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highlights

EDUCATIONAL WORKSHOPS ON HOW TO USE THE FEDERAL REGISTER

CORRECTION: On the cover of the issue for Wednesday, June 20, 1977, the dates for the Boston, Mass. workshops were incorrectly announced as 10–7—10–9 inclusive. These dates should have read 9–7—9–9 inclusive.

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

OUT OF TOWN WORKSHOPS PREVIOUSLY ANNOUNCED

New York, N.Y., 8–15, 8–16, 8–17, 8–18, 8–19
(Details: 42 FR 36040, 7/13/77)
For reservations call: Dorothy Gemmallo at (212) 264–3514

Boston, Mass., 9–7, 9–8, 9–9
(Details: 42 FR 37261, 7–20–77)
For reservations call: Mrs. Louise Conboy at (617) 223–7121

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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
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/OHMO	CSC		DOT/OHMO	CSC
DOT/OPSO	LABOR		DOT/OPSO	LABOR
	HEW/ADAMHA			HEW/ADAMHA
	HEW/CDC			HEW/CDC
	HEW/FDA			HEW/FDA
	HEW/HRA			HEW/HRA
	HEW/HSA			HEW/HSA
	HEW/NIH			HEW/NIH
	HEW/PHS			HEW/PHS

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

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List of Public Laws

This is a continuing listing of public bills that have become law, the text of which is not published in the FEDERAL REGISTER. Copies of the laws in individual pamphlet form (referred to as "slip laws") may be obtained from the U.S. Government Printing Office.

H.R. 6893 ..... Pub. L. 95–67

To amend title 4 of the United States Code to make it clear that Members of Congress may not, for purposes of State income tax laws, be treated as residents of any State other than the State from which they were elected. (July 19, 1977; 91 Stat. 271). Price: $.35.

presidential documents

Title 3—The President

Executive Order 12003 • **July 20, 1977**

Relating to Energy Policy and Conservation

By virtue of the authority vested in me by the Constitution and the statutes of the United States of America, including the Energy Policy and Conservation Act (89 Stat. 871, 42 U.S.C. 6201 *et seq.*), the Motor Vehicle Information and Cost Savings Act, as amended (15 U.S.C. 1901 *et seq.*), Section 205(a) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 486(a)), and Section 301 of Title 3 of the United States Code, and as President of the United States of America, it is hereby ordered as follows:

SECTION 1. Section 1 of Executive Order No. 11912 of April 13, 1976, is amended to read as follows:

"Section 1. (a) The Administrator of General Services is designated and empowered to perform, without approval, ratification or other action by the President, the function vested in the President by Section 510 of the Motor Vehicle Information and Cost Savings Act, as amended (89 Stat. 915, 15 U.S.C. 2010). In performing this function, the Administrator of General Services shall:

(1) Promulgate rules which will ensure that the minimum statutory requirement for fleet average fuel economy is exceeded (i) for fiscal year 1978 by 2 miles per gallon, (ii) for fiscal year 1979 by 3 miles per gallon, and (iii) for fiscal years 1980 and after by 4 miles per gallon.

(2) Promulgate rules which will ensure that Executive agencies do not acquire, subsequent to fiscal year 1977, any passenger automobile unless such automobile meets or exceeds the average fuel economy standard for the appropriate model year established by, or pursuant to, Section 502(a) of the Motor Vehicle Information and Cost Savings Act, as amended (15 U.S.C. 2002(a)); except that, such rules (i) shall not apply to automobiles designed to perform combat-related missions for the Armed Forces or designed to be used in law enforcement work or emergency rescue work, and (ii) may provide for granting exemptions for individual automobiles used for special purposes as determined to be appropriate by the Administrator of General Services with the concurrence of the Administrator of the Federal Energy Administration.

"(b) The Administrator of General Services shall promulgate rules which will ensure that each class of nonpassenger automobiles acquired by all Executive agencies in each fiscal year, beginning with fiscal year 1979, achieve for such fiscal year a fleet average fuel economy not less than the average fuel economy standard for such class, established pursuant to Section 502(b) of the Motor Vehicle Information and Cost Savings Act, as amended (89 Stat. 903, 15 U.S.C. 2002(b)), for the model year which includes January 1 of such fiscal year; except that, such rules (1) shall not apply to automobiles designed to perform combat-related missions for the Armed Forces or designed to be used in law enforcement work or emergency rescue work, and (2) may provide for granting exceptions for other categories of automobiles used for special purposes as determined to be appropriate by the Administrator of General Services with the concurrence of the Administrator of the Federal Energy Administration.",

SEC. 2. Executive Order No. 11912 of April 13, 1976, is further amended by adding the following new Section:

"Sec. 10. (a)(1) The Administrator of the Federal Energy Administration, hereinafter referred to as the Administrator, shall develop, with the concurrence of the Director of the Office of Management and Budget, and in consultation with the Secretary of Defense, the Secretary of Housing and Urban Development, the Administrator of Veterans' Affairs, the Administrator of the Energy Research and Development Administration, the Administrator of General Services, and the heads of such other Executive agencies as he deems appropriate, the ten-year plan for energy conservation with respect to Government buildings, as provided by section 381(a)(2) of the Energy Policy and Conservation Act (42 U.S.C. 6361(a)(2)).

(2) The goals established in subsection (b) shall apply to the following categories of Federally-owned buildings: (i) office buildings, (ii) hospitals, (iii) schools, (iv) prison facilities, (v) multi-family dwellings, (vi) storage facilities, and (vii) such other categories of buildings for which the Administrator determines the establishment of energy-efficiency performance goals is feasible.

"(b) The Administrator shall establish requirements and procedures, which shall be observed by each agency unless a waiver is granted by the Administrator, designed to ensure that each agency to the maximum extent practicable aims to achieve the following goals:

(1) For the total of all Federally-owned existing buildings the goal shall be a reduction of 20 percent in the average annual energy use per gross square foot of floor area in 1985 from the average energy use per gross square foot of floor area in 1975. This goal shall apply to all buildings for which construction was or design specifications were completed prior to the date of promulgation of the guidelines pursuant to subsection (d) of this Section.

(2) For the total of all Federally-owned new buildings the goal shall be a reduction of 45 percent in the average annual energy requirement per gross square foot of floor area in 1985 from the average annual energy use per gross square foot of floor area in 1975. This goal shall apply to all new buildings for which design specifications are completed after the date of promulgation of the guidelines pursuant to subsection (d) of this Section.

"(c) The Administrator with the concurrence of the Director of the Office of Management and Budget, in consultation with the heads of the Executive agencies specified in subsection (a) and the Director of the National Bureau of Standards, shall establish, for purposes of developing the ten-year plan, a practical and effective method for estimating and comparing life cycle capital and operating costs for Federal buildings, including residential, commercial, and industrial type categories. Such method shall be consistent with the Office of Management and Budget Circular No. A–94, and shall be adopted and used by all agencies in developing their plans pursuant to subsection (e), annual reports pursuant to subsection (g), and budget estimates pursuant to subsection (h). For purposes of this paragraph, the term "life cycle cost" means the total costs of owning, operating, and maintaining a building over its economic life, including its fuel and energy costs, determined on the basis of a systematic evaluation and comparison of alternative building systems.

"(d) Not later than November 1, 1977, the Administrator, with the concurrence of the Director of the Office of Management and Budget, and after consultation with the Administrator of General Services and the heads of the Executive agencies specified in subsection (a) shall issue guidelines for the plans to be submitted pursuant to subsection (e).

"(e) (1) The head of each Executive agency that maintains any existing building or will maintain any new building shall submit no later than six months after the issuance of guidelines pursuant to subsection (d), to the Administrator a ten-year plan designed to the maximum extent practicable to meet the goals in subsection (b) for the total of existing or new Federal buildings. Such ten-year plans shall only consider improvements that are cost-effective consistent with the criteria established by the Director of the Office of Management and Budget (OMB Circular A–94) and the method established pursuant to subsection (c) of this Section. The plan submitted shall specify appropriate energy-saving initiatives and shall estimate the expected improvements by fiscal year in terms of specific accomplishments—energy savings and cost savings—together with the estimated costs of achieving the savings.

(2) The plans submitted shall, to the maximum extent practicable, include the results of preliminary energy audits of all existing buildings with over 30,000 gross square feet of space owned and maintained by Executive agencies. Further, the second annual report submitted under subsection (g) (2) of this Section shall, to the maximum extent practicable, include the results of preliminary energy audits of all existing buildings with more than 5,000 but not more than 30,000 gross square feet of space. The purpose of such preliminary energy audits shall be to identify the type, size, energy use level and major energy using systems of existing Federal buildings.

(3) The Administrator shall evaluate agency plans relative to the guidelines established pursuant to subsection (d) for such plans and relative to the cost estimating method established pursuant to subsection (c). Plans determined to be deficient by the Administrator will be returned to the submitting agency head for revision and resubmission within 60 days.

(4) The head of any Executive agency submitting a plan, should he disagree with the Administrator's determination with respect to that plan, may appeal to the Director of the Office of Management and Budget for resolution of the disagreement.

"(f) The head of each agency submitting a plan or revised plan determined not deficient by the Administrator or, on appeal, by the Director of the Office of Management and Budget, shall implement the plan in accord with approved budget estimates.

"(g) (1) Each Executive agency shall submit to the Administrator an overall plan for conserving fuel and energy in all operations of the agency. This overall plan shall be in addition to and include any ten-year plan for energy conservation in Government buildings submitted in accord with Subsection (e).

(2) By July 1 of each year, each Executive agency shall submit a report to the Administrator on progress made toward achieving the goals established in the overall plan required by paragraph (1) of this subsection. The annual report shall include quantitative measures and accomplishment with respect to energy saving actions taken, the cost of these actions, the energy saved, the costs saved, and other-benefits realized.

(3) The Administrator shall prepare a consolidated annual report on Federal government progress toward achieving the goals, including aggregate quantitative measures of accomplishment as well as suggested revisions to the ten-year plan, and submit the report to the President by August 15 of each year.

"(h) Each agency required to submit a plan shall submit to the Director of the Office of Management and Budget with the agency's annual budget submission, and in accordance with procedures and requirements that the Director shall establish, estimates for implementation of the agency's plan. The Director of the Office of Management and Budget shall consult with the Administrator about the agency budget estimates.

"(i) Each agency shall program its proposed energy conservation improvements of buildings so as to give the highest priority to the most cost-effective projects.

"(j) No agency of the Federal government may enter into a lease or a commitment to lease a building the construction of which has not commenced by the effective date of this Order unless the building will likely meet or exceed the general goal set forth in subsection (b)(2).

"(k) The provisions of this Section do not apply to housing units repossessed by the Federal Government.".

Jimmy Carter

THE WHITE HOUSE,
July 20, 1977.

[FR Doc.77-21414 Filed 7-21-77;12:11 pm]

Executive Order 12004 July 20, 1977

Relating to Federal Pay Administration

By virtue of the authority vested in me by Sections 5304 and 5305 of Title 5 of the United States Code, and as President of the United States of America, in order to improve the process by which the President receives advice relating to the Federal pay systems, Executive Order No. 11721 of May 23, 1973, relating to Federal pay administration, is hereby amended as follows:

SECTION 1. Section 201 is amended to read as follows:

"Section 201. The Secretary of Labor, the Director of the Office of Management and Budget, and the Chairman of the United States Civil Service Commission are hereby designated to serve jointly as the President's agent under section 5305 of title 5, United States Code, and shall be known in this capacity as the President's Pay Agent.".

SEC. 2. A new Section 204 is added as follows:

"Sec. 204. (a) The Advisory Committee on Federal Pay shall advise the President of its own opinion on any unresolved issues referred to it by the President's Pay Agent or the Federal Employees Pay Council. The Advisory Committee shall inform the President's Pay Agent and the Federal Employees Pay Council of its opinion on such issues as soon as practicable. To facilitate the exercise of this authority and the early resolution of such issues, the Advisory Committee shall attend, or be represented at, meetings between the President's Pay Agent and the Federal Employees Pay Council, and moderate and direct the discussion.

"(b) The President's Pay Agent, in its annual report to the President pursuant to section 5305 of title 5, United States Code, shall include a full discussion of each issue upon which the Advisory Committee has submitted, in accordance with subsection (a), an opinion.".

Jimmy Carter

THE WHITE HOUSE,
July 20, 1977.

[FR Doc.77-21415 Filed 7-21-77;12:12 pm]

rules and regulations

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

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

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Department of Commerce

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: The position of Special Assistant to the Assistant Secretary for Tourism is excepted under Schedule C because of its confidential nature.

EFFECTIVE DATE: July 22, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling (202–632–4533).

Accordingly, 5 CFR 213.3314(1)(5) is added as set out below:

§ 213.3314 Department of Commerce.

* * * * *

(1) *U.S. Travel Service.* * * *

(5) One Special Assistant to the Assistant Secretary for Tourism.

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

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

[FR Doc.77–21048 Filed 7–21–77;8:45 am]

PART 213—EXCEPTED SERVICE

Department of Defense

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This addition excepts under Schedule C the following positions because they are confidential in nature: one position of Assistant to the Special Assistant to the Secretary of Defense, and one position of Confidential Assistant to the Deputy Assistant Secretary of Near Eastern, African and South Asian Affairs.

EFFECTIVE DATE: July 22, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling (202–632–4533).

Accordingly, 5 CFR 213.3306(a)(88) and (89) are added as set out below:

§ 213.3306 Department of Defense.

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

(88) One Assistant to the Special Assistant to the Secretary of Defense.

(89) One Confidential Assistant to the Deputy Assistant Secretary (Near Eastern, African and South Asian Affairs), Office of the Assistant Secretary of Defense for International Security 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.77–21044 Filed 7–21–77;8:45 am]

PART 213—EXCEPTED SERVICE

Executive Office of the President: Office of Management and Budget

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: The position of Congressional Relations Officer (Reorganization) to the Executive Associate (Assistant) Director for Reorganization and Management is excepted under Schedule C because it is confidential in nature.

EFFECTIVE DATE: July 22, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3303(a)(18) is added as set out below:

§ 213.3303 Executive Office of the President.

(a) *Office of Management and Budget.*

* * *

(18) One Congressional Relations Officer (Reorganization) to the Assistant Director (Reorganization and Management.

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

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

[FR Doc.77–21043 Filed 7–21–77;8:45 am]

PART 213—EXCEPTED SERVICE

Department of Housing and Urban Development

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This section is amended to reflect the change in title of one position of Special Assistant to the Assistant Secretary for Policy Development and Research to Staff Assistant to the Assistant Secretary for Policy Development and Research to more appropriately reflect the duties of the position.

EFFECTIVE DATE: July 22, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling (202–632–4533).

Accordingly, 5 CFR 213.3385(i)(5) is amended as set out below:

§ 213.3384 Department of Housing and Urban Development.

* * * * *

(i) *Office of the Assistant Secretary for Policy Development and Research.*

* * *

(5) Two Special Assistants and one Staff Assistant to the Assistant Secretary.

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

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

[FR Doc.77–21049 Filed 7–21–77;8:45 am]

PART 213—EXCEPTED SERVICE

Department of the Interior

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: One position of Assistant to the Administrator—Energy Conservation, Bonneville Power Administration is reestablished under Schedule C because it is confidential in nature.

EFFECTIVE DATE: July 22, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling (202–632–4533).

Accordingly, 5 CFR 213.3312(i)(4) is added as set out below:

§ 213.3312 Department of the Interior.

* * * * *

(i) *Bonneville Power Administration.*

* * *

(3) [Reserved]

(4) Assistant to the Administrator—Energy Conservation.

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

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

[FR Doc.77–21045 Filed 7–21–77;8:45 am]

PART 213—EXCEPTED SERVICE

Department of the Interior

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This addition excepts from the competitive service under Schedule C one position of Confidential Assistant to the Commissioner, Bureau of Reclamation.

EFFECTIVE DATE: July 22, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling (202-632-4533).

Accordingly, 5 CFR 213.3312(n) is added as set out below:

§ 213.3312 Department of the Interior.

* * * * *

(n) *Bureau of Reclamation.*

(1) One Confidential Assistant to the Commissioner.

