	4.25				
Form Builder (Structures)	4.25				
Form Builder Helper (Structures)	3.75				
Form Liner (Paving and Curb)	4.10				
Form Setter (Paving and Curb)	4.50				
Form Setter Helper (Paving and Curb)	3.00				
Form Setter (Structures)	4.25				
Form Setter Helper (Structures)	3.25				
Laborer, Common	3.00				
Laborer, Utility Man	3.00				
Manhole Builder, Brick	4.50				
Mechanic	5.00				
Mechanic Helper	3.25				
Oiler	3.90				
Serviceman	3.50				
Painter (Structures)	5.50				
Painter Helper (Structures)	4.50				
Pipelayer	3.85				
Pipelayer Helper	3.30				
Powderman	4.50				
Reinforcing Steel Setter (Paving)	3.35				
Reinforcing Steel Setter (Structures)	$ 4.00				
Steel Worker (Structural)	3.75				
Steel Worker Helper (Structural)	3.25				
Sign Erector	4.50				
Sign Erector Helper	4.00				
Spreader Box Man	3.65				
Swamper	3.30				
Power Equipment Operators:					
Asphalt Distributor	4.25				
Asphalt Paving Machine	4.45				
Broom or Sweeper Operator	3.50				
Bulldozer, 150 HP and Less	4.00				
Bulldozer, over 150 HP	4.75				
Concrete Paving Curing Machine	4.50				
Concrete Paving Finishing Machine	3.70				
Concrete Paving Form Grader	4.00				
Concrete Paving Joint Sealer	4.00				
Concrete Paving Mixer	4.00				
Concrete Paving Saw	4.00				
Paving Sub Grader	4.00				
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (less than 1½ CY)	4.40				
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (1½ CY and Over)	4.75				
Crusher or Screening Plant Op.	4.50				
Form Loader	3.25				
Foundation Drill Operator (Truck Mounted)	4.55				
Foundation Drill Operator Helper	3.35				
Front End Loader (2½ CY & Less)	4.00				
Front End Loader (Over 2½ CY)	4.50				
Mixer (16 CF and Less)	3.75				
Motor Grader Operator, Fine Grade	5.00				
Motor Grader Operator	4.00				

DECISION NO. TX77-4128

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Power Equipment Operators (Cont'd):					
Roller, Steel Wheel (Plant-Mix Pavements)	$ 4.45				
Roller, Steel Wheel (Other-Flat Wheel or Tamping)	3.75				
Roller, Pneumatic (Self-Propelled)	3.50				
Scrapers (17 CY and Less)	4.00				
Scrapers (Over 17 CY)	4.75				
Tractor (Crawler Type) 150 HP and Less	3.25				
Tractor (Crawler Type) over 150 HP	4.00				
Tractor (Pneumatic) 80 HP & Less	3.00				
Tractor (Pneumatic) over 80 HP	3.75				
Traveling Mixer	3.75				
Trenching Machine, Light	3.75				
Trenching Machine, Heavy	3.85				
Wagon Drill, Boring Machine or Post Hole Driller Operator	3.35				
Truck Drivers:					
Single Axle, Light	3.25				
Single Axle, Heavy	3.75				
Tandem Axle or Semitrailer	3.50				
Lowboy-Float	4.00				
Transit-Mix	3.50				
Winch	3.50				
Vibrator Man (Hand Type)	3.00				
Weighman (Truck Scales)	3.00				
Welder	4.50				
Welder Helper	3.50				

SUPERSEDEAS DECISION

STATE: Texas

COUNTIES: Bowie, Camp, Cass, Delta, Fannin, Franklin, Gregg, Harrison, Hopkins, Hunt, Kaufman, Lamar, Marion, Morris, Rains, Red River, Rusk, Smith, Titus, Upshur, Van Zandt & Wood

DECISION NO.: TX77-4129

DATE: Date of Publication

Supersedes Decision No. TX77-4008, dated January 28, 1977, in 42 FR 5644.

DESCRIPTION OF WORK: Heavy (does not include tunnels & dams) and Highway (does not include building structures in rest area projects) Construction and Paving & Utilities Incidental to General Building Construction. This wage determination does not apply to any residential construction (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.
Asphalt Heaterman	$ 3.00				
Asphalt Raker	3.50				
Asphalt Shoveler	3.00				
Batching Plant Scaleman	4.00				
Carpenter	4.50				
Carpenter Helper	3.75				
Concrete Finisher (Paving)	4.75				
Concrete Finisher Helper (Paving)	4.10				
Concrete Finisher (Structures)	4.35				
Concrete Finisher Helper (Structures)	3.75				
Concrete Rubber	3.10				
Electrician	5.75				
Form Builder (Structures)	4.25				
Form Builder Helper (Structures)	3.25				
Form Liner (Paving and Curb)	4.60				
Form Setter (Paving and Curb)	4.00				
Form Setter Helper (Paving and Curb)	3.25				
Form Setter (Structures)	4.25				
Form Setter Helper (Structures)	3.10				
Laborer, Common	3.00				
Laborer, Utility Man	3.35				
Mechanic	4.50				
Mechanic Helper	4.00				
Oiler	3.75				
Serviceman	3.50				
Painter (Structures)	4.50				
Piledriverman	5.25				
Pipelayer	3.25				
Pipelayer Helper	3.00				
Powderman	4.25				
Powderman Helper	3.25				
Reinforcing Steel Setter (Paving)	3.75				

DECISION NO. TX77-4129

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Reinforcing Steel Setter (Structures)	$ 3.75				
Reinforcing Steel Setter Helper	3.50				
Steel Worker (Structural)	4.75				
Spreader Box Man	3.75				
Swamper	3.30				
Power Equipment Operators:					
Asphalt Distributor	4.00				
Asphalt Paving Machine	4.20				
Broom or Sweeper Operator	3.75				
Bulldozer, 150 HP and Less	4.00				
Bulldozer, over 150 HP	4.50				
Concrete Paving Curing Machine	5.00				
Concrete Paving Finishing Machine	4.50				
Concrete Paving Mixer	4.50				
Concrete Paving Saw	4.40				
Concrete Paving Spreader	4.00				
Paving Sub Grader	4.00				
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (less than 1½ CY)	4.50				
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (1½ CY and Over)	4.75				
Crusher or Screening Plant Op.	4.50				
Form Loader	3.75				
Foundation Drill Operator (Crawler Mounted)	5.75				
Foundation Drill Operator (Truck Mounted)	5.75				
Foundation Drill Operator Helper	4.00				
Front End Loader (2½ CY & Less)	4.00				
Front End Loader (Over 2½ CY)	4.50				
Mixer (Over 16 CF)	4.50				
Motor Grader Operator, Fine Grade	5.00				
Motor Grader Operator	4.50				
Pump Crete	3.60				
Roller, Steel Wheel (Plant-mix Pavements)	3.85				
Roller, Steel Wheel (Other-Flat Wheel or Tamping)	3.50				

DECISION NO. TX77-4129

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Power Equipment Operators (Cont'd):					
Roller, Pneumatic (Self-Propelled)	$ 3.00				
Scrapers (17 CY and Less)	4.00				
Scrapers (Over 17 CY)	4.50				
Tractor (Crawler Type) 150 HP and Less	3.60				
Tractor (Crawler Type) over 150 HP	3.95				
Tractor (Pneumatic) 80 HP & Less	3.25				
Tractor (Pneumatic) over 80 HP	3.50				
Traveling Mixer	4.50				
Wagon Drill, Boring Machine or Post Hole Driller & Operator	4.50				
Truck Drivers:					
Single Axle, Light	3.00				
Single Axle, Heavy	3.00				
Tandem Axle or Semitrailer	3.35				
Lowboy-Float	3.00				
Vibrator Man (Hand Type)	3.00				
Weighman (Truck Scales)	3.00				
Welder	4.60				

SUPERSEDEAS DECISION

STATE: Texas

COUNTIES: Anderson, Angelina, Cherokee, Henderson, Houston, Jasper, Nacogdoches, Newton, Panola, Polk, Sabine, San Augustine, San Jacinto, Shelby, Trinity & Tyler

DECISION NO.: TX77-4130

DATE: Date of Publication

Supersedes Decision No. TX77-4008, dated January 28, 1977, in 42 FR 5644.