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

UNITED STATES CIVIL SERVICE COMMISSION,

JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-21047 Filed 7-21-77;8:45 am]

PART 213—EXCEPTED SERVICE

Department of Justice

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This addition excepts under Schedule C the following positions because they are confidential in nature: one position of Secretary (Steno) for the Attorney General and one position of Confidential Assistant to the Deputy Attorney General.

EFFECTIVE DATE: July 22, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling (202-632-4533).

Accordingly, 5 CR 213.3310(a)(13) and (b)(7) are added as set out below:

§ 213.3310 Department of Justice.

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

(13) One Secretary (Steno) for the Attorney General.

(b) *Office of the Deputy Attorney General.* * * *

(7) One Confidential Assistant to the Deputy Attorney General.

(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.77-21046 Filed 7-21-77;8:45 am]

PART 713—EQUAL OPPORTUNITY

Age Group Coverage—Nondiscrimination on Account of Age

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: Part 713 is amended to redefine the age group covered by the regulations from employees or applicants who are at least 40 and less than 65 years of age; to (a) employees who are at least 40 and less than 70 years of age and (b) applicants who are at least 40 and less than 65 years of age. The purpose of these amendments is to comply with a recent court decision (*Christie* v. *Marston*, 7th Circuit Court 1977, 551 F. 2d 1080).

EFFECTIVE DATE: March 4, 1977.

FOR FURTHER INFORMATION CONTACT:

Jeanne M. Monk, Age Discrimination in Employment Act Program Coordinator, U.S. Civil Service Commission, 1900 E Street NW., Washington, D.C. 20415 (202-254-9470).

SUPPLEMENTARY INFORMATION: On March 4, 1977, the 7th Circuit Court of Appeals ruled that "* * * Federal employees between the ages of 65 and 70 are protected from age discrimination by the ADEA." That decision also stated an expectation "* * * that the regulation will henceforth be administered in accordance with this ruling." Therefore, the effective date of the amendments is March 4, 1977.

COMMISSION GUIDANCE

The Commission, in its Federal Personnel Manual instructions, will provide that, subject otherwise to complaint timing and purview provisions in Part 713, the amendments are to be effective for complaints from employees age 65 to less than 70:

a. If a complaint of age discrimination is based on alleged discriminatory action(s) occurring on or after March 4, 1977.

b. If a complaint of age discrimination was the subject of administrative proceedings in process (e.g., a grievance) on March 4, 1977.

c. If an individual complaint of age discrimination was filed on or after March 4, 1977, based on an alleged discriminatory action which occurred within the 30 days immediately preceding March 4, 1977.

d. If a class complaint of age discrimination was filed on or after April 18, 1977, based on an alleged discriminatory action which occurred no earlier than 90 days immediately preceding April 4, 1977 (these dates are provided to comply with effective dates established for the promulgation of class complaint regulations).

EXCEPTIONS

The Federal Personnel Manual instructions will also provide for the following exceptions:

a. The amendments do not apply to employment situations involving mandatory retirement between ages 65 and 70. The court decision stated that it did not deal with employees "* * * who, because of other statutes or regulations, are subject to mandatory retirement at an age earlier than 70 * * *"

b. Federal employees age 65 to less than 70 who apply for jobs in their own or other Federal agencies are "employees" and not "applicants" for purposes of coverage and entitlements under the ADEA, Part 713, and related regulations and instructions. For example, a Federal employee's complaint of age discrimination under Part 713 may not be rejected on grounds that he/she is complaining as an applicant rather than an employee.

Accordingly, 5 CFR § 713.501(b)(4), § 713.512, and § 713.601(d) are amended to read as follows:

§ 713.501 Purpose and applicability.

* * * * *

(b) *Applicability.* * * *

(4) This subpart applies to (a) employees who are at least 40 and less than 70 years of age and (b) applicants for employment who are at least 40 and less than 65 years of age.

* * * * *

§ 713.512 Coverage.

The agency shall provide in its regulations for the acceptance of a complaint from many aggrieved employee or applicant for employment with that agency who believes that he or she has been discriminated against on account of age and who, at the time of the action complained of, was (a) an employee at least 40 but less than 70 years of age or (b) an applicant at least 40 but less than 65 years of age. A complaint may also be filed by an organization for the person with his or her consent.

* * * * *

§ 713.601 Definition.

* * * * *

(d) "Age" is an inclusive term which means (1) in the case of employees, the ages of 40 to less than 70 years and (2) in the case of applicants, the ages of 40 to less than 65 years.

(5 U.S.C. 1301, 3301, 3302, 7154, 7301; 86 Stat. 11; E.O. 10577, 3 CFR 1954-58 Comp., p. 218; E.O. 11222, 3 CFR 1964-1965 Comp., p. 306; E.O. 11478, 3 CFR 1966-70 Comp., p. 803; 29 U.S.C. 633a.)

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.77-21001 Filed 7-21-77;8:45 am]

Title 7—Agriculture

CHAPTER II—FOOD AND NUTRITION SERVICE, DEPARTMENT OF AGRICULTURE

[Amendment No. 117]

PART 271—PARTICIPATION OF STATE AGENCIES AND ELIGIBLE HOUSEHOLDS

Food Stamp Program

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This amendment revises the maximum allowable monthly income standards for the one-person household in Alaska, effective July 1, 1977. This revision is necessary to increase such income eligibility standards in line with the recently issued 1977 Secretary's income poverty guidelines.

EFFECTIVE DATE: July 1, 1977.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: On May 20 (42 F.R. 26002-03), the Department published a final rule revising the Maximum Eligibility Standards and Basis of Coupon Issuance for Alaska, effective July 1, 1977 (Appendix B—FSP Notice No. 1977-2.2).

Currently the Food Stamp Program Regulations provide that the national income standards of eligibility shall be the higher of poverty guidelines issued by the Secretary of Agriculture on the basis of data reported by the Census Bureau or the level at which the total coupon allotments equals 30 percent of income.

The Secretary's poverty guidelines used for the Food Stamp Program are the same as those for the Child Nutrition Program which are based on changes in the Consumer Price Index for the 12-month period ending in April.

Therefore, in line with the recently issued 1977 Secretary's guidelines (42 FR 29030) the maximum allowable income standards are increased for the one-person household from $307 to $328 and the two-person household from $427 to $430 The following table should be substituted for the table appearing in FR Doc. 77-14145 at page 26002 in the FEDERAL REGISTER of May 20, 1977.

Household size:	*Maximum allowable monthly income standards—Alaska*
1	[1] $328
2	[1] 430
3	614
4	780
5	927
6	1,113
7	1,227
8	1,407
Each additional member	+173

[1] 1977 USDA Poverty Guideline.

Also, the table shown on page 26002, headed "Monthly Coupon Allotment and Purchase Requirements" is amended for the one-person household at the level of income of $310 to $329.99, by inserting a purchase requirement of $56.

In view of the need for placing this notice into effect on July 1, 1977, and the mandatory nature of the subject matter, it is hereby determined that it is impracticable and contrary to the public interest to give notice of proposed rulemaking with respect to this notice.

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: July 17, 1977.

CAROL TUCKER FOREMAN,
Assistant Secretary.

[FR Doc.77-21067 Filed 7-21-77;8:45 am]

[Amendment No. 118]

PART 271—PARTICIPATION OF STATE AGENCIES AND ELIGIBLE HOUSEHOLDS

Food Stamp Program

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This amendment revises the maximum allowable monthly income standards for the one-person household in Hawaii, effective July 1, 1977. This revision is necessary to increase such income eligibility standards in line with the recently issued 1977 Secretary's income poverty guidelines.

EFFECTIVE DATE: July 1, 1977.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: On May 20 (42 FR 26003-04), the Department published a final rule revising the Maximum Eligibility Standards and Basis of Coupon Issuance for Hawaii, effective July 1, 1977 (Appendix C—FSP Notice No. 1977-3.2).

Currently the Food Stamp Program Regulations provide that the national income standards of eligibility shall be the higher of poverty guidelines issued by the Secretary of Agriculture on the basis of data reported by the Census Bureau or the level at which the total coupon allotment equals 30 percent of income.

The Secretary's poverty guidelines used for the Food Stamp Program are the same as those for the Child Nutrition Program which are based on changes in the Consumer Price Index for the 12-month period ending in March. Therefore, in line with the recently issued 1977 Secretary's guidelines (42 FR 29030) the maximum allowable income standards are increased for the one-person household from $273 to $286. The following table should be substituted for the table now appearing in FR Doc. No. 77-14146 at page 26003 in the FEDERAL REGISTER of May 20, 1977.

Household size:	*Maximum allowable monthly income standards—Hawaii*
1	[1] $286
2	413
3	593
4	453
5	893
6	1,073
7	1,187
8	1,354
Each Additional Member	+166

[1] 1977 USDA Poverty Guideline.

In view of the need for placing this notice into effect on July 1, 1977, and the mandatory nature of the subject matter, it is hereby determined that it is impracticable and contrary to the public interest to give notice of proposed rulemaking with respect to this notice.

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: July 17, 1977.

CAROL TUCKER FOREMAN,
Assistant Secretary.

[FR Doc.77-21068 Filed 7-21-77;8:45 am]

[Amendment No. 119]

PART 271—PARTICIPATION OF STATE AGENCIES AND ELIGIBLE HOUSEHOLDS

Food Stamp Program

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This amendment revises the maximum allowable monthly income standards for the one- and two-person households in Puerto Rico, effective July 1, 1977. These revisions are necessary to increase such income eligibility standards in line with the recently issued 1977 Secretary's income poverty guidelines.

EFFECTIVE DATE: July 1, 1977.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: On May 20 (42 FR 26004-05), the Department published a final rule revising the Maximum Eligibility Standards and Basis of Coupon Issuance for Puerto Rico, effective July 1, 1977. (Appendix D—FSP Notice No. 1977-4.2).

Currently the Food Stamp Program Regulations provide that the national income standards of eligibility shall be the higher of poverty guidelines issued by

the Secretary of Agriculture on the basis of data reported by the Census Bureau or the level at which the total coupon allotment equals 30 percent of income.

The Secretary's poverty guidelines used for the Food Stamp Program are the same as those for the Child Nutrition Program which are based on changes in the Consumer Price Index for the 12-month period ending in April. Therefore, in line with the recently issued Secretary's guidelines (42 FR 29030) the maximum allowable income standards are increased for the one-person household from $245 to $262 and for the two-person household from $322 to $344. The following table should be substituted for the table now appearing in FR Doc. 77-14147 at page 26004 in the FEDERAL REGISTER of May 20, 1977.

Household size:	*Maximum allowable monthly income standards—Puerto Rico*
1	[1] $262
2	[1] 344
3	453
4	573
5	680
6	820
7	900
8	1,033
Each Additional Member	+127

[1] 1977 USDA Poverty Guideline.

Also, the table on page 26005, headed "Monthly Coupon Allotments and Purchase Requirements" is amended for the one-person household at the level of income of $250 to $269.99, by inserting a purchase requirement of $42; and for the two-person household at the income level of $330 to $359.99, by inserting a purchase requirement of $74.

In view of the need for placing this notice into effect on July 1, 1977, and the mandatory nature of the subject matter, it is hereby determined that it is impracticable and contrary to the public interest to give notice of proposed rulemaking with respect to this notice.

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.

Dated: July 17, 1977.

CAROL TUCKER FOREMAN,
Assistant Secretary.

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

[FR Doc.77-21069 Filed 7-21-77;8:45 am]

[Amendment No. 120]

PART 271—PARTICIPATION OF STATE AGENCIES AND ELIGIBLE HOUSEHOLDS

Food Stamp Program

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This amendment revises the maximum allowable monthly income standards for the one-person household in the Virgin Islands, effective July 1, 1977. This revision is necessary to increase such income eligibility standards in line with the recently issued 1977 Secretary's income poverty guidelines.

EFFECTIVE DATE: July 1, 1977.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: On May 20 (42 FR 26005-06), the Department published a final rule revising the Maximum Eligibility Standards and Basis of Coupon Issuance for the Virgin Islands, effective July 1, 1977 (Appendix E—FSP Notice No. 1977-5.2).

Currently the Food Stamp Program Regulations provide that the national income standards of eligibility shall be the higher of poverty guidelines issued by the Secretary of Agriculture on the basis of data reported by the Census Bureau or the level at which the total coupon allotment equals 30 percent of income.

The Secretary's poverty guidelines used for the Food Stamp Program are the same as those for the Child Nutrition Program which are based on changes in the Consumer Price Index for the 12-month period ending in April.

Therefore, in line with the recently issued 1977 Secretary's guidelines (42 FR 29030) the maximum allowable income standards are increased for the one-person household from $245 to $262. The following table should be substituted for the table now appearing in FR Doc. 77-14148 at page 26006 in the FEDERAL REGISTER of May 20, 1977.

Household size:	*Maximum allowable monthly income standards—Virgin Islands*
1	[1] $262
2	393
3	560
4	713
5	847
6	1,013
7	1,127
8	1,287
Each Additional Member	+160

[1] 1977 USDA Poverty Guideline.

Also, the table on page 26006, headed "Monthly Coupon Allotments and Purchase Requirements" is amended for the one-person household at the level of income of $250 to $269.99, by inserting a purchase requirement of $50.

In view of the need for placing this notice into effect on July 1, 1977, and the mandatory nature of the subject matter, it is hereby determined that it is impracticable and contrary to the public interest to give notice of proposed rulemaking with respect to this notice.

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: July 17, 1977.

CAROL TUCKER FOREMAN,
Assistant Secretary.

[FR Doc.77-21070 Filed 7-21-77;8:45 am]

[Amendment No. 121]

PART 271—PARTICIPATION OF STATE AGENCIES AND ELIGIBLE HOUSEHOLDS

Food Stamp Program

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This amendment revises the maximum allowable monthly income standards for the one-person household in Guam, effective July 1, 1977. This revision is necessary to increase such income eligibility standards in line with the recently issued 1977 Secretary's income poverty guidelines.

EFFECTIVE DATE: July 1, 1977.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: On May 20 (42 FR 26006-07), the Department published a final rule revising the Maximum Eligibility Standards and Basis of Coupon Issuance for Guam, effective July 1, 1977 (Appendix F—FSP Notice No. 1977-6.2).

Currently the Food Stamp Program Regulations provide that the national income standards of eligibility shall be the higher of poverty guidelines issued by the Secretary of Agriculture on the basis of data reported by the Census Bureau or the level at which the total coupon allotment equals 30 percent of income.

The Secretary's poverty guidelines used for the Food Stamp Program are the same as those for the Child Nutrition Program which are based on changes in the Consumer Price Index for the 12-month period ending in March.

Therefore, in line with the recently issued 1977 Secretary's guidelines (42 FR 29030) the maximum allowable income standards are increased for the one-person household from $273 to $286. The following table should be substituted for the table now appearing in FR Doc. 77-14149 at page 26007 in the FEDERAL REGISTER of May 20, 1977.

Household size:	*Maximum Allowable Monthly Income Standards—Guam*
1	[1] $286
2	427
3	614
4	780
5	927
6	1,113
7	1,227
8	1,407
Each Additional Member	+173

[1] 1977 USDA Poverty Guideline.

In view of the need for placing this notice into effect on July 1, 1977, and the mandatory nature of the subject matter, it is hereby determined that it is impracticable and contrary to the public interest to give notice of proposed rulemaking with respect to this notice.

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.

Dated: July 17, 1977.

CAROL TUCKER FOREMAN,
Assistant Secretary.

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

[FR Doc.77-21071 Filed 7-21-77;8:45 am]

[Amendment No. 122]

PART 272—PARTICIPATION OF RETAIL FOOD STORES, WHOLESALE FOOD CONCERNS, MEAL SERVICES, AND BANKS

PART 273—ADMINISTRATIVE AND JUDICIAL REVIEW—FOOD RETAILERS, FOOD WHOLESALERS AND MEAL SERVICES

Food Stamp Program

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This rule states that the final date for filing a request for review of an administrative action shall be the 10th day after the day the firm received the notice of adverse action, unless the 10th day falls on a Saturday, Sunday, or legal holiday. If the 10th day falls on a Saturday, Sunday, or a legal holiday, the final date for filing a request for review shall be the next business day.