DESCRIPTION OF WORK: Heavy (does not include tunnels & dams) and Highway (does not include building structures in rest area projects) Construction and Incidental Shore Work and Paving & Utilities Incidental to General Building Construction. This wage determination does not apply to any residential construction (single family homes and garden type apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Air Tool Man	$ 2.75				
Asphalt Heaterman	3.00				
Asphalt Raker	3.70				
Asphalt Shoveler	3.10				
Batching Plant Scaleman	2.75				
Carpenter	4.50				
Carpenter Helper	3.45				
Concrete Finisher (Paving)	4.50				
Concrete Finisher Helper (Paving)	3.65				
Concrete Finisher (Structures)	4.00				
Concrete Finisher Helper (Structures)	3.75				
Electrician	5.00				
Fireman	2.90				
Form Builder (Structures)	4.30				
Form Builder Helper (Structures)	3.20				
Form Liner (Paving and Curb)	3.75				
Form Setter (Paving and Curb)	3.50				
Form Setter Helper (Paving and Curb)	3.25				
Form Setter (Structures)	4.50				
Form Setter Helper (Structures)	3.50				
Laborer, Common	2.50				
Laborer, Utility Man	3.30				
Mechanic	4.85				
Mechanic Helper	3.50				
Oiler	3.75				
Serviceman	3.75				
Pipelayer	4.00				
Pipelayer Helper	2.75				
Reinforcing Steel Setter (Structures)	4.00				
Reinforcing Steel Setter Helper	3.00				
Spreader Box Man	3.75				

DECISION NO. TX77-4130

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Power Equipment Operators:					
Asphalt Distributor	$ 4.00				
Asphalt Paving Machine	4.00				
Broom or Sweeper Operator	2.75				
Bulldozer, 150 HP and Less	4.00				
Bulldozer, over 150 HP	4.75				
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (less than 1½ CY)	4.50				
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (1½ CY and Over)	4.90				
Foundation Drill Operator (Crawler Mounted)	3.50				
Foundation Drill Operator (Truck Mounted)	5.75				
Front End Loader (2½ CY and Less)	4.00				
Front End Loader (Over 2½ CY)	4.75				
Motor Grader Operator, Fine Grade	5.00				
Motor Grader Operator	4.30				
Roller, Steel Wheel (Plant-Mix Pavements)	4.00				
Roller, Steel Wheel (Other-Flat Wheel or Tamping)	3.55				
Roller, Pneumatic (Self-Propelled)	3.80				
Scrapers (17 CY and Less)	4.00				
Scrapers (Over 17 CY)	4.60				
Side Boom	3.35				
Tractor (Crawler Type) 150 HP and Less	3.40				
Tractor (Crawler Type) over 150 HP	4.75				
Tractor (Pneumatic) 80 HP & Less	3.00				
Tractor (Pneumatic) over 80 HP	3.50				
Traveling Mixer	3.50				
Truck Drivers:					
Single Axle, Light	3.45				
Lowboy-Float	4.50				
Welder	4.50				

SUPERSEDEAS DECISION

STATE: Texas

COUNTIES: Brazos, Burleson, Grimes, Leon, Madison, Milam, Robertson, Walker & Washington