This rule is designed to ensure that all firms have 10 days to request review, even when the day that would normally be the final date for requesting review falls on a day on which post offices are not open.

EFFECTIVE DATE: July 22, 1977.

FOR FURTHER INFORMATION CONTACT:

Nancy Snyder, Director, Food Stamp Program, Food and Nutrition Service, U.S. Department of Agriculture, Washington, D.C. 20250 (C202-447-8982).

SUPPLEMENTARY INFORMATION: The amendment is made to bring this provision of the regulations into conformity with generally prevailing practice with respect to notice periods.

It is the policy of the Department that the public be given the opportunity to comment on regulatory changes before issuance. However, since this amendment will not adversely affect firms charged with violations, it is determined to be contrary to the public interest to give notice of proposed rulemaking with respect to this amendment.

Accordingly, Part 272 is amended as follows:

§ 272.6 [Amended]

In § 272.6, paragraph (d) is amended by deleting the phrase "within 10 days", and inserting in its place the phrase, "within the period specified in § 273.5".

§ 272.8 [Amended]

In § 272.8, paragraph (a) is amended by deleting the phrase "within 10 days of the date of delivery to the firm of notice of such administrative action," and inserting in its place the phrase, "within the period specified in § 273.5".

Part 273 is amended as follows:

In § 273.5, paragraph (c) is revised to read as follows:

Subpart B—Rules of Procedure

§ 273.5 Manner of filing requests for review.

* * * * *

(c) Such a request shall be filed with the Food Stamp Review Officer within ten days of the date of delivery of the notice of the action for which review is requested. For purposes of determining whether such a request was timely filed: (1) The filing date shall be deemed to be the postmark date of the request, or equivalent if the written request is filed by a means other than mail; (2) In computing the ten day period, the day of delivery of the notice of the action for which review is requested shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday, or a legal holiday, in which event the period runs until the end of the next day which is not a Saturday, a Sunday, or a legal holiday. As used herein, "legal holiday" includes New Year's Day, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day, Christmas Day, and any other day designated as a holiday by the President or the Congress of the United States.

* * * * *

(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: July 14, 1977.

CAROL TUCKER FOREMAN,
Assistant Secretary.

[FR Doc.77-21011 Filed 7-21-77;8:45 am]

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

[Lemon Regulation 102]

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 July 24-30, 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: July 24, 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 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, with size 140's and smaller very good. Average f.o.b. price was $6.44 per carton the week ended July 16, 1977, compared to $6.31 per carton the previous week. Track and rolling supplies at 215 cars were up 50 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 rulemaking 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 July 19, 1977.

§ 910.402 Lemon Regulation 102.

* * * * *

(b) *Order.*—(1) The quantity of lemons grown in California and Arizona which may be handled during the period July 24, 1977, through July 30, 1977, is established at 295,000 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: July 21, 1977.

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

[FR Doc.77-21408 Filed 7-21-77;11:34 am]

CHAPTER XIV—COMMODITY CREDIT CORPORATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

[CCC Grain Price Support Regulations, 1976 Crop Wheat Supplement, Amdt. 2]

PART 1421—GRAINS AND SIMILARLY HANDLED COMMODITIES

Subpart—1976 Crop Wheat Loan and Purchase Program

AGENCY: Agricultural Stabilization and Conservation Service, Department of Agriculture.

ACTION: Correction.

SUMMARY: This document corrects a final rule that appeared at page 4400 in the FEDERAL REGISTER of January 25, 1977 (FR Doc. 77-2172).

EFFECTIVE DATE: (Date of publication in FR) January 25, 1977.

FOR FURTHER INFORMATION CONTACT:

Merle Strawderman, (ASCS) (202-447-9223).

The following correction is made to § 1421.488(a): On page 4400, right column, under heading "Virginia" the entry that reads "all other counties $2.24" is changed to read "all other counties $2.26."

Signed at Washington, D.C., on July 14, 1977.

RAY FITZGERALD,
Executive Vice President, Commodity Credit Corporation.

[FR Doc.77-21061 Filed 7-21-77;8:45 am]

CHAPTER XVIII—FARMERS HOME ADMINISTRATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER F—SECURITY SERVICING AND LIQUIDATION

[FmHA Instruction 462.1]

PART 1871—CHATTEL SECURITY

Subpart A—Servicing Chattel Security

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration amends its regulations concerning subordinations. The intended effect is to clarify the purposes for subordinating chattel liens securing emergency loans and to limit the amount of proposed subordinations.

EFFECTIVE DATE: July 22, 1977.

FOR FURTHER INFORMATION CONTACT:

Thomas B. Baden, (202-447-2331).

SUPPLEMENTARY INFORMATION: The Farmers Home Administration published at page 45576 of the FEDERAL REGISTER for October 15, 1976, a proposal to amend § 1871.11 of Subpart A of Part 1871, Title 7 Code of Federal Regulations (36 FR 1110; 37 FR 17543; 41 FR 24700). No comments were received and therefore the proposal is adopted with only editorial changes. The amendment establishes that the amount of any new subordination plus any existing subordination does not exceed the operating or emergency loan approval authority of the loan official. The addition of paragraph (10) clarifies the purpose of subordinating chattle liens securing emergency loans.

As amended, § 1871.11(b)(10)(i), (ii), and (iii) and (c) read as follows:

§ 1871.11 Use of other credit and subordination of chattel security.

* * * * *

(b) *Purposes and limitations.*

* * * * *

(10) FmHA may subordinate chattel liens securing EM loans to another creditor or permit that creditor to loan for any authorized EM loan purpose including capital purchases, providing it is determined:

(i) The borrower needs the loan to continue his farming operation and it will be to his benefit to receive such a loan.

(ii) The loan will enhance the borrower's possibility of accomplishing the objectives of loans made by FmHA.

(iii) FmHA's financial interest will not be adversely affected.

(c) *Approval authorization.* Loan approval officials are authorized to approve subordinations and waivers of FmHA lien priority provided the amount of the proposed subordination or waiver, plus the principal balance of existing subordinations or waivers does not exceed their loan approval authority stated in Subpart A of Part 1901 of this chapter for the type of loan being subordinated.

When the lien priority for more than one type of loan is subordinated or waived, the total amount of the approval officials authority will be limited to the amount of the loan approval authority for the type of loan with the lowest approval authority for that official, as stated in Subpart A of Part 1901 of this chapter. However, the State Director may approve subordinations or waivers regardless of the amount, except as provided in paragraph (b)(9) of this section. State Directors may redelegate their authority for approving subordinations to qualified State Office personnel, including District Directors.

* * * * *

(7 U.S.C. 1989; 42 U.S.C. 1480; 42 U.S.C. 2942; 5 U.S.C. 301; Sec. 10 P.L. 93-357, 88 Stat 392; delegation of authority by the Sec. of Agri., 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70; delegations of authority by Dir., OEO 29 FR 14764, 33 FR 9850.)

NOTE.—The Farmers Home Administration 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.

Dated: July 15, 1977.

GORDON CAVANAUGH,
Administrator, Farmers Home Administration.

[FR Doc.77-21063 Filed 7-21-77;8:45 am]

Title 9—Animals and Animal Products

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

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

PART 92—IMPORTATION OF CERTAIN ANIMALS AND POULTRY AND CERTAIN ANIMAL AND POULTRY PRODUCTS; INSPECTION AND OTHER REQUIREMENTS FOR CERTAIN MEANS OF CONVEYANCES AND SHIPPING CONTAINERS THEREON

Importation of Cattle From Canada

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document amends importation requirements for cattle from Canada by deleting exceptions made in the current regulations for brucellosis testing of certain cattle originating in specified areas of that country, and amends importation requirements for calves of dairy and beef breeds with respect to the ages at which they must be vaccinated for brucellosis to qualify for importation without a negative brucellosis test. This action is required to prevent the introduction of diseases into the United States by cattle imported under exceptions presently appearing in the regulations and to make importation requirements for calves comparable with requirements for interstate movement. The intended effects of these amendments are to decrease the probability of introduction of disease through imported cattle and to make calves imported from Canada without brucellosis tests eligible for interstate movement following their importation.

EFFECTIVE DATE: July 18, 1977.

FOR FURTHER INFORMATION CONTACT:

Dr. D. E. Herrick, USDA, APHIS, VS, Federal Building, Room 815, Hyattsville, Maryland 20782. (301–436–8170).

SUPPLEMENTARY INFORMATION: Exceptions are now contained in the regulations concerning certain cattle originating in specified areas of Canada, and cattle from specified herds in Canada, which may be imported into the United States under less restrictive brucellosis testing requirements than other cattle from Canada. The Department has found that cattle imported under certain of these exceptions have introduced disease into the United States. Therefore, to protect the livestock of the United States, the exceptions now in effect which relate to brucellosis testing of cattle from specified areas are deleted. The effect of this deletion will be to remove the special considerations presently given to cattle originating in areas of Canada which have been designated by Canadian officials as having special brucellosis status, and to require that all cattle imported into the United States from Canada meet uniform brucellosis testing requirements. Therefore, the exemption presently found in § 92.20(c)(1) which allows the importation of cattle from herds not known to be affected with brucellosis in certified areas in Canada on the basis of only one negative brucellosis test within 30 days of the date of entry is deleted. The effect of this deletion is to require that certain cattle imported from Canada meet the requirements of new § 92.20(c)(3) of these amendments. That section will require that certain cattle to be imported from herds other than brucellosis certified free herds shall be accompanied by a Canadian certificate showing that all the cattle are from a herd which has special brucellosis test status to qualify for export and that the cattle to be imported, with certain exceptions, must have been tested for brucellosis with negative results, within the 30 days prior to their date of entry. To maintain a brucellosis certified free status in Canada, a herd of cattle is required to be tested for brucellosis annually, with negative results. In addition, all cattle entering such herd must originate from herds which are also brucellosis certified free. All cattle to be imported from Canada shall be conveyed by direct movement to the port of entry without contact with cattle not eligible for certification.

The importation requirement for brucellosis-vaccinated female calves, presently found in § 92.20(c)(4) of the regulations, is amended to change the ages at which calves of dairy and beef breeds must be vaccinated and provides that, to qualify for importation without a negative brucellosis test, such vaccinated calves shall not be more than 18 months of age on the date of importation. The term "Bulls" has been deleted from the section because vaccination provisions of that section will not apply to male calves and they will have to meet the same importation test requirements as certain other cattle.

Accordingly, Part 92, Title 9, Code of Federal Regulations, is amended in the following respects:

1. In § 92.1, paragraph (r) is amended to read as follows:

§ 92.1 Definitions.

* * * * *

(r) *Brucellosis certified free herd.* A herd in which all eligible cattle in the herd proved negative to brucellosis tests under the Canadian requirements and which is officially certified by the Canadian Government.

* * * * *

2. In § 92.20(c), subparagraph (4) is redesignated subparagraph (5); new subparagraphs (4) and (6) are added; and the introductory paragraph, subparagraphs (1) and (3) and redesignated subparagraph (5) are amended to read:

§ 92.20 Cattle from Canada.

* * * * *

(c) *Brucellosis test or vaccination certificates.* Importations from Canada of cattle six months of age or older, except steers and all cattle for immediate slaughter, shall be in compliance with the following conditions and requirements:

(1) Cattle from herds designated as brucellosis certified free herds by the Canadian Government, except as provided in subparagraph (3) of this paragraph, shall be accompanied by a certificate issued or endorsed by a salaried veterinarian of the Canadian Government. This certificate shall show them to be from such herds and that the cattle to be imported have been tested for brucellosis with negative results within 30 days prior to their date of entry. If one or more reactors or suspects are disclosed in such a herd as a result of a brucellosis test at any time, cattle from the herd shall not be imported into the United States unless after such test the cattle to be imported and the herd are tested for brucellosis and found negative and such cattle are accompanied by a certificate in accordance with subparagraph (2) of this paragraph or the herd is officially certified by the Canadian Government as a brucellosis certified free herd under Canadian regulations.

(2) * * *

(3) All other cattle to be imported from Canada, except as provided in subparagraph (5) of this section, shall be accompanied by a certificate issued or endorsed by a salaried veterinarian of the Canadian Government showing that the cattle originated from a herd which is officially certified by the Canadian Government as a brucellosis qualified for export herd. A brucellosis qualified for export herd is a herd which meets at least one of the following conditions:

(i) All of the cattle have been maintained as a herd unit for at least two years prior to importation and all of the cattle eligible for brucellosis testing (hereinafter referred to as eligible cattle) have been tested for brucellosis and found negative in accordance with Canadian requirements within 12 months of the date of importation; *Provided,* Such herd unit may include cattle which were born and raised within such herd unit during said period, or cattle which were moved directly from another herd unit of like status. *Provided, further,* Such herd unit may include any other cattle if: (a) Such other cattle have been tested for brucellosis and found negative within 30 days prior to entry into such herd unit and all eligible cattle in such herd unit have been tested for brucellosis and found negative not less than 90 days following the date when the last of such other cattle had been added to such herd unit or (b) all eligible cattle in the herd unit have been tested negative for brucellosis no less than 90 days nor more than 12 months prior to the date of importation.

(ii) All of the cattle are from herd units qualified under subparagraph (i) of this paragraph; *Provided,* That if all of the cattle are not from herd units qualified under paragraph (c)(3)(i) of this section, all eligible cattle have been tested for brucellosis and found negative to three laboratory tests administered at intervals of at least 90 days.

(4) All cattle from a brucellosis qualified for export herd offered for importation, except as described in para-

graph (c)(5) of this section, shall be tested negative for brucellosis within 30 days prior to the date of importation into the United States.

(5) Female cattle under 18 months of age that originate in herds in which cattle were tested as described in subparagraphs (c)(1) and (2) of this section are exempted from the test requirement for brucellosis, *Provided, however,* They are accompanied by a certificate issued or endorsed by a salaried veterinarian of the Canadian Government showing that they were officially vaccinated against brucellosis as calves between the ages of 2–6 months (60–179 days old) for dairy breeds and from 2–10 months of age (60–299 days old) for beef breeds. The certificate accompanying such officially vaccinated cattle shall comply with paragraph (d) of this section except that it shall show, in lieu of the date and place of testing, the date of vaccination and the age of the animal at the time of vaccination.

(6) All cattle to be imported from Canada which originate from a brucellosis-free herd or a brucellosis-qualified for export herd shall move directly to the port of entry without contact with cattle which are not from a brucellosis-free herd or a brucellosis-qualified for export herd.

* * * * *

(Sec. 2, 32 Stat. 792, as amended; secs. 2, 3, 4, and 11, 76 Stat. 129, 130, 132 (21 U.S.C. 111, 134a, 134b, 134c, and 134f); 37 FR 28464, 28477; 38 FR 19141.)

These amendments impose additional restrictions on the importation of cattle from Canada. The amendments are of an emergency nature and should be placed in effect immediately in order to protect the livestock of the United States from the introduction and dissemination of disease.

Therefore, for such good cause the Department finds that notice and public comment are impracticable, unnecessary and contrary to the public interest and good cause is found for making the amendments effective less than 30 days after publication in the FEDERAL REGISTER.

Done at Washington, D.C., this 15th day of July 1977.

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

PIERRE A. CHALOUX,
Acting Deputy Administrator,
Veterinary Services.

[FR Doc.77-20933 Filed 7-21-77;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-0207]

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

Guanine

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document amends the regulations to "permanently" list guanine for use in externally applied drugs and in cosmetics generally, including drugs and cosmetics intended for use in the area of the eye. The Cosmetic, Toiletry, and Fragrance Association, Inc., filed a petition for such use: This rule will remove guanine from the provisional listing.

DATES: Effective August 22, 1977; objections by August 22, 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, D.C. 20204, (202-472-5740).

SUPPLEMENTARY INFORMATION: A notice published in the FEDERAL REGISTER of August 6, 1973 (38 FR 21200), stated that a petition (CAP 8C0074) for the "permanent" listing of natural pearl essence (guanine) as a color additive for use in externally applied cosmetics, including lipsticks and those for use in the area of the eye, had been filed by the Cosmetic, Toiletry, and Fragrance Association, Inc. (1133 15th Street NW., Washington, D.C. 20005), c/o Hazleton Laboratories, P.O. Box 30, Falls Church, Va. 22046. The petition was filed pursuant to section 706 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 376). A notice published in the FEDERAL REGISTER of March 5, 1976 (41 FR 9584), amended the filing of this petition to include the additional use of natural pearl essence (guanine) in all types of cosmetics subject to ingestion. A notice published in the FEDERAL REGISTER of June 17, 1977 (42 FR 30893), amended the filing of this petition to include the additional use of guanine (pearl essence) in externally applied drugs.

This order "permanently" lists guanine for use in externally applied drugs and in cosmetics generally, including those for use in the area of the eye, under new § 73.1329 (21 CFR 73.1329) for drug use and new § 73.2329 (21 CFR 73.2329) for cosmetic use. The provisional listing of guanine (pearl essence) for use in cosmetics under § 81.1(g) (21 CFR 81.1(g)), which was extended to August 30, 1977, by regulation published in the FEDERAL REGISTER of July 1, 1977 (42 FR 33724), is being deleted because it will become obsolete when this order becomes effective on August 22, 1977, unless this order is stayed by the timely filing of objections.

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

The original filing notice for the petition identified the color additive as "natural pearl essence," although the color additive is provisionally listed as "guanine (pearl essence)." The Commissioner, in evaluating the data for this color additive concludes that both the term "natural pearl essence" and the parenthetical expression "(pearl essence)" are inappropriate for identifying this color additive because they are ambiguous and do not reflect the true nature of the color. The Commissioner further concludes that the name "guanine" would be more appropriate nomenclature, and he identifies the color by that name in the order set forth below.

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), and (d))) and the transitional provisions of the Color Additive Amendments of 1960 (Title II, Pub. L. 86-618, sec. 203, 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. Part 73 is amended:

a. By adding new § 73.1329 to Subpart B, to read as follows:

§ 73.1329 Guanine.

(a) *Identity.* (1) The color additive guanine is the crystalline material obtained from fish scales and consists principally of the two purines, guanine and hypoxanthine. The guanine content will vary from 75 to 97 percent, and the hypoxanthine will vary from 3 to 25 percent, depending on the particular fish and tissue from which the crystals are derived.

(2) Color additive mixtures for drug use made with guanine may contain only those diluents listed in this subpart as safe and suitable for use in color additive mixtures for coloring externally applied drugs.

(b) *Specifications.* The color additive guanine shall conform to the following specifications and shall be free from impurities other than those named to the extent that such other impurities may be avoided by good manufacturing practice:

Guanine, not less than 75 percent.
Hypoxanthine, not more than 25 percent.
Ash (ignition at 800° C), not more than 2 percent.
Lead (as Pb), not more than 20 parts per million.
Arsenic (as As), not more than 3 parts per million.
Assay, not less than 96 percent total purines.
Mercury (as Hg), not more than 1 part per million.

(c) *Uses and restrictions.* Guanine is safe for use in coloring externally applied drugs, including those intended for use in the area of the eye, in amounts consistent with good manufacturing practice.

(d) *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 § 70.25 of this chapter.

(e) *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.

b. By adding new § 73.2329 to Subpart C, to read as follows:

§ 73.2329 Guanine.

(a) *Identity and specifications.* (1) The color additive guanine shall conform in identity and specifications to the requirements of § 73.1329 (a)(1) and (b).

(2) Color additive mixtures of guanine may contain the following diluents:

(i) For coloring cosmetics generally, only those diluents listed under § 73.1001 (a)(1);

(ii) For coloring externally applied cosmetics, only those diluents listed in § 73.1001(b) and, in addition, nitrocellulose.

(b) *Uses and restrictions.* The color additive guanine may be safely used in cosmetics generally, including cosmetics intended for use in the area of the eye, in amounts consistent with good manufacturing practice.

(c) *Labeling requirements.* The color additive and any mixtures prepared therefrom intended solely or in part for coloring purposes shall bear, in addition to any other 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 § 81.1 *Provisional lists of color additives* by amending paragraph (g) by deleting the listing for "Guanine (pearl essence)."

Any person who will be adversely affected by the foregoing order may at any time on or before August 22, 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 order 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. Four copies of all documents shall be filed and should be identified with the Hearing Clerk docket number found in brackets in the heading of this order. Received objections may be seen in the Hearing Clerk's office, between 9 a.m. and 4 p.m., Monday through Friday.

Effective date: August 22, 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)); sec. 203, 74 Stat. 404–407 (21 U.S.C. note).)

Dated: July 14, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.77-20783 Filed 7-21-77;8:45 am]

[Docket No. 77C-0210]

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

Zinc Oxide

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document "permanently" lists zinc oxide for use in externally applied drugs and in cosmetics generally, including those intended for use in the area of the eye. The Cosmetic, Toiletry, and Fragrance Association, Inc., filed a petition for such use. The color additive will be removed from the provisional listing.

DATES: Effective August 22, 1977; objections by August 22, 1977.

ADDRESS: Written objection: Hearing Clerk (HFC–20), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Gerald L. McCowin, Bureau of Foods (HFF–334), Department of Health, Education, and Welfare, 200 C Street SW., Washington, D.C. 20204, (202–472–5740).

SUPPLEMENTARY INFORMATION: The Commissioner of Food and Drugs, having evaluated the data in a petition (CAP 6C0122) filed by the Cosmetic, Toiletry, and Fragrance Association, Inc. (1133 15th Street NW., Washington, D.C. 20005), and other relevant material, concludes that zinc oxide is safe and suitable for use, under the conditions prescribed in the regulations, in coloring externally applied drugs and in coloring cosmetics generally, including drugs and cosmetics intended for use in the area of the eye, and that certification is not necessary for the protection of the public health. This order "permanently" lists zinc oxide for use in externally applied drugs under new § 73.1991 (21 CFR 73.1991) and also "permanently" lists zinc oxide for use in cosmetics generally, including those for use in the area of the eye, under new § 73.2991 (21 CFR 73.2991).

The provisional listing of zinc oxide for use in cosmetics under § 81.1(g) (21 CFR 81.1(g)) will be deleted when this order becomes effective on August 22, 1977, unless this order is stayed by the timely filing of objections.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 706 (b), (c), and (d), 74 Stat. 399–403, as amended (21 U.S.C. 376 (b), (c), and (d))) and the transitional provisions of the Color Additive Amendments of 1960 (Title II, Pub. L. 86–618, sec. 203, 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. By amending Part 73:

a. By adding new § 73.1991 to Subpart B, to read as follows:

§ 73.1991 Zinc oxide.

(a) *Identity.* (1) The color additive zinc oxide is a white or yellow-white amorphous powder manufactured by the French process (described as the indirect process whereby zinc metal isolated from the zinc-containing ore is vaporized and then oxidized). It is principally composed of Zn.

(2) Color additive mixtures for drug use made with zinc oxide may contain only those diluents listed in this subpart as safe and suitable in color additive

mixtures for coloring externally applied drugs.

(b) *Specifications.* Zinc oxide shall conform to the following specifications and shall be free from impurities other than those named to the extent that such impurities may be avoided by good manufacturing practice:

Zinc oxide (as ZnO), not less than 99 percent.
Loss on ignition at 800° C, not more than 1 percent.
Cadmium (as Cd), not more than 15 parts per million.
Mercury (as Hg), not more than 1 part per million.
Arsenic (as As), not more than 3 parts per million.
Lead (as Pb), not more than 20 parts per million.

(c) *Uses and restriction.* The color additive zinc oxide may be safely used for coloring externally applied drugs, including those used in the area of the eye, in amounts consistent with good manufacturing practice.

(d) *Labeling.* The color additive and any mixtures 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.

(e) *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.

b. By adding new § 73.2991 to Subpart C, to read as follows:

§ 73.2991 Zinc oxide.

(a) *Identity and specifications.* The color additive zinc oxide shall conform in identity and specifications to the requirements of § 73.1991 (a) (1) and (b).

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

(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 § 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. Part 81 is amended in § 81.1 *Provisional lists of color additives*, by deleting the entry for "Zinc oxide" in paragraph (g).

Any person who will be adversely affected by the foregoing order may at any time on or before August 22, 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 order 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. Four copies of all documents shall be filed and should be identified with the Hearing Clerk docket number found in the heading if this order. Received objections may be seen in the Hearing Clerk's office during working hours, Monday through Friday.

Effective date: August 22, 1977, except 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 as amended (21 U.S.C. 376 (b), (c), and (d)); sec. 203, 74 Stat. 404–407 (21 U.S.C. 376 note).)

Dated: July 14, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.77-20782 Filed 7-21-77;8:45 am]

SUBCHAPTER D—DRUGS FOR HUMAN USE

[Docket No. 76N-0028]

PART 310—NEW DRUGS

Requirements for Inhalation Anesthetic Drug Products: Studies for Carcinogenic and Teratogenic Potential

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document requires animal studies and reports to the Food and Drug Administration (FDA) on the potential of inhalation anesthetic drug products to cause cancer and fetal abnormalities. The regulation, based on concern expressed in the medical literature and on findings in personnel exposed while administering these drugs, requires all holders of approved new drug applications (NDA's) and abbreviated new drug applications (ANDA's) for halogenated inhalation anesthetic drug products to conduct appropriate animal studies and to submit reports on the studies to FDA. Also, all NDA's and ANDA's for nonhalogenated and new halogenated inhalation anesthetic drug products approved on or after August 22, 1977, must contain the results of such studies.

DATES: Effective August 22, 1977. Workshop: December 5, 1977. Notification of intent to participate in workshop: October 20, 1977. Submission of preliminary study protocols: September 20, 1977. Submission of final protocols: February 13, 1978.

FOR FURTHER INFORMATION CONTACT:

Michael C. McGrane, Bureau of Drugs (HFD–30), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301–443–5220.

FOR NOTIFICATION OF INTENT TO PARTICIPATE IN THE WORKSHOP AND SUBMISSION OF INITIAL AND FINAL PROTOCOLS CONTACT:

I. David Wolfson, Bureau of Drugs (HFD–160), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3500.

SUPPLEMENTARY INFORMATION: In a proposal published in the FEDERAL REGISTER of April 8, 1976 (41 FR 14888), the Commissioner of Food and Drugs proposed to require that holders of NDA's and ANDA's for halogenated inhalation anesthetic drug products and applicants for pending and future NDA's and ANDA's for all nonhalogenated and new halogenated inhalation anesthetic drug products conduct studies in animals to determine the carcinogenic potential and effects on reproduction, including the teratogenic potential, of their drug products and submit reports on the studies to FDA. Interested persons were given 60 days to submit comments on the proposal.

Eleven comments were received on the proposal: six from manufacturers of halogenated inhalation anesthetic drug products, three from professors of anesthesiology, one from an association of medical-gas manufacturers, and one from a government agency. A summary of the comments and the Commissioner's conclusions regarding them are as follows:

1. One comment objected to the proposal on the grounds that section 505(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)) does not authorize FDA to require NDA holders to conduct studies on their drug products after their NDA's have been approved. The comment observed that section 505(j) of the act provides that NDA holders may be required to maintain records and make reports concerning data and information "received or otherwise obtained by such applicant with respect to such drugs * * *." It was the position of the comment that section 505(j) of the act only authorizes FDA to require the submission of records and reports obtained by the NDA holder in the normal conduct of its business and that it does not represent authority under which the agency can require that studies be conducted on drugs to generate records that will then be subject to the reporting requirements of that section.

The Commissioner concludes that this comment too narrowly construes the applicable statutory scheme. Section 505(j) of the act expressly authorizes FDA to monitor the marketing of a drug subject to an approved NDA to provide a basis for subsequently determining whether that approval should be withdrawn under section 505(e) of the act (21 U.S.C. 355

(e)). Section 505(e) of the act clearly demonstrates the Congressional intent that an NDA, once approved, can later be found to be not approvable on the basis of new evidence of clinical experience, tests by new methods, or tests by methods not previously considered to be applicable. Accordingly, the Commissioner cannot agree that, when questions arise concerning the safety or effectiveness of a previously approved drug, FDA must wait until the NDA holder has obtained sufficient data and information in the normal course of business to resolve them. The Commissioner has authority under sections 505(j) and 701(a) of the act (21 U.S.C. 371(a)) to require that animal studies be conducted to determine the carcinogenic potential and effects on reproduction of currently marketed halogenated inhalation anesthetic drug products.

2. Several comments observed that the bibliography listed in the proposal indicates that the concern for carcinogenic and teratogenic effects of halogenated inhalation anesthetic drug products has resulted from findings in occupationally exposed personnel involved in the administration of anesthetic agents ,and that those findings have been augmented by results obtained from studies in other mammalian species. One comment noted that the carcinogenic and teratogenic effects of these drug products are believed to be due to repeated low-level exposures to inhalation anesthetic agents, particularly halogenated anesthetics and that, while patients undergoing anesthesia might not be exposed repeatedly for long periods of time to these drug products, health personnel are so exposed. Another comment argued that such concern related to a "work situation" within the meaning of the Williams-Steiger Occupational Safety and Health Act (29 U.S.C. 651), and that that act gives authority to establish and conduct "work situation" studies to the Occupational Safety and Health Administration (OSHA) and the National Institute of Occupational Safety and Health (NIOSH). The comment contended that the proposed studies are within the jurisdiction of those agencies rather than FDA. Two comments further observed that devices and techniques are presently available to reduce the level of exposure of inhalation anesthetics to operating room personnel. Those comments submitted copies of reports in the medical literature which provide practical guidance on steps that can be taken to reduce atmospheric pollution in operating rooms as far as possible. One comment recommended that FDA protocols for studying the carcinogenic and teratogenic potential of these drug products address both the acute single exposure typical of the patient as well as the chronic occupational exposure typical of operating room personnel. In addition, that comment recommended that whether or not the studies require chronic exposure testing, the animals should be observed for at least 18 months after onset of exposure and that the study should include young animals who may be more susceptible to carcinogens.

The Commissioner agrees that the FDA concern for the carcinogenic and teratogenic potential of inhalation anesthetic drug products has resulted from findings in occupationally exposed personnel involved in the administration of these agents and that these findings have been augmented by animal studies. He also agrees that the effects may be related to repeated low-level exposure to inhalation anesthetic agents. At its October 14, 1976 meeting, the Anesthesiology Advisory Committee recommended to the Commissioner that both acute (high dose at intervals) and chronic (low dose and prolonged) exposure to the halogenated inhalation anesthetics be included in the test protocols. A copy of the minutes of that meeting has been placed on file in the office of the Hearing Clerk, Food and Drug Administration. The Commissioner accepts that recommendation and concludes that the protocols for the studies should include both types of testing.

The Commissioner does not believe the Occupational Safety and Health Act precludes FDA from requiring the proposed studies to be conducted. Neither OSHA nor NIOSH has jurisdiction to consider the safety of a drug product to the patient who is receiving it. The statutory mandate of FDA to ensure the safety and effectiveness of marketed drug products is directed to assuring that the drug products are safe for both the patients who receive them and the health care personnel who administer them. Although these studies are expected to answer questions concerning the safety to the persons administering them, they are directed at the safety of the drug to the patient. The Commissioner concludes that it would be unwise for FDA to separate the studies into those affecting the patient and those affecting the administrator, and then defer studies involving the latter to other agencies. Such a course of action might cause duplicative studies and might delay answering important health questions for several years until the other agencies can integrate studies of occupational exposures to these products into their priority of programs.

3. One comment suggested that, while animal studies are valuable in providing guidance regarding the safety of investigational new drugs, the value of the animal model as the principal method of assessing the safety of anesthetic drug products that have enjoyed world-wide use for over 20 years is not convincing. The comment observed that there are tens of thousands of operations involving the use of halothane conducted daily throughout the world, and it suggested that however well the protocols may be developed, the primary evidence for safety of that drug product must come from that human experience rather than from an artificial animal model. Accordingly, the comment suggested that efforts should be devoted to reviewing the existing record of the use of these drug products in humans.