DECISION NO.: TX77-4131

DATE: Date of Publication

Supersedes Decision No. TX 77-4008, dated January 28, 1977, in 42 FR 5644

DESCRIPTION OF WORK: Heavy (does not include tunnels & dams) and Highway (does not include building structures in rest area projects) Construction and Paving & Utilities Incidental to General Building Construction. This wage determination does not apply to any residential construction (single family homes and garden type apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Air Tool Man	$ 2.75				
Asphalt Raker	3.35				
Batching Plant Scaleman	2.85				
Carpenter	4.50				
Carpenter Helper	4.00				
Concrete Finisher (Paving)	4.50				
Concrete Finisher Helper (Paving)	4.00				
Concrete Finisher (Structures)	4.50				
Concrete Finisher Helper (Structures)	3.85				
Electrician	6.75				
Electrician Helper	3.50				
Fireman	3.00				
Form Builder (Structures)	4.65				
Form Builder Helper (Structures)	3.80				
Form Setter (Structures)	4.25				
Form Setter Helper (Structures)	3.75				
Laborer, Common	2.75				
Laborer, Utility Man	3.00				
Mechanic	4.60				
Mechanic Helper	3.80				
Oiler	3.75				
Serviceman	3.25				
Pipelayer	3.50				
Pipelayer Helper	2.75				
Powderman	3.40				
Reinforcing Steel Setter (Structures)	3.25				
Spreader Box Man	3.75				
Power Equipment Operators:					
Asphalt Distributor	3.10				
Asphalt Paving Machine	3.90				
Broom or Sweeper Operator	3.25				
Bulldozer, 150 HP and Less	3.75				
Bulldozer, over 150 HP	4.50				
Crane, Clamshell, Backhoe, Dorrick, Dragline, Shovel (less than 1½ CY)	4.00				
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (1½ CY and Over)	4.50				

DECISION NO. TX77-4131

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Power Equipment Operators (Cont'd):					
Crusher or Screening Plant Op.	$ 3.75				
Foundation Drill Operator (Truck Mounted)	6.00				
Foundation Drill Operator Helper	4.40				
Front End Loader (2½ CY & Less)	3.50				
Front End Loader (Over 2½ CY)	4.15				
Motor Grader Operator, Fine Grade	5.00				
Motor Grader Operator	4.00				
Roller, Steel Wheel (Plant-Mix Pavements)	3.80				
Roller, Steel Wheel (Other-Flat Wheel or Tamping)	3.25				
Roller, Pneumatic (Self-Propelled)	3.00				
Scrapers (17 CY and Less)	3.90				
Scrapers (Over 17 CY)	4.00				
Tractor (Crawler Type) over 150 HP	3.75				
Tractor (Pneumatic) 80 HP & Less	3.00				
Traveling Mixer	3.00				
Wagon Drill, Boring Machine or Post Hole Driller Operator	3.00				
Truck Drivers:					
Single Axle, Light	3.15				
Weighman (Truck Scales)	2.95				
Welder	3.60				

SUPERSEDEAS DECISION

STATE: Texas

COUNTIES: Brazoria, Fort Bend, Galveston, Harris, Matagorda, Montgomery, Waller & Wharton

DECISION NO.: TX77-4132

DATE: Date of Publication

Supersedes Decision No. TX77-4006, dated January 28, 1977, in 42 FR 5644.