The Commissioner agrees that continual review of the existing human experience with these drug products is important, and he notes that such a review is underway. Controlled reproduction and carcinogenicity studies, however, cannot ethically or practically be conducted in humans, only empirical observations are possible. Carcinogenicity experience with these drug products in humans is inadequate in terms of time, number of patients, and the necessary followup. The proposed animal studies of the potential carcinogenicity and teratogenicity of these drug products are predictive; that is, because every known human carcinogen is also an animal carcinogen, evidence of an absence of carcinogenicity in animals indicates the noncarcinogenicity of the drug in humans. In addition, animal studies may reveal potential hazards from these drugs before they can be identified in humans.

4. Several comments recommended that FDA meet with the distributors of the drugs to be tested to discuss the implementation of the studies before publishing a final regulation. Another comment recommended that the workshop to discuss the design of the studies be held before publication of the final regulation, since the proposed protocols might influence that final regulation.

The Commissioner does not agree with these comments. While the regulation requires that the NDA holders establish and conduct certain animal studies for their drug products and provides a timetable under which they must report the results of those studies to FDA, the regulation is not intended to describe the manner in which those studies will be conducted. Accordingly, the Commissioner does not agree that the content of the final regulation would be influenced by the design of the protocols under which the studies will be conducted.

As the Commissioner stated in the preamble to the proposal, he believes that these drugs should be tested under standardized conditions and under a common protocol so that interpretable data on the comparative potential risk of each drug product are developed. Accordingly, the Commissioner is scheduling the workshop for December 5, 1977, at the Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857. The Commissioner is inviting representatives from the National Cancer Institute and NIOSH, anesthesiologists, the NDA holders, and other interested persons to attend the workshop at which the preliminary protocols submitted under this final regulation will be reviewed and discussed. On or before October 20, 1977, interested persons should notify the Bureau of Drugs, Division of Surgical-Dental Drug Products (HFD-160), 5600 Fishers Lane, Rockville, MD 20857, of their intent to participate in the workshop.

5. A comment suggested that the proposed action to require new animal studies of inhalation anesthetic drug products or the adoption of protocols for such studies is prema-

ture at present because of the imminent completion of two studies and the probability of the early completion of a third study concerning these drug products. The comment observed that the American Cancer Society, with the help of the American Society of Anesthesiologists, is studying mortality rates among anesthesiologists from 1955 to 1975 and nurse anesthetists from 1959 to 1975. Those rates will be compared to mortality rates for all physicians and nurses, respectively, and, if there are significant differences in mortality rates, the causes of death will be examined. The comment suggested that this would be a highly significant epidemiological study. The comment also stated that NIOSH is conducting a study in rats to determine the reproductive and teratogenic effects, mutagenic effects, and carcinogenic effects of two levels of a nitrous oxide-halothane mixture. The comment further suggested that NIOSH is planning an epidemiological study of American dentists that will isolate the effects of an exposure to nitrous oxide from those of an exposure to the halogenated anesthetic-nitrous oxide mixtures commonly used in the operating room. The comment argued that it would be a mistake to design protocols and initiate new animal studies without taking advantage of the information that these studies already begun or now being planned will yield.

The Commissioner does not agree with this comment. The studies mentioned by the comment are not being conducted by FDA, and it may be several years before they are completed. The Commissioner recognizes that NIOSH is conducting animal studies of two levels of a nitrous oxide-halothane mixture. Representatives from NIOSH will be invited to attend the workshop described in paragraph 4 of this preamble, and they will be invited to discuss the design of their study at that time. The Commissioner concludes, however, that the animal studies required under this regulation should not be delayed until the NIOSH study is completed and the results published.

6. Several comments contended that the results of a recent study that was conducted to determine the reproductive and teratologic effects of exposure of rats and rabbits to anesthetic concentrations of halothane suggest that further teratogenic work with halothane may not be indicated at this time. (See Kennedy, G. L., S. H. Smith, M. L. Keolinger, and J. C. Calandra, "Reproductive and Teratologic Studies with Halothane," *Toxicology and Applied Pharmacology*, 35:467–474, 1976; a copy has been placed on file in the office of the Hearing Clerk, Food and Drug Administration.) One comment contended that that study, as well as two other studies (see Doenicke, A., and R. Whitman, "Teratogenic Effect of Halothane on the Fetus of the Rat," *Anesthesie, Analgesie, Reanimation*, (32)1:47–55, 1975; Doenicke, A., and R. Wittman, "The Abortive Effect of Halothane," *Anesthesie, Analgesie, Reanimation*, (32) 1:41–46, 1975, copies of which have been placed on file in the office of the Hearing Clerk, Food and Drug Administration), demonstrates that halothane has already been adequately tested for teratogenic potential.

The Commissioner does not agree with these comments. Although the study by Kennedy, et al. indicated that no adverse reproductive effects were observed and that no evidence of teratologic activity was obtained, the authors indicate that there was a suggestion of an effect on fetal survival in rats exposed during late pregnancy that requires further validation and explanation. The two other studies were conducted in pregnant rats; the studies showed both teratogenic and abortive effects from exposure to halothane and suggest that halothane poses a risk for both pregnant patients and pregnant operating-room personnel. The Commission concludes that these studies reinforce the need for additional testing in animals. At its meeting on October 14, 1976, the FDA Anesthesiology Advisory Committee considered the significance of these studies in relation to the proposed testing of halothane. The committee also concluded that the articles relied upon by the comments do not support the exclusion of halothane from the proposed testing.

7. One comment contended that a careful analysis of the literature references cited in the proposal does not support the conclusion that new studies on halothane are necessary. The comment submitted a detailed critique of the medical literature, including all the papers cited by FDA and several additional references. The commentor concluded that, taken together, the studies do not indicate any danger to humans, i.e., there is no danger from trace levels of halothane to which operating-room personnel are habitually exposed; nor do the studies indicate danger to patients, other than pregnant women and their fetuses, exposed to surgical levels of halothane. The comment also contended that a thoughtful reading of the data in the cited papers gives no indication that halothane is a carcinogen. The comment suggested that the studies present a picture of possible teratogenic action by general anesthetics at surgical levels, but not at light surgical levels. The comment maintained that the probable mechanism for the possible teratogenesis involved the profound effects and side effects associated with deep anesthesia rather than a specific pharmacological phenomenon. Accordingly, the comment concluded that there is no basis from human experience or animal studies to suspect that trace amounts of halothane cause spontanous abortion or fetal abnormalities. The comment observed that, because of the lack of clear data showing halothane to be safe for use in pregnant women, the current labeling for the drug warns against such use. It was argued, therefore, that the contemplated animal studies could neither add nor subtract from that warning.

The Commissioner does not agree with this comment. The literature references cited in the proposal were reviewed by the FDA Anesthesiology Advisory Committee at its May 10, 1975 meeting, and it concluded that those articles, taken together, contain sufficient evidence to cause concern regarding the potential carcinogenicity and effects on reproduction, including teratogenicity, of marketed halogenated inhalation anesthetic drug products. The committee recommended to the Commissioner that animal studies on those products be conducted to dispel that concern. As stated in the proposal, the Commissioner agrees with the committee, and he concludes that animal studies are needed to resolve these safety questions.

8. One comment did not agree with the Commissioner's conclusion, as stated in the proposal, that the regulation would not cause a major inflationary impact. The comment contended that the inflation impact of the required studies would be substantial. That comment, as well as other comments, suggested that the cost of the studies could be substantially reduced if only one study is performed for each drug, rather than several drug firms each performing the identical study on the same drug. The comments suggested that a single study be conducted for each inhalation agent, under the guidance and supervision of the National Cancer Institute or similar organization, at qualified laboratories and that the cost of the studies be equitably shared by the respective firms. One comment suggested that each firm's share of the cost of the studies be in proportion to its share of the market for that drug.

The Commissioner reiterates his conclusion that this regulation will not cause a major inflationary impact. Although the comment did not substantiate its contention that the required studies would pose a major inflationary impact, the Commissioner remains convinced that the regulation does not pose a major inflationary impact, when evaluated under Executive Order 11821, OMB Circular A–107, and HEW guidelines issued on June 16, 1976.

As stated in the preamble to the proposal, the Commissioner believes that these drugs should be tested under standardized conditions and under a common protocol so that interpretable data on the comparative potential risk of each drug can be developed. He encourages the NDA holders to work together in performing the required studies for each anesthetic drug under the protocols developed at the workshop; joint studies would be acceptable to FDA. The Commissioner has no legal authority, however, to compel joint studies or to allocate costs of such studies among participants; that must depend upon private agreements among the NDA holders required to perform the studies.

9. One comment suggested that, if the primary motivation underlining the proposed studies is patient exposure, parenteral anesthetic or potent analgesic drug products should be studied concurrently with the inhalation anesthetic drug products. The comment observed that, if the inhalation anesthetics are shown

to have either a carcinogenic or teratogenic potential and accordingly are prohibited or their use otherwise restricted, there will be an increased use of parenteral agents that may, in fact, be potentially more carcinogenic or teratogenic then the inhalation agents. The comment contended that without concurrent testing of both the inhalation and parenteral agents it would be impossible to determine the relative risks of the inhalation versus the parenteral agents. Another comment suggested that if the studies of nitrous oxide in combination with other drug products are deemed necessary, then the question of multiple interactive effects in general is introduced and the supplemental use of parenteral agents with the inhalation anesthetics should also be considered in conducting the proposed studies.

The Commissioner notes that the FDA Anesthesiology Advisory Committee at its meeting on October 14, 1976, considered whether animal studies to determine the carcinogenic and teratogenic potential of parenteral anesthetic agents should be required at this time. The committee concluded that such studies would be desirable, and it recommended to the Commissioner that a separate workshop be held on aprenteral drugs used as anesthetics and anesthetic adjuvants to evaluate their carcinogenic and teratogenic potential and determine whether animal studies on those products should be required. The Commissioner is considering the committee's recommendation and is currently conducting a search of the scientific literature on this subject. If a review of the literature raises questions regarding the safety of the parenteral anesthetic drug products, as it has for the inhalation anesthetics, required testing of those products may be proposed in the FEDERAL REGISTER. However, the Commissioner does not believe that the publication of this final regulation and commencement of these studies should be delayed pending the outcome of that literature review.

10. Two comments disagreed with the Commissioner's conclusion in the preamble to the proposed regulation that appropriate methods for mutagenicity studies of inhalation anesthetics are not currently available. One comment observed that a recent study has shown that the mutagenicity assay (Ames test) can detect mutagenic effects of haloalkanes (Brem. H, A. E. Sein, and H. Rosenkranz, "The Mutagenicity and DNA-modifying Effect to Haloalkanes," *Cancer Research*, 34:2576–2579, 1974; a copy has been placed on file in the office of the Hearing Clerk, Food and Drug Administration). That comment suggested that until such time as the state of the art develops more fully, the Ames test may be useful as a rapid screen for mutagenicity. Another comment suggested that, since no single method can detect all possible types of mutations, a combination of methods must be used. That comment noted that the Environmental Protection Agency proposed, in the FEDERAL REGISTER of June 25, 1975 (40 FR 26899), the use of three mutation tests with acceptable protocols and methods for the mutagenic study of pesticides. That comment also observed that the Department of Health, Education, and Welfare (HEW) Committee to Coordinate Toxicology and Related Programs is receiving a draft document prepared by its Subcommittee on Environmental Mutagenesis, entitled "Methods for Determining the Mutagenic Properties of Chemicals." (A copy has been placed on file in the office of the Hearing Clerk, Food and Drug Administration.) The comment suggested that that document be considered on the final FDA evaluation of whether mutagenicity testing would be appropriate at this time for the inhalation anesthetic drug products.

The Commissioner remains convinced that requiring mutagenicity testing of inhalation anesthetics would be inappropriate at this time. The HEW review of methods for determining mutagenesis is continuing, and the Commissioner concludes that it would be premature to require a particular method for testing the mutagenicity of inhalation anesthetics before that review is completed.

11. One comment observed that the intent of proposed § 310.511(f) appeared to be that NDA's for inhalation anesthetic drug products submitted before the effective date of a final regulation could continue to be processed, evaluated, and approved by FDA without awaiting completion of the required animal studies, if, as a condition of the approval, the applicant agreed to conduct animal studies for its drug product under the same protocol as that required by the regulation. The comment noted that such an applicant may have already undertaken either a teratogenicity or a comparative carcinogenicity study of its drug product as a prerequisite for NDA approval and that the protocols for the drug product may not have been approved by FDA. Such protocols might not cover nitrous oxide and probably would not be identical to the protocol finally devised for the industry study. The comment asked whether such an applicant would also have to duplicate the entire industry study, thus undertaking two similar but probably not identical carcinogenicity or teratogenicity studies. The comment suggested that § 310.511(f) be revised to clarify whether those phases of carcinogenicity and teratogenicity studies that were required for NDA approval and that are substantially similar but not identical to phases of the final industry study have to be duplicated for the purpose of complying with the final regulation. That comment also objected to the phrase "and pending approval" in § 310.511(f) on the grounds that under the normal procedures involved in the evaluation and approval of an NDA, FDA often requires that additional data and information be submitted (after the initial submission of the NDA), and it has not been clear whether such an application is deemed to have been continually "pending approval" since the date of the initial submission. The comment suggested that the paragraph be clarified by substituting the phrase "but not yet approved" for the phrase "and pending approval."

The Commissioner agrees with the comment that § 310.511(f) of the proposed regulation was intended to permit FDA to approve, after the effective date of the final regulation an NDA submitted before the effective date, provided the applicant agreed to conduct animal studies on the carcinogenicity and teratogenicity potential of its drug product. The Commissioner concludes, however, that it would be inappropriate to approve an NDA for a new inhalation anesthetic drug product if appropriate animal studies concerning its carcinogenic and teratogenic potential have not been performed. Accordingly, he is revising § 310.511(f) to permit the approval of NDA's or ANDA's for any currently marketed halogenated inhalation anesthetic, i.e., enflurane, fluoxene, halothane, and methoxyflurane, before the completion of the animal studies required by this regulation, provided the application is otherwise approvable and the applicant agrees to conduct animal studies of the drug product to determine its carcinogenic potential and effects on reproduction. The Commissioner is also revising § 310.511(g) to clarify that NDA's and ANDA's for halogenated inhalation anesthetics, other than the four drugs listed above, and for nonhalogenated inhalation anesthetics will be approved on or after the effective date of this final regulation only if the application is otherwise approvable and it contains data and information from animal studies on the carcinogenic potential and effects on reproduction of the drug product.

12. The holder of the approved NDA for Ethrane (enflurane) noted that FDA had required it to undertake a study of the teratogenic potential of its drug product as a condition of approval of its original NDA. The comment noted that the protocol for and result of that study from a part of the approved NDA for that product. Accordingly, the comment questioned the need for an additional teratogenic study of that drug product. The comment also asked whether the teratogenic studies reported in the literature or submitted as a condition of NDA approved were considered unreliable or incomplete and, if they were considered unreliable, on what basis was that conclusion reached. The comment also asked what criteria were used for accepting or rejecting published data relating to teratology.

The Commissioner advises that previous animal studies of Ethrane have generally employed anesthetic concentrations approximating those used for patients, but have not involved the long-term subanesthetic concentrations to which operating-room personnel are exposed. In addition, previous studies do not answer the questions regarding the transplacental effects of those concentrations. The Commissioner further advises that teratogenic studies are evaluated independently using the FDA

"Guidelines for Reproduction Studies for Safety Evaluation of Drugs for Human Use" (a copy has been placed on file in the office of the Hearing Clerk, Food and Drug Administration) as a general guide in considering the data.

13. One comment suggested that the time period proposed for the submission of preliminary protocols, i.e., 30 days after the effective date of the final regulation, was inadequate for the development of the technology and for conducting pilot studies that might be required to determine the proper dosages for the products to be studied. The comment suggested that a minimum of 90 days be allowed for submission of preliminary protocols.