DESCRIPTION OF WORK: Heavy (does not include tunnels, dams & work performed on the site of water or sewage treatment facilities) and Highway (does not include building structures in rest area projects) Construction, Incidental Shore Work and Paving & Utilities Incidental to General Building Construction (not to be used for Paving & Utilities Incidental to General Building Construction on Galveston Island). This wage determination does not apply to any residential construction (single family homes and garden type apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Air Tool Man	$ 3.85				
Asphalt Hesterman	3.75				
Asphalt Raker	4.05				
Asphalt Shoveler	4.00				
Batching Plant Scaleman	4.75				
Batterboard Setter	4.15				
Carpenter	5.50				
Carpenter Helper	4.25				
Concrete Finisher (Paving)	5.45				
Concrete Finisher Helper (Paving)	3.95				
Concrete Finisher (Structures)	4.85				
Concrete Finisher Helper (Structures)	3.95				
Concrete Rubber	4.25				
Electrician	7.50				
Electrician Helper	3.60				
Form Builder (Structures)	4.95				
Form Builder Helper (Structures)	4.00				
Form Liner (Paving and Curb)	5.25				
Form Setter (Paving and Curb)	5.20				
Form Setter Helper (Paving and Curb)	4.15				
Form Setter (Structures)	4.80				
Form Setter Helper (Structures)	3.75				
Laborer, Common	3.60				
Laborer, Utility Man	3.90				
Manhole Builder, Brick	5.50				
Mechanic	5.40				
Mechanic Helper	3.50				
Oiler	4.50				
Serviceman	4.00				
Painter (Structures)	6.50				
Painter Helper (Structures)	3.60				
Piledriverman	6.00				
Pipelayer	4.80				
Pipelayer Helper	3.60				
Reinforcing Steel Setter (Paving)	$ 4.25				
Reinforcing Steel Setter (Structures)	4.75				
Reinforcing Steel Setter Helper	3.60				
Steel Worker (Structural)	5.00				
Steel Worker Helper (Structural)	3.60				
Sign Erector	3.60				
Spreader Box Man	4.00				
Power Equipment Operators:					
Asphalt Distributor	4.50				
Asphalt Paving Machine	4.75				
Broom or Sweeper Operator	3.60				
Bulldozer, 150 HP and Less	4.75				
Bulldozer, over 150 HP	5.25				
Concrete Paving Curing Machine	4.25				
Concrete Paving Finishing Machine	5.00				
Concrete Paving Form Grader	4.25				
Concrete Paving Joint Machine	5.25				
Concrete Paving Longitudinal Float	4.75				
Concrete Paving Saw	5.00				
Concrete Paving Spreader	4.75				
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (less than 1½ CY)	4.70				
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (1½ CY and Over)	5.50				
Crusher or Screening Plant Op.	3.60				
Form Loader	3.80				
Foundation Drill Operator (Crawler Mounted)	6.00				
Foundation Drill Operator (Truck Mounted)	4.50				
Front End Loader (2½ CY & Less)	4.10				
Front End Loader (Over 2½ CY)	5.00				
Hoist (Double Drum and Less)	3.60				
Mixer (Over 16 CF)	5.00				
Mixer (16 CF and Less)	4.00				

DECISION NO. TX77-4132

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vocation	Education and/or Appr. Tr.
Power Equipment Operators (Cont'd):					
Motor Grader Operator, Fine Grade	$ 5.50				
Motor Grader Operator	5.00				
Roller, Steel Wheel (Plant-Mix Pavements)	4.00				
Roller, Steel Wheel (Other-Flat Wheel or Tamping)	4.00				
Roller, Pneumatic (Self-Propelled)	4.00				
Scrapers (17 CY and Less)	4.50				
Scrapers (Over 17 CY)	4.85				
Tractor (Crawler Type) 150 HP and Less	3.60				
Tractor (Crawler Type) over 150 HP	4.90				
Tractor (Pneumatic) 80 HP & Less	3.60				
Tractor (Pneumatic) over 80 HP	3.85				
Traveling Mixer	4.50				
Trenching Machine, Light	3.75				
Wagon Drill, Boring Machine or Post Hole Driller Operator	3.60				
Truck Drivers:					
Single Axle, Light	3.65				
Single Axle, Heavy	3.95				
Lowboy-Float	4.15				
Weighman (Truck Scales)	3.60				
Welder	5.50				
Welder Helper	4.40				

SUPERSEDEAS DECISION

STATE: Texas

COUNTIES: Chambers, Hardin, Jefferson, Liberty & Orange

DECISION NO.: TX77-4133

DATE: Date of Publication

Supersedes Decision No. TX77-4008, dated January 28, 1977, in 42 FR 5644.

DESCRIPTION OF WORK: Heavy (does not include tunnels & dams and not to be used for Heavy Construction in Jefferson & Orange Counties) and Highway (does not include building structures in rest area projects) Construction, Incidental Shore Work (not to be used for Incidental Shore Work in Jefferson & Orange Counties) and Paving & Utilities Incidental to General Building Construction (not to be used for Paving & Utilities Incidental to General Building Construction in Jefferson & Orange Counties). This wage determination does not apply to any residential construction (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.
Asphalt Heaterman	$ 3.60				
Asphalt Raker	4.00				
Batching Plant Scaleman	4.00				
Carpenter	5.00				
Carpenter Helper	4.50				
Concrete Finisher (Paving)	5.25				
Concrete Finisher Helper (Paving)	4.50				
Concrete Finisher (Structures)	4.75				
Concrete Finisher Helper (Structures)	4.50				
Electrician	6.75				
Form Builder (Structures)	4.25				
Form Setter (Paving and Curb)	4.50				
Form Setter (Structures)	5.50				
Form Setter Helper (Structures)	3.50				
Laborer, Common	3.40				
Laborer, Utility Man	4.50				
Mechanic	5.00				
Mechanic Helper	4.00				
Oiler	4.00				
Serviceman	4.00				
Piledrivermen	5.00				
Pipelayer	3.75				
Reinforcing Steel Setter (Structures)	4.75				
Spreader Box Man	4.50				
Power Equipment Operators:					
Asphalt Distributor	5.00				
Asphalt Paving Machine	4.60				
Broom or Sweeper Operator	3.50				
Bulldozer, 150 HP and Less	4.50				
Bulldozer, over 150 HP	5.00				
Concrete Paving Curing Machine	4.50				
Concrete Paving Finishing Machine	4.50				

DECISION NO. TX77-4133

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Power Equipment Operators (Cont'd):					
Concrete Paving Form Grader	$ 4.50				
Concrete Paving Joint Machine	4.50				
Concrete Paving Longitudinal Float	4.50				
Concrete Paving Spreader	4.75				
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (less than 1½ CY)	4.75				
Crane, Clamshell, Backhoe, Derrick, Dragline, Shovel (1½ CY and Over)	5.00				
Front End Loader (2½ CY & Less)	3.75				
Front End Loader (Over 2½ CY)	5.00				
Motor Grader Operator, Fine Grade	5.00				
Motor Grader Operator	4.50				
Roller, Steel Wheel (Plant-Mix Pavements)	4.50				
Roller, Steel Wheel (Other-Flat Wheel or Tamping)	4.50				
Roller, Pneumatic (Self-Propelled)	4.75				
Scrapers (17 CY and Less)	4.45				
Scrapers (Over 17 CY)	5.00				
Tractor (Crawler Type) over 150 HP	4.50				
Tractor (Pneumatic) 80 HP & Less	3.50				
Tractor (Pneumatic) over 80 HP	4.50				
Traveling Mixer	4.50				
Truck Drivers:					
Single Axle, Light	3.40				
Single Axle, Heavy	3.40				
Tandem Axle or Semitrailer	4.00				
Lowboy-Float	5.50				
Welder	5.50				

SUPERSEDEAS DECISION

STATE: VIRGINIA

COUNTIES: THE INDEPENDENT CITIES OF CHESAPEAKE, HAMPTON NEWPORT NEWS, NORFOLK, PORTSMOUTH AND VIRGINIA BEACH

DECISION NO.: 77VA-3082

DATE: DATE OF PUBLICATION

Supersedes Decision No. AP-494 dated March 23, 1973 in 38 FR 7693

DESCRIPTION OF WORK: Highway Construction (does not include airport runways and taxiways; bridges over navigable waters; tunnels; rest areas which include building structures; railroad construction; and paving associated with building construction).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asphalt Raker	$4.01				
Carpenter, Structure	8.00				
Carpenter, Structure helper	4.10				
Concrete Finisher	4.76				
Concrete Finisher helper	3.80				
Electrician	8.45				
Form Setter (Road)	4.52				
Ironworker, Reinforcing	5.50				
Ironworker, Reinforcing helper	4.62				
Ironworker, Structural	6.50				
Laborers, Unskilled	3.08				
Landscape Workers	2.53				
Mason Structure	7.71				
Pipelayer	4.05				
Piledriver, Leadsmen	6.20				
Painter	5.20				
Sign Erector	4.12				
Truck Drivers:					
Heavy Duty (7 cy. and under)	3.04				
Heavy Duty (over 7 cy.)	3.00				
Single Rear Axle	2.85				
Multi Rear Axle	3.15				
Tractor Trailer	4.08				
Power Equipment Operators:					
Asphalt Distributor	4.43				
Asphalt Paver	4.44				
Backhoe	4.66				
Bulldozer	4.52				
Concrete Finishing Machine	4.75				
Cranes, Derricks, Draglines (1 yard and under)	8.05				
Cranes, Derricks, Draglines (over 1 Yard)	5.855				
Drill	4.75				
Firemen	4.645				