The Commissioner does not agree with this comment. The final regulations provides the NDA holders with 60 days from the date of the publication of the final regulation within which to submit the preliminary protocols for the studies, i.e., 30 days after the effective date of the final regulation which is 30 days after the date of publication. The Commissioner concludes that the 60-day period, together with the substantial time since the studies were proposed, is more than adequate for the preparation and submission of the preliminary protocols. After a discussion of those protocols at the workshop, the NDA holders will have additional time to prepare and submit the final protocols for the studies. Accordingly, the Commissioner concludes that the time frame for submission of the preliminary protocols is appropriate. Section 310.511(b) is revised to require the submission of the final protocols to be used in the studies, on or before February 13, 1978.

14. Two comments objected to proposed § 310.511(c)(2) on the grounds that the 30-month time limit being proposed for the submission of the final report of the test results to FDA is too restrictive. One comment contended that that time limit did not permit sufficient time to conduct properly such highly complex studies, analyze the findings, and prepare an adequate summary report. The comment suggested a minimum of 3 years should be stipulated, with allowance for extensions of time, should the need arise. The other comment suggested that 36 to 42 months was a more realistic time frame for the completion of the studies.

The Commissioner agrees that, since the final protocols for the studies have not yet been determined, the 30-month time limit may not be adequate. Accordingly, § 310.511(c)(2) of the final regulation provides that the final report on the carcinogenicity and teratogenicity studies shall be submitted to FDA within 6 months of the completion of the studies.

15. One comment included a brief synopsis of the results of a study of the teratogenic effects of halothane in offspring of gravid rats. The study involved the investigation of the behavioral, neurochemical, and ultrastructural tissue effects of chronic exposure to low levels of halothane. The comment suggested the study be considered in developing the protocols under the final regulation. Another comment suggested that it would be foolish to use a protocol in conducting the required studies that differed significantly from that proposed in the "Guidelines for Carcinogen Bioassay in Small Rodents," published by NCI, Division of Cancer Cause and Prevention. (A copy has been placed on file in the office of the Hearing Clerk, Food and Drug Administration.) One comment asked whether the protocol for the teratogenic studies would be directed to continuous exposure throughout gestation, only after implantation, or single- or short-term exposures (2 to 3 days) during the critical days of maximal organogenesis, or all three. That comment also asked whether behavioral toxicology and behavioral teratogenic assessments would be included in the protocol.

The Commissioner concludes that these comments address the content of the protocols under which the studies will be conducted and not the proposed regulation to require them. The scope and content of the protocols for the required animal studies will be determined at the workshop, and these comments would be more appropriately considered in that context. He agrees, however, that the NCI guidelines provide a basis upon which the preliminary protocols for the required animal studies can be developed.

16. Several comments objected to the proposed requirement that all holders of NDA's or ANDA's for halogenated inhalation anesthetic drug products also must conduct studies on nitrous oxide. The comments contended that if such studies are necessary, the manufacturers of nitrous oxide for anesthetic use should be required to perform them, or alternatively, be required to participate in the studies with the producers of halogenated inhalation anesthetic drug products. Also, several comments suggested that the requirement that all holders of NDA's and ANDA's for halogenated anesthetics conduct studies on nitrous oxide appeared to be duplicative and unnecessary, and it was argued that a single study of nitrous oxide should be adequate. One comment requested clarification of the basis upon which nitrous oxide is included in the proposed study. The comment suggested that, if studies on nitrous oxide are required on the basis that the halogenated inhalation anesthetics will be used in combination with it, then the combination approach to nitrous oxide-halogenated anesthetic studies should be emphasized and not merely the single determination of carcinogenic and teratogenic potential of nitrous oxide as stated in the proposal. One comment suggested that the proposal did not adequately address the question of interactions between nitrous oxide and other halogenated hydrocarbon anesthetic agents with regard to teratogenic and carcinogenic hazards.

Nitrous oxide is included in the required studies since it is standard medical practice to use nitrous oxide when administering the halogenated inhalation anesthetics listed in the proposal, and the labeling for those drug products recommends or suggests that they be used in combination with nitrous oxide. It is therefore appropriate that suppliers of halogenated inhalation anesthetics, rather than suppliers of nitrous oxide, perform these studies. As the Commissioner stated in paragraph 8 of this preamble, FDA will accept, but cannot compel, joint studies of any of the drugs included in this regulation. The Commissioner also advises that it is FDA policy to require interaction studies of a drug in animals when the drug is usually used clinically in combination with other drugs.

17. Since the proposal was published, an ANDA has been approved for American Hospital Supply, McGaw Park, Illinois 60085, to market halothane. Accordingly, that ANDA holder is added to the list of NDA holders in § 310.511(d) who are required to conduct the animal studies.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 505, 701 (a), 52 Stat. 1052–1053 as amended, 1055 (21 U.S.C. 355, 371(a))) and under authority delegated to the Commissioner (21 CFR 5.1), Part 310 is amended by adding new § 310.511 to read as follows:

§ 310.511 Inhalation anesthetic drugs.

(a) The Commissioner of Food and Drugs has found, on the recommendation of the Anesthesiology Advisory Committee (formerly the Respiratory and Anesthetic Drugs Advisory Committee) and from a review of the scientific literature, that there is sufficient evidence to cause concern regarding the carcinogenic potential and effects on reproduction, including the teratogenic potential, of halogenated inhalation anesthetic drug products and of nitrous oxide. He has therefore concluded that it is necessary, under section 505(j) of the act, to require holders of approved new drug applications and abbreviated new drug applications for halogenated inhalation anesthetic drug products to establish and conduct studies in animals on the carcinogenic potential and effects on reproduction, including the teratogenic potential, of such drug products and of nitrous oxide, and to make reports on such studies to the Commissioner to enable him to determine whether there is ground for requiring revision of the labeling to provide for safer use of these drugs or ground for withdrawing approval, under section 505(e) of the act, of any of the approved new drug applications for these drug products.

(b) The holders of the new drug applications (NDA's) or abbreviated new drug applications (ANDA's) listed in paragraph (d) of this section shall submit to the Food and Drug Administration, on or before September 20, 1977, the preliminary protocols that each proposes to follow in conducting studies in animals on the carcinogenic potential and effects on reproduction, including the teratogenic potential, of their drug product(s) and of nitrous oxide. The preliminary protocols may be discussed with the Bureau of Drugs, Division of Surgical-Dental Drug Products (HFD–160), 5600

Fishers Lane, Rockville, MD 20857. The NDA and ANDA holders shall submit the final protocols for the studies to FDA, on or before February 13, 1978.

(c) Reports on the carcinogenicity and reproduction studies shall be submitted to the Food and Drug Administration as follows:

(1) Status reports of the ongoing studies at 3-month intervals, beginning 90 days after the applicant has received written acceptance of the protocol from the Food and Drug Administration.

(2) The final report within 6 months of the completion of the studies.

(d) Holders of the following new drug applications (NDA's) and abbreviated new drug applications (ANDA's) shall conduct studies in animals to determine the carcinogenic potential and effects on reproduction, including teratogenic potential, of their drug products and of nitrous oxide:

NDA or ANDA No.	Drug name	Firm
10-600	Fluoromar (fluroxene).	Ohio Medical Products, Murray Hill, N.J. 07974.
11-338	Fluothane (halothane).	Ayerst Laboratories (division of American Home Products Corp.), 685 3d Ave., New York, N.Y. 10017.
13-056	Penthrane (methoxyflurane).	Abbott Laboratories, North Chicago, Ill. 60064.
17-087	Ethrane (enflurane).	Ohio Medical Products.
80-810	Halothane Liquid.	Halocarbon Ontario, Ltd., Ontario, Canada.
83-254	do.	Abbott Laboratories.
84-977	Halothane	American Hospital Supply, McGaw Park, Ill. 60085.

(e) Holders of the new drug applications or abbreviated new drug applications listed in paragraph (d) of this section who have studies in progress to determine the carcinogenic potential and effects on reproduction, including teratogenic potential, of their drug products or nitrous oxide, or both, may send the protocols, with starting and projected concluding dates, for such studies to the Food and Drug Administration at the address listed above. Such studies may be accepted by the Food and Drug Administration in lieu of those required under this section.

(f) Before receipt of the final reports on the animal studies under pargaraph (c)(2) of this section, the Food and Drug Administration shall approve a full or abbreviated new drug application for enflurane, fluoxene, halothane, or methoxyflurane that does not contain these results of studies in animals to determine the carcinogenic potential and effects on reproduction, including the teratogenic potential of the drug product, if all the following conditions are met:

(1) The application is otherwise approvable.

(2) The applicant agrees to conduct studies in animals to determine the carcinogenic potential and effects on reproduction, including the teratogenic potential of the drug product that is the subject of the application.

(g) On or after August 22, 1977, the Food and Drug Administration shall approve a full or abbreviated new drug application for an inhalation anesthetic drug product except enflurane, fluoxene, halothane, and methoxyflurane if all of the following conditions are met:

(1) The application is otherwise approvable.

(2) The application contains the results of studies in animals to determine the carcinogenic potential and effects on reproduction, including the teratogenic potential of the drug product.

Effective date: This regulation shall be effective on August 22, 1977.

(Secs. 505, 701(a), 52 Stat. 1052 as amended, 1055 (21 U.S.C. 355, 371(a)).)

Dated: July 14, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.77-20781 Filed 7-21-77;8:45 am]

[Docket No. 76N-0115]

PART 444—OLIGOSACCHARIDE ANTIBIOTIC DRUGS

Streptomycin and Streptomycin-Containing Drugs; Updating and Technical Revision; Correction

AGENCY: Food and Drug Administration.

ACTION: Correction.

SUMMARY: This document corrects a final rule that was published in the FEDERAL REGISTER of Tuesday, April 26, 1977. An omitted word is added.

EFFECTIVE DATE: July 22, 1977.

FOR FURTHER INFORMATION CONTACT:

Joan M. Eckert, Bureau of Drugs (HFD-140), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4292.

SUPPLEMENTARY INFORMATION: In FR Doc. 77-11764 appearing at page 21274 in the FEDERAL REGISTER for Tuesday, April 26, 1977, the following correction is made: On page 21275, column 3, in the second sentence of paragraph (a)(1) of § 444.270b *Streptomycin sulfate injection*, the word "preservatives" is omitted. The sentence is corrected to read "It may contain one or more suitable and harmless preservatives, buffer substances, and stabilizing agents."

Dated: July 11, 1977.

MARY A. MCENIRY,
Assistant Director for Regulatory Affairs, Bureau of Drugs.

[FR Doc.77-21042 Filed 7-21-77;8:45 am]

SUBCHAPTER E—ANIMAL DRUGS, FEEDS, AND RELATED PRODUCTS

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

Dexamethasone-21-Isonicotinate Suspension

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The animal drug regulations are amended to reflect approval of a new animal drug application (NADA) submitted by Norden Laboratories, Inc., for use of an injectable drug in the treatment of dogs, cats, and horses for various musculoskeletal inflammations.

EFFECTIVE DATE: July 22, 1977.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION:

Norden Laboratories, Inc., submitted an NADA (93-600V) proposing safe and effective use of dexamethasone-21-isonicotinate suspension (injectable) in the treatment of dogs, cats, and horses for various musculoskeletal inflammations.

In accordance with the freedom of information regulations and § 514.11(e)(2)(ii) of the animal drug regulations (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application is released publicly. The summary is available for public examination at the office of the Hearing Clerk (HFC-20), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, Md. 20857, from 9 a.m. to 4 p.m., Monday through Friday, except on Federal holidays.

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 by adding new § 522.542 to read as follows:

§ 522.542 Dexamethasone-21-isonicotinate suspension.

(a) *Specifications.* Each milliliter of sterile suspension contains 1 milligram of dexamethasone-21-isonicotinate.

(b) *Sponsor.* No. 011519 in § 510.600(c) of this chapter.

(c) *Conditions of use.* (1) The drug is used in the treatment of various inflammatory conditions associated with the musculoskeletal system in dogs, cats, and horses.

(2) It is recommended for intramuscular administration as follows: Dogs—0.25 to 1 milligram; cats—0.125 to 0.5 milligram; horses—5 to 20 milligrams. Dosage may be repeated.

(3) Clinical and experimental data have demonstrated that corticosteroids administered orally or parenterally to animals may induce the first stage of parturition when administered during the last trimester of pregnancy and may precipitate premature parturition followed by dystocia, fetal death, retained placenta, and metritis.

(4) Not for use in horses intended for food.

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

Effective date: This regulation shall be effective July 22, 1977.

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

Dated: July 13, 1977.

RICHARD P. LEHMANN,
Acting Director,
Bureau of Veterinary Medicine.

[FR Doc.77-20797 Filed 7-21-77;8:45 am]

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 held by Diamond Shamrock Corp. for use of a higher concentration injectable oxytetracycline dosage for treating certain diseases of cattle and swine.

EFFECTIVE DATE: July 22, 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: In accordance with section 512(i) of the Federal Food, Drug, and Cosmetic Act, Part 522 (21 CFR Part 522) is amended to reflect approval of a new animal drug application (NADA 97-452V) held by Diamond Shamrock Corp., Nutrition and Animal Health Division, 1100 Superior Ave., Cleveland, Ohio 44114.

In compliance with the freedom of information regulations and § 514.11(e)(2)(ii) of the animal drug regulations (21 CFR 514.11(e)(2)(ii)), 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 (HFC-20), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, Md. 20857, during regular working hours.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))), and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), § 522.1662a is amended by adding new paragraph (g), to read as follows:

§ 522.1662a Oxytetracycline hydrochloride injection.

* * * * *

(g)(1) *Specifications.* Each milliliter of sterile solution contains 100 milligrams of oxytetracycline as oxytetracycline hydrochloride.

(2) *Sponsor.* See No. 025001 in § 510.600(c) of this chapter.

(3) *Conditions of use.* The drug is used for the treatment of diseases due to oxytetracycline-susceptible organisms as follows:

(i) *Beef cattle, beef calves, nonlactating dairy cattle, and dairy calves.*—(a) *Amount.* 3 to 5 milligrams of oxytetracycline per pound of body weight per day.

(b) *Indications for use.* For the treatment of pneumonia and shipping fever complex associated with *Pasteurella spp., Hemophilus spp.,* or *Klebsiella spp.*

(c) *Limitations.* Administer by intramuscular or intravenous injection. In severe forms of the indicated diseases, administer 5 milligrams of oxytetracycline per pound of body weight per day. Continue treatment 24 to 48 hours following remission of disease symptoms, not to exceed a total of 4 consecutive days. If no improvement is noted within 48 hours, consult a veterinarian. Do not inject more than 10 milliliters per injection site intramuscularly in adult cattle; no more than 1 milliliter per site in calves weighing 100 pounds or less. Discontinue treatment at least 20 days prior to slaughter.

(ii) *Sows.*—(a) *Amount.* 3 milligrams of oxytetracycline per pound of body weight approximately 8 hours before farrowing or immediately after completion of farrowing.

(b) *Indications for use.* As an aid in the control of infectious enteritis (baby pig scours, colibacillosis) in suckling pigs caused by *Escherichia coli* by treating the sow.

(c) *Limitations.* Administer intramuscularly. If no improvement is noted within 24 hours, consult a veterinarian. Do not inject more than 5 milliliters per site. Discontinue treatment at least 20 days prior to slaughter.

Effective date: This amendment shall become effective July 22, 1977.

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

Dated: July 13, 1977.

RICHARD P. LEHMANN,
Acting Director,
Bureau of Veterinary Medicine.

[FR Doc.77-20801 Filed 7-21-77;8:45 am]

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

Oxytocin Injection

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: National Laboratories Corp. requested the withdrawal of approval of a new animal drug application (NADA) for oxytocin injection, noting that it is no longer interested in marketing the product. The animal drug regulations are amended to reflect the company's request.

EFFECTIVE DATE: July 22, 1977.

FOR FURTHER INFORMATION CONTACT:

W. D. Price, Bureau of Veterinary Medicine (HFV-123), Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20857 (301-443-3442).

SUPPLEMENTARY INFORMATION: National Laboratories Corp., 1721 Baltimore Ave., Kansas City, Mo. 64108, requested that its approval (NADA 46-665V) be withdrawn.

In accordance with § 514.115(d) (21 CFR 514.115(d)), the Commissioner of Food and Drugs is withdrawing, without prejudice, approval of NADA 46-665V and all supplements and amendments thereto. The notice of the withdrawal appears elsewhere in this issue of the FEDERAL REGISTER.