DECISION NO. 77VA-3082 CONT'D:

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Loaders (2 yards and under)	4.18				
Loaders (over 2 yards)	4.51				
Mechanic	5.46				
Motor Grader (Fine)	5.08				
Motor Grader (Rough)	4.92				
Oiler-Greaser	3.84				
Pavement Breaker	5.50				
Piledriver	5.00				
Power Tool	3.60				
Rigger	5.34				
Roller	3.81				
Roller (Finish)	3.98				
Scraper-Pan	4.00				
Shovel (over 1 Yard)	5.00				
Stabilizer	3.93				
Subgrade Machine	4.30				
Tractor Utility	3.69				

SUPERSIDEAS DECISION

STATE: Wisconsin — COUNTIES: Milwaukee, Ozaukee, Waukesha and Washington

DECISION NUMBER: WI77-2092 — DATE: Date of Publication

Supersedes Decision No. WI76-2116, dated September 24, 1976, in 41 FR 42155

DESCRIPTION OF WORK: BUILDING CONSTRUCTION (Including Residential Construction)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$11.15	.70	.80	1.00	.04
BOILERMAKERS	11.30	.85	1.00		.02
BRICKLAYERS:					
Bricklayers & Stonemasons	11.25	1.07	.90		
CARPENTERS:					
Carpenters	10.37	.80	.80	.51	.06
Millwrights	10.89	.80	.80	.51	.06
Piledrivermen	10.91	.80	.80	.51	.06
CEMENT MASONS	9.34	.90	.70	.51	
ELECTRICIANS	11.13	.92	1%+.35	10%	1.25%
ELEVATOR CONSTRUCTORS	11.17	.545	.35	4%+a+b	.02
ELEVATOR CONSTRUCTORS' HELPERS	7.82	.545	.35	4%+a+b	.02
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	5.585				
GLAZIERS	9.59	.87	.65		
IRONWORKERS:					
Structural, Ornamental and Reinforcing	10.66	1.10	.80	1.15	.15
LATHERS	9.56	.85	.80	.91	.03
LINE CONSTRUCTION:					
Linemen	9.37	.35	1%		.5%
Equipment Operator	7.77	.35	1%		.5%
Truck Driver - truck w/Boom	6.46	.35	1%		.5%
Groundman - Experienced	5.88	.35	1%		.5%
PAINTERS:					
Brush	9.45	.96	.80	.50	.02
Swing Stage, up to 80 ft.	10.00	.96	.80	.50	.02
Structural Steel	10.20	.96	.80	.50	.02
Spray and Sandblasting	9.80	.96	.80	.50	.02
Wing stage, 80 ft. and over	10.20	.96	.80	.50	.02
PLASTERERS	9.06	.90	.70	.76	
PLUMBERS & GASFITTERS	10.98	1.00	1.00	.55	.10

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS:					
Mastic Work:					
Spreaders	10.45	.90	.80	.51	
Rubbers and Kettlemen	10.25	.90	.80	.51	
Additional Help	10.00	.90	.80	.51	
Tower Work:					
Without swings	10.40	.90	.80	.51	
With swing or bos'n chair	10.70	.90	.80	.51	
Slate,Tile and Transite Work:					
Roofers	10.40	.90	.80	.51	
Composition, damp and waterproof roofers	10.25	.90	.80	.51	
SHEET METAL WORKERS	10.66	.88	1.05	.75	.05
SOFT FLOOR LAYERS	9.83	.80	.80	.51	.06
SPRINKLER FITTERS	11.65	.65	.95		.02
STEAM FITTERS	11.16	1.10	.80	.50	.07
TERRAZZO WORKERS	10.33	.97	.70		
TILE SETTERS	10.35	.60	.80		
Welders - Receive rate prescribed for craft performing operation to which welding is incidental.					

PAID HOLIDAYS:
A-New Year's Day; B-Memorial day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day;

FOOTNOTE:

a. Holiday: A through F

b. Employer contributes 4% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years. Employer contributes 2% of regular hourly rate to vacation pay credit for employee who has worked in business less than 5 years.

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LABORERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
General Laborers, Form Stripper Concrete Worker, Mason tender	9.14	.75	.80	.51	
Scaffold Builder, Pitman or Dumpman, Building Wrecker, Hod Carrier, Mortar Mixer, Vibrator Operator, Kettleman, Air Spade Operator	9.25	.75	.80	.51	
Barco Tamper, Jackhammer Operator Sheeting Driver, Gunnite Man Concrete Buster	9.36	.75	.80	.51	
Topman on Chimney (up to 50')	9.25	.75	.80	.51	
Nozzleman	9.65	.75	.80	.51	
Plasterer Laborer	9.35	.75	.80	.51	
Topman (every additional 50 ft.)	9.50	.75	.80	.51	
Caisson worker	9.80	.75	.80	.51	
Caisson Worker - Top Man	9.45	.75	.80	.51	
Bridge, Road and Railway Construction:					
General Laborer	8.94	.75	.80	.51	
Vibrator, Pitman, and Dumpman	9.00	.75	.80	.51	
Bullfloat, strikeoff Man, Puddler, Cement Dumper	9.05	.75	.80	.51	
Formsetter	9.22	.75	.80	.51	

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POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	10.67	.75	.90		.10
GROUP II	10.42	.75	.90		.10
GROUP III	10.12	.75	.90		.10
GROUP IV	10.02	.75	.90		.10
GROUP V	9.81	.75	.90		.10
GROUP VI	9.57	.75	.90		.10

GROUP I - Cranes, shovels, draglines, backhoes, clamshells, derricks, caisson rigs, pile driver, skid rigs, derrick operator and traveling crane (bridge type), concrete paver (over 27E), concrete spreader and distributor

GROUP II - Material hoists, tractor or truck mounted hydraulic backhoe tractor or truck mounted hydraulic crane (5 tons or under),Manhoist, tractor (over 40 h.p.), bulldozer (over h.p.), endloader (over 40 h.p.), Forklift (25' and over), motor patrol, scraper operator, sideboom, straddle carrier, mechanic and welder, bituminous plant and paver operator, roller (over 5 tons), rotary drill operator and blaster, trencher (wheel type or chain type having over 8-inch bucket)

GROUP III - Concrete and grout pumps, backfiller, concrete auto breaker (large), concrete finishing machine (road type), roller (rubber tire), concrete batch hopper, concrete conveyor systems, concrete mixers (14S or over), Screw type pumps, and gypsum pumps, tractor, Bulldozer, Endloader (under 40 h.p.), Pumps (well points), trencher (chain type paving bucket 8-inch and under), industrial locomotives, roller (under 5 tons) and firemen (pile drivers and derricks)

GROUP IV - Hoists (automatic), Forklift (12' to 25'), Tampers-compactOrs (riding type), assistant engineer, "A" frame and winch trucks, Concrete auto breaker, hydro-hammer (small), Booms and sweeper, Hoists (tuggers), stump chipper (large), boats, safety work, barges and launch)

GROUP V - Shouldering machine operator, screed operator, farm or industrial tractor mounted equipment, post hole diggers, stone crushers and screening plants, fireman (asphalt plants), air compressor (300 CFM or over)

GROUP VI - Generators over 15KW, pumps over 3", Augers (vertical and horizontal), Combinations small equipment operator; air, electric hydraulic jacks (slip form), compressors (under 300 CFM), welding machines, heaters (mechanical), prestress machines, bobcats, generators (under 150 KW), Pumps (3" and under); Winches (small electric), Oiler and greaser, boiler operators (temporary heat), Rotary drill helper, conveyor, forklift (12' and under)

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