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 § 522.1680 *Oxytocin injection* in paragraph (b) by deleting sponsor No. "011811."

Effective date: This regulation becomes effective July 22, 1977.

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

Dated: July 13, 1977.

RICHARD P. LEHMANN,
Acting Director,
Bureau of Veterinary Medicine.

[FR Doc.77-20799 Filed 7-21-77;8:45 am]

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

Lincomycin With Lasalocid

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 the Upjohn Co. for use of a medicated chicken feed containing lincomycin and lasalocid for broilers and

fryers for increased rate of weight gain and improved feed efficiency and as an aid in the prevention of coccidiosis.

EFFECTIVE DATE: July 22, 1977.

FOR FURTHER INFORMATION CONTACT:

Lonnie W. Luther, Bureau of Veterinary Medicine (HFV-147), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857 (301-443-4317).

SUPPLEMENTARY INFORMATION: The Upjohn Co., Kalamazoo, Mich. 49001, filed a new drug application (101-689V) proposing safe and effective use of the drug specified above.

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 approval of this application is released publicly. The summary is available for public examination at the office of the Hearing Clerk (HFC-20), Rm. 4-65, 5600 Fishers Lane, Rockville, Md. 20857, during regular working hours.

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 558 is amended as follows:

1. In § 558.311, by revising paragraph (e) to read as follows:

§ 558.311 **Lasalocid sodium.**

* * * * *

(e) *Conditions of use.* It is used as follows:

Lasalocid sodium activity in grams per ton	Combination in grams per ton	Indications for use	Limitations	Sponsor
(1) 68 (0.0075 pct)		Broiler or fryer chickens; for the prevention of coccidiosis caused by *Eimeria tenella, E. necatrix, E. acervulina, E. brunetti, E. mivati,* and *E. maxima.*	For broiler or fryer chickens only, feed continuously as the sole ration; withdraw 5 d before slaughter.	000004
(2) 68 (0.0075 pct)	Roxarsone 45.4 (0.005 pct).	Broiler or fryer chickens; for the prevention of coccidiosis caused by *Eimeria tenella, E. necatrix, E. acervulina, E. brunetti, E. mivati,* and *E. maxima* and as an aid in the reduction of oocysts and lesions due to *E. tenella.*	For broiler or fryer chickens only; feed continuously as the sole ration; as sole source of organic arsenic; withdraw 5 d before slaughter; roxarsone provided by No. 017210 in sec. 510.600(c) of this chapter.	000004
(3) 68 (0.0075 pct)	Lincomycin 2 (0.00044 pct).	Broiler or fryer chickens; for the prevention of coccidiosis caused by *Eimeria mivati, E. brunetti, E. tenella, E. acervulina, E. maxima,* and *E. necatrix;* for increased rate of weight gain and improved feed efficiency.	For broiler and fryer chickens only; feed continuously as sole ration; withdraw 5 d before slaughter finished feed must be used within 4 weeks of manufacture; as lincomycin hydrochloride monohydrate.	000009

2. In § 558.325, by adding paragraph (f)(3)(x) to read as follows:

§ 558.325 **Lincomycin.**

* * * * *

(f) * * *

(3) * * *

(x) Lasalocid sodium in accordance with § 558.311.

Effective date: This regulation becomes effective July 22, 1977.

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

Dated: July 13, 1977.

RICHARD P. LEHMANN,
Acting Director,
Bureau of Veterinary Medicine.

[FR Doc.77-20798 Filed 7-21-77;8:45 am]

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

Lincomycin

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document approves safe and effective use of 2 grams of lincomycin per ton of complete boiler feed for treating certain intestinal inflammations. The Upjohn Co. filed an application for this use. The Commissioner of Food and Drugs is amending the animal drug regulations to reflect this approval.

EFFECTIVE DATE: July 22, 1977.

FOR FURTHER INFORMATION CONTACT:

Lonnie W. Luther, Bureau of Veterinary Medicine (HFV-147), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, (301-443-4317).

SUPPLEMENTARY INFORMATION: The Upjohn Co., Kalamazoo, MI 49001, filed a supplemental new animal drug application (34-085V) to provide for safe and effective use of 2 grams of lincomycin per ton of complete broiler feed for control of necrotic enteritis caused by *Clostridium spp.*

In accordance with the freedom of information regulations and § 514.11(e)(2)(ii) of the animal drug regulations (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application is released publicly. The summary is available for public examination at the office of the Hearing Clerk (HFC-20), Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday, except Federal holidays.

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 558 is amended in § 558.325 by revising paragraph (f)(1) to read as follows:

§ 558.325 **Lincomycin.**

* * * * *

(f) *Conditions of use.* (1) It is used in broiler feeds as follows:

(i) *Amount per ton.* 2 to 4 grams.

(a) *Indications for use.* For increase in rate of weight gain and improved feed efficiency.

(b) *Limitations.* As lincomycin hydrochloride monohydrate.

(ii) *Amount per ton.* 2 grams.

(a) *Indications for use.* For control of necrotic enteritis caused by *Clostridium spp.* or other susceptible organisms.

(b) *Limitations.* As lincomycin hydrochloride monohydrate.

* * * * *

Effective date: This regulation becomes effective on July 22, 1977.

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

Dated: July 13, 1977.

RICHARD P. LEHMANN,
Acting Director,
Bureau of Veterinary Medicine.

[FR Doc.77-20785 Filed 7-21-77;8:45 am]

SUBCHAPTER F—BIOLOGICS

[Docket No. 75N-0129]

PART 640—ADDITIONAL STANDARDS FOR HUMAN BLOOD AND BLOOD PRODUCTS

Cryoprecipitated Antihemophilic Factor (Human)

AGENCY: Food and Drug Administration.

ACTION: Final Rule.

SUMMARY: This is an amendment of a rule published in the FEDERAL REGISTER of April 29, 1977 (42 FR 21772). A reference within a section is changed.

EFFECTIVE DATE: July 22, 1977.

FOR FURTHER INFORMATION CONTACT:

John Singleton, Bureau of Biologics (HFB-620), Food and Drug Administration, Department of Health, Education, and Welfare, 8800 Rockville Pike, Bethesda, MD 20014, (301-443-4626).

SUPPLEMENTARY INFORMATION: A final rule was published in the FEDERAL REGISTER of April 29, 1977 (42 FR 21772) that amended the biologics regulations to permit Cryoprecipitated Antihemophilic Factor (Human) to be manufactured from plasma obtained by plasmapheresis and to reorganize the regulations for consistency. It has come to the attention of the Commissioner of Food and Drugs that due to an oversight, the amended regulations in § 640.53(c) referenced

paragraphs (f) and (g) of § 640.69. But paragraphs (f) and (g) of § 640.69 had been redesignated as §§ 640.71 and 640.72, the reference from § 640.69 (f) and (g) to §§ 640.71 and 640.72.

Accordingly, § 640.53(c) is being amended, as set forth below, to change the reference from § 640.69 (f) and (g) to §§ 640.71 and 640.72.

Therefore, under the Public Health Service Act (sec. 351, 58 Stat. 702, as amended (42 U.S.C. 262)) and under authority delegated to the Commissioner (21 CFR 5.1), Part 640 is amended by revising § 640.53(c) to read as follows:

§ 640.53 Testing the blood.

* * * * *

(c) Manufactures of Cryoprecipitated Antihemophilic Factor (Human) obtained from plasma collected by plasmapheresis shall have testing and recordkeeping responsibilities equivalent to those prescribed in §§ 640.71 and 640.72.

Under the Administrative Procedure Act (5 U.S.C. 553(b) and (d)), the Commissioner concludes that notice, public procedure, and delayed effective date are unnecessary for the amendment of § 640.53(c) because it does not impose an additional duty or burden on any person, but rather corrects an inadvertent error.

Effective date: This amendment becomes effective on July 22, 1977.

(Sec. 351, 58 Stat. 702, as amended (42 U.S.C. 262))

Dated: July 13, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.77-20802 Filed 7-21-77;8:45 am]

[Docket No. 76N-0459]

PART 740—COSMETIC PRODUCT WARNING STATEMENTS

Certain Fluorocarbon (Chlorofluorocarbon) Propellants in Self-Pressurized Containers; Warning Statement Requirement; Partial Extension of Effective Date

AGENCY: Food and Drug Administration.

ACTION: Partial extension of effective date of final rule.

SUMMARY: The Commissioner extends until December 31, 1977, the effective date for compliance by cosmetic fragrances and gift pack with the label warning required when using chlorofluorocarbon propellants. The warning alerts the consumer to the risks of ozone depletion in the upper atmosphere posed by chlorofluorocarbons. The Cosmetic, Toiletry and Fagrance Association requested the extension until after the Christmas sales period for certain seasonal products to avoid disruption and increased production costs.

DATES: Except for cosmetic gift packs and fragrance preparations, these regulations shall continue to be effective October 31, 1977 for finished products initially introduced into interstate commerce on or after that date. Cosmetic gift packs, i.e., assortments of cosmetic products sold together in a single package, and fragrance products falling within the product categories identified in 21 CFR 720.4(c) initially introduced into interstate commerce on or after December 31, 1977 shall fully comply.

FOR FURTHER INFORMATION CONTACT:

Taylor M. Quinn, Bureau of Foods (HFF-300), Department of Health, Education, and Welfare, 200 C St. SW., Washington, D.C. 20204, (202-245-1567).

SUPPLEMENTARY INFORMATION: The Commissioner issued a final rule under § 740.11 (21 CFR 740.11), published in the FEDERAL REGISTER of April 29, 1977 (42 FR 22018), that required a warning on certain foods, drugs, medical devices, and cosmetics in self-pressurized containers in which the propellant contains fully halogenated chlorofluoroalkanes (chlorofluorocarbons). The regulation requires that all regulated products, including cosmetics, initially introduced into interstate commerce on or after October 31, 1977 shall bear the required warning statement.

On May 19, 1977, the Commissioner received a petition from the Cosmetic, Toiletry and Fragrance Association requesting that the effective date for cosmetic fragrances and gift packs be extended until January 31, 1978.

Although designated a petition for reconsideration, the petition is in effect a petition for administrative stay of action and has been treated in accordance with the regulation under § 10.35 (21 CFR 10.35) governing such petitions. The petition and related material are on file (Docket No. 76N-0459) in the office of the Hearing Clerk, Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, and may be seen between the hours of 9 a.m. and 4 p.m., Monday though Friday.

The petition states that fragrances and gift packs have a high concentration of sales during the Christmas season, and the existing effective date would require considerable overlabeling at "enormous expense." Most of these products are either already manufactured and in inventory or are currently in production, with packaging orders already placed. According to the petition, it is impossible to include the warning in permanent labeling. Many, but not all, of the products will be initially introduced into interstate commerce before the current effective date. The chlorofluorocarbons used for production will be released ultimately to the atmosphere even if the warning appears.

In the case of products described in the petition, commitments have already been made for production for the upcoming season. Failure to extend the effective date would cause manufacturers to incur increased production costs. Because the effective date is so close to the marketing, there is an unusual potential for disruption. The objectives of the warning requirement will not be significantly impaired by granting the extension. The products involved are responsible for not more than 2 to 3 percent of annual chlorofluorocarbon emissions in the United States. The petitioner states that this problem concerning the effective date was not raised during the comment period on the proposal because the petitioner did not foresee that the effective date, as changed by the Commissioner in the final regulation, would fall directly before the Christmas season.

The Commissioner agrees that the regulation will have a greater impact on fragrances and gift packs than on other regulated aerosol products because of their seasonality. An extension of the effective date for this limited class of products as referred to in the petition is therefore warranted. The seasonal production pattern makes it impractical to include the warning in permanent labeling for this season and makes overlabeling especially difficult. In contrast, the warning can be included in the labeling for nonseasonal products in an orderly fashion by the effective date. Accordingly, the Commissioner believes it is equitable to extend the effective date for labeling these seasonal products.

The Commissioner has endeavored to minimize the need for overlabeling because of the expense and possible disruption involved. He does not believe, however, that the effective date should be set to eliminate the need for any overlabeling on any product. This could lead to overproduction for the Christmas season because the unsold products could be disposed of without the required warning during special promotional sales thereafter. The appearance of the warning on all products would thus be inordinately delayed. Therefore, the Commissioner concludes that the extension should be limited to goods manufactured for sale during the Christmas season.

Accordingly, in the case of cosmetic fragrances and gift packs, the Commissioner modifies the effective date for complying with § 740.11 as follows:

All finished aerosol cosmetic products containing chlorofluorocarbon propellants sold together in a gift package, and all finished cosmetic fragrance preparations as listed in § 720.4(c) (21 CFR 720.4(c)) initially introduced into interstate commerce on or after December 31, 1977, shall comply with § 740.11.

All other finished products containing chlorofluorocarbon propellants shall continue to comply with the October 31, 1977 effective date as established by regulation published in the FEDERAL REGISTER of April 29, 1977 (42 FR 22018).

This document is issued under the Federal Food, Drug, and Cosmetic Act (secs. 201(n), 301, 402, 403, 501, 502, 505, 507, 512, 601, 602, 701(a), Pub. L. 717, 52 Stat. 1041-1043 as amended, 1046-1048 as amended, 1049, 1051-1053 as amended, 1054-1055, 57 Stat. 463 as amended, 82 Stat. 343-351 (21 U.S.C. 321(n)), 331, 342, 343, 351, 352, 355, 357, 360b, 361, 362, and 371(a)) and the National Environmental Policy Act of 1969 (sec. 102(2), Pub. L. 91-190, 83 Stat. 853 (42 U.S.C.

4332)), and under authority delegated to the Commissioner (21 CFR 5.1).

(Secs. 201(n), 301, 402, 403, 501, 502, 505, 507, 512, 601, 602 701(a), Pub. L. 717, 52 Stat. 1041–1043 as amended, 1046–1048 as amended, 1049, 1051–1053 as amended, 1054–1055, 57 Stat. 463, as amended, 82 Stat. 343–351 (21 U.S.C. 321(n), 331, 342, 343, 351, 352, 355, 357, 360b, 361, 362, and 371(a)); sec. 102(2), Pub. L. 91-190, 83 Stat. 853 (42 U.S.C. 4332).)

Dated: July 18, 1977.

JOSEPH P. HILE,
Associate Commissioner for Compliance.

[FR Doc.77-21243 Filed 7-21-77;8:45 am]

Title 24—Housing and Urban Development

CHAPTER XX—OFFICE OF ASSISTANT SECRETARY FOR NEIGHBORHOODS, VOLUNTARY ASSOCIATIONS AND CONSUMER PROTECTION

[Docket No. R-77-459]

AMENDMENT TO CHAPTER HEADING

AGENCY: Office of Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection, HUD.

ACTION: Final rule.

SUMMARY: This rule amends the Chapter XX Heading from Office of Assistant Secretary for Consumer Affairs and Regulatory Functions to Office of Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection. This change of title is being made to reflect the expansion of the functions of this Office to include a new responsibility with respect to Neighborhood and Voluntary Organizations.

EFFECTIVE DATE: July 15, 1977.

FOR FURTHER INFORMATION CONTACT:

Michael Esposito, Director, Administrative and Field Support Staff, Office of Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection, Department of Housing and Urban Development, Washington, D.C 20410, 202–755–6314.

SUPPLEMENTARY INFORMATION: Pursuant to the authority of the Secretary of the Department of Housing and Urban Development, contained in section 4(a) of the Department of Housing and Urban Development Act, 42 U.S.C. Sec. 3533, 24 CFR Chapter XX is amended as follows:

Wherever the title "Assistant Secretary for Consumer Affairs and Regulatory Functions" appears in Title 24, CFR, it is changed to read "Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection."

It is the general policy of the Department of Housing and Urban Development to allow time for interested parties to take part in the rulemaking process. However, this amendment is administrative in nature. Therefore, the rulemaking process, involving comment and public procedure, is waived, and this amendment will become effective immediately.

Issued at Washington, D.C., July 15, 1977.

PATRICIA ROBERTS HARRIS,
Secretary of Housing and Urban Development.

[FR Doc.77-21111 Filed 7-21-77;8:45 am]

Title 29—Labor

CHAPTER XVII—OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION, DEPARTMENT OF LABOR

PART 1952—APPROVED STATE PLANS FOR ENFORCEMENT OF STATE STANDARDS

Alaska Plan Amendments to Level of Federal Enforcement

AGENCY: Occupational Safety and Health Administration

ACTION: Amendment to Operational Agreement entered into by the State of Alaska and the Occupational Safety and Health Administration on June 5, 1975.

SUMMARY: This document codifies amendments to the Operational Agreement entered into by the State of Alaska and the Occupational Safety and Health Administration on June 5, 1975, to reflect that Alaska is now operational in the health area and in the areas of pulp, paper and paperboard mills; textiles; bakery equipment; and laundry machinery and operations; and to reflect the State's election not to cover on-shore maritime activities under its plan.

EFFECTIVE: January 6, 1977.

FOR FURTHER INFORMATION CONTACT:

Veronica Allen, Project Officer, Office of State Programs, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210, 202–523–8031.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Part 1954 of Title 29, Code of Federal Regulations, sets out procedures under section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) (hereinafter referred to as the Act) for the evaluation and monitoring of State plans which have been approved under section 18(c) of the Act and 29 CFR Part 1902. Section 1954.3 of this chapter provides guidelines and procedures for the exercise of discretionary Federal enforcement authority under section 18(e) of the Act with regard to Federal standards in issues covered under an approved State plan. In accordance with § 1954.3 (b) of this chapter, Federal enforcement authority will not be exercised as to occupational safety and health issues covered under a State plan where a State is operational.

A State is determined to be operational under § 1954.3(b) of this chapter when it has provided for the following requirements: enacted enabling legislation, approved State standards, a sufficient number of qualified enforcement personnel and provisions for review of enforcement actions. In determining whether and to what extent a State plan meets the operational guidelines, the results of evaluations conducted under 29 CFR Part 1954 are taken into consideration. Once this determination has been made, under § 1954.3(f) of this chapter, a notice of the determination of the operational status of a State plan as described in an agreement setting forth the Federal-State responsibilities is to be published in the FEDERAL REGISTER.

On September 2, 1975, a notice was published in the FEDERAL REGISTER (40 FR 40157) that it had been determined that Alaska had met the conditions for operational status and of the signing of an agreement effective June 5, 1975, between Edmund N. Orbeck, Commissioner of the Alaska Department of Labor and James W. Lake, Regional Administrator for Occupational Safety and Health.

NOTICE OF THE AMENDMENTS TO ALASKA OPERATIONAL AGREEMENT

In accordance with § 1954.3(f)(3) of this chapter, notice is hereby given that an amended operational status agreement effective January 6, 1977, and incorporated as part of the Alaska plan, has been entered into between Edmund N. Orbeck, Commissioner of Alaska Department of Labor, and James W. Lake, Regional Administrator for Occupational Safety and Health, U.S. Department of Labor, to amend the agreement that became effective June 5, 1975, to reflect that (1) Alaska is considered to be operational in the health area and in the areas of pulp, paper and paperboard mills; textiles; bakery equipment; and laundry machinery and operations, and (2) Alaska has elected to relinquish coverage of on-shore maritime activities under its plan. The agreement is described below.

The Alaska State plan when approved provided for four (4) industrial hygienists. On February 5, 1976, the State submitted a change to its plan to reduce the number of industrial hygienists employed under its plan to three industrial hygienists (two (2) enforcement; one (1) consultation) who are presently employed by the State. Notice of approval of this revision was published in the FEDERAL REGISTER on November 30, 1976 (41 FR 52556).

On July 22, 1976, Acting Regional Administrator, Richard L. Beeston approved State standards comparable to 29 CFR 1910.261 on Pulp, Paper and Paperboard Mills. Notice of approval of these standards was published in the FEDERAL REGISTER on September 14, 1976 (41 FR 39112). On September 30, 1976, Acting Regional Administrator John A. Granchi approved State standards comparable to 29 CFR 1910.262 on Textiles, 1910.263 on Bakery Equipment, and 1910.264 on Laundry Machinery and Operations. Notice of approval of these standards was published in the FEDERAL REGISTER on October 29, 1976 (41 FR 47613).

Also, on June 2, 1976, the State submitted a change to its plan to withdraw from coverage of the maritime issue as set forth in its original plan. Notice

of approval of this change was published in the FEDERAL REGISTER on November 30, 1976 (41 FR 52556).

This agreement is subject to revision or termination by the Assistant Secretary of Labor for Occupational Safety and Health upon substantial failure by the State to comply with any of its provisions, or when the results of evaluation under 29 CFR Part 1954 reveal that State operations covered by the agreement fail in a substantial manner to be at least as effective as the Federal program.

In accordance with this agreement and effective as of January 6, 1977, Subpart R of 29 CFR Part 1952 is hereby amended as set forth below:

Section 1952.242 is revised to read as follows:

§ 1952.242 Level of Federal enforcement.

(a) Pursuant to §§ 1902.20(b)(1)(iii) and 1954.3 of this chapter under which an agreement has been entered into with Alaska as amended effective January 6, 1977, and based on a determination that Alaska is operational in the issues covered by the Alaska occupational safety and health plan, discretionary Federal enforcement authority under Section 18(c) of the Act (29 U.S.C. 667c)) will not be initiated with regard to Federal occupational safety and health standards in issues covered under 29 CFR Parts 1910, 1926 and 1928. The U.S. Department of Labor will continue to exercise authority, among other things with regard to: Federal standards promulgated subsequent to the agreement where necessary to protect employees as in the case of temporary emergency standards promulgated under section 6(c) of the Act (29 U.S.C. 655(c)) in the issues covered under the plan and agreement until such time as Alaska shall have adopted equivalent standards in accordance with Subpart C of 29 CFR Part 1953; complaints about violations of the discrimination provisions of section 11(c) of the Act (29 U.S.C. 660); Federal standards contained in the issues covered by Subpart B—Ship repairing, Shipbuilding, Shipbreaking, and Longshoring, 29 CFR 1910.13 through 1910.16; and investigation and inspection for the purpose of evaluation of the Alaska plan under sections 18 (e) and (f) of the Act (29 U.S.C. 667 (e) and (f)).

(b) The Regional Administrator for Occupational Safety and Health will make a prompt recommendation for resumption of exercise of Federal enforcement authority under section 18(e) of the Act (29 U.S.C. 667(e)) whenever, and to the degree, necessary to assure occupational safety and health protection to employees in the State of Alaska.

(Secs. 8(g)(2), 18 Pub. L. 91-596, 84 Stat. 1600, 1608; (29 U.S.C. 657(g), 667)).

Signed at Washington, D.C. this 14th day of July 1977.

EULA BINGHAM,
Assistant Secretary of Labor.

[FR Doc.77-21129 Filed 7-21-77;8:45 am]

PART 1952—APPROVED STATE PLANS FOR ENFORCEMENT OF STATE STANDARDS

California Plan; Approval of Supplement

AGENCY: Occupational Safety and Health Administration.

ACTION: Approval of Supplement to California Plan on Completion of Developmental Step.

SUMMARY: This rulemaking acknowledges that the State of California has completed a developmental step under its Occupational Safety and Health Plan by providing for the development and enforcement of standards covering temporary labor camps.

EFFECTIVE DATE: August 22, 1977.

FOR FURTHER INFORMATION CONTACT:

Daniel C. Hoeschen, Office of State Programs, Occupational Safety and Health Administration, Room N-3608, 200 Constitution Avenue NW., Washington, D.C. 20210, 202-523-8041.

SUPPLEMENTARY INFORMATION:

BACKGROUND

The California Occupational Safety and Health Plan was approved under section 18(c) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667(c)) (hereinafter called the Act) and Part 1902 of this Chapter on April 24, 1973 (38 FR 10717). Under the plan the State made commitments to complete certain developmental steps by June 1, 1976, including adoption of standards covering temporary labor camps. Part 1953 of this Chapter provides procedures for the review and approval of State developmental change supplements by the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary).

DESCRIPTION OF SUPPLEMENT

On March 11, 1977, the State of California submitted a supplement to its plan which provides a program for the development and enforcement of standards pertaining to temporary labor camps. This was in response to deficiencies found in an earlier proposal. The program consists of three components. The first component provides for the adoption of a standard by the California Occupational Safety and Health Standards Board requiring employers providing housing for employees to have a valid labor camp housing permit issued by the Department of Housing and Community Development under the California Employee Housing Act. In order to secure such a permit, standards adopted under Title 25 of the California Administrative Code must be met. These standards were found to be at least as effective as the comparable Federal standards concerning temporary labor camps (42 FR 18671, April 8, 1977). The absence of such a valid permit is a regulatory violation of the California Occupational Safety and Health Act, subjecting the employer to a citation and proposed penalty.

The second component of the program provides that in conducting inspections of workplaces including employment-related housing or upon receipt of a complaint involving employee housing, the Division of Industrial Relations (hereinafter referred to as the Division) will enforce the labor camp permit standard and will refer apparent violations of the Title 25 standards to the Department of Housing and Community Development (DHCD) for appropriate action in accordance with an inter-agency agreement further described below. The Division will cite for lack of a valid permit, issue a notice of penalty and advise DHCD so that agency may take appropriate enforcement action under the California Employee Housing Act.

The third component concerns an inter-agency agreement, which is included in the supplement, between the Agriculture and Services Agency (the California Designee), the Department of Industrial Relations in that agency, the Division and the Department of Housing and Community Development. The agreement also provides that reports on Division inspections and complaints of alleged violations will be transmitted to DHCD for necessary enforcement action under its authority. The Division will evaluate DHCD reports on the referrals.

Th Department of Housing and Community Development, among other things, will maintain and enforce a standard under Title 25 of the California Administrative Code which is at least as effective as the Federal labor camp standard; inspect labor camps referred by the Division and take necessary enforcement action under the Employee Housing Act; transmit Division referrals to local government agencies authorized to conduct inspections under the Employee Housing Act and in such referrals DHCD will require documentation relating to the inspection and enforcement action taken. The agreement also provides that DHCD and authorized local government agencies will incorporate certain OSHA procedures in their inspections resulting from Division referrals. These procedures are:

1. *Variances.* When an employer requests an alternate use of any material, appliance, installation, device, etc., the agency shall advise employees and obtain their views.

2. *Complaints.* Complaint referrals from the Division alleging a serious violation will be responded to within three days and those alleging nonserious violations within 14 days; the complainant's name will be kept confidential; complainants will be notified if no compliance action is taken along with the reasons why and of their right to review of these decisions; and protection is provided to employees against discharge or discrimination for exercising rights.

3. *Walkaround.* In conducting post-occupancy inspections, DHCD will provide an opportunity for employees or their representatives, on the premises at the time of the inspection, to accompany the inspector.

4. *Advance notice.* In conducting post-occupancy inspections, the inspector may not give advance notice of the inspection.

5. *Hearings.* Employees or their representatives are to be given an opportunity to attend and participate in any hearings in which an employer is appealing alleged violations or abatement dates.

In addition, the agreement provides that DHCD agrees to monitoring by the Occupational Safety and Health Administration of its performance under the inter-agency agreement in accordance with section 18(f) of the Act.

It should be noted that the inter-agency agreement is an interim agreement and is subject to appropriate adjustments when a revised Federal standard on temporary labor camps is promulgated.

LOCATION OF THE PLAN AND ITS SUPPLEMENT FOR INSPECTION AND COPYING

A copy of the plan and its supplement may be inspected and copied during normal business hours at the following locations: Technical Data Center, Occupational Safety and Health Administration, 200 Constitution Avenue, Room S-6212, Washington, D.C. 20210; Office of the Regional Administrator, Occupational Safety and Health Administration, 450 Golden Gate Avenue, Room 9470, San Francisco, California 94102; and the California Occupational Safety and Health Administration, 455 Golden Gate Avenue, Room 3052, San Francisco, California 94102.

PUBLIC PARTICIPATION

Under § 1953.2(c) of this chapter, the Assistant Secretary may prescribe alternative procedures to expedite the review process or for any other good cause which may be consistent with applicable law. Approval of this supplement protects the continuity necessary to the regulation of employee-related housing under the California plan. This supplement is based on standards which are as effective as Federal standards and incorporates the necessary employee protections of the State's Occupational Safety and Health Plan, as approved. Moreover, implementation of the supplement will not result in any significant change in the extent of coverage or standards relating to temporary labor camps within California as it merely provides certain procedures to bring coverage of temporary labor camps within the purview of the Division. Good cause is therefore found for approval of the supplement, subject to evaluations, without public comment and notice.

The implementation of the California program for the enforcement of standards concerning employment related housing is approved as a completion of a developmental step. This decision incorporates the requirements of the Act and the implementing regulations applicable to State plans generally.

Accordingly, § 1952.174 of Part 1952 of this Chapter is amended by adding a new paragraph (o) which reads as follows:

§ 1952.174 **Completed developmental steps.**

* * * * *

(o) Enforcement of standards pertaining to temporary labor camps was implemented in March 1977.

(Secs. 8(g)(2), 18, Pub. L. 91-596, 84 Stat. 1600, 1608 (29 U.S.C. 657(g), 667).)

Signed at Washington, D.C. this 14th day of July 1977.

EULA BINGHAM,
Assistant Secretary of Labor.

[FR Doc.77-21130 Filed 7-21-77;8:45 am]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER C—AIR PROGRAMS

[FRL 761-1]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Approval of Revisions to the Louisiana Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This action approves a number of variances to emission limiting regulations of the Louisiana plan. The variances were adopted by the State of Louisiana to conform with schedules in EPA enforcement orders, which were designed to bring various sources into compliance with applicable regulations.

EFFECTIVE DATE: July 22, 1977.

FOR FURTHER INFORMATION CONTACT:

Oscar Cabra, Jr., Air Program Branch, Environmental Protection Agency, Region VI, Dallas, Texas 75270, 214-749-3837.

SUPPLEMENTARY INFORMATION: On April 22, 1976 Louisiana submitted to the Regional Administrator individual source compliance schedules as proposed revisions to the State implementation plan. These schedules were established by the State as variances to emission limiting regulations already in effect, and were adopted following the issuance of EPA enforcement orders which established dates for compliance by the affected sources.

The proposed variances were reviewed and were found to meet all procedural requirements for implementation plan revisions. Accordingly, a proposed approval of the variances was published in the FEDERAL REGISTER on April 1, 1977.

PUBLIC COMMENTS

Interested persons were given 30 days in which to submit comments for consideration by EPA in making a final approval/disapproval decision. No comments on the proposed approval were received. Therefore, there is no evidence or data which conflicts with a final approval decision.

CURRENT ACTION

In this action, approval of the variances to emission limiting regulations is being promulgated as proposed.

This notice of final rulemaking is issued under the authority of section 110 of the Clean Air Act, as amended, 42 U.S.C. 1857c-5.

Dated: July 18, 1977.

BARBARA BLUM,
Acting Administrator.

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

Subpart T—Louisiana

1. In § 52.970, paragraph (c) is amended by adding a new subparagraph (7), reading as follows:

§ 52.970 **Identification of plan.**

* * * * *

(c) * * *

(7) Variances to Emission Limiting Regulations adopted by the Louisiana Air Control Commission on October 29, 1975, December 12, 1975, and April 6, 1976, and submitted by the Governor on April 22, 1976.

2. Section 52.980 is added as follows:

§ 52.980 **Compliance schedules.***

(a) The compliance schedules for the sources identified below are approved as revisions to the plan pursuant to §§ 51.6 and 51.15 of this chapter. All regulations cited are air pollution control regulations of the State and have immediately effective dates.

Source, location	Regulation involved	Date schedule adopted	Final compliance date
WEST MONROE			
Olinkraft:			
(a) Wood waste boiler	18.2, 23.4.1(4)	Apr. 6, 1976	May 31, 1976.
(b) Recovery furnace No. 3	18.2, 23.4.1(1)	....do....	Mar. 20, 1977.
(c) Recovery furnace No. 1	23.4.1(1)	....do....	Mar. 21, 1977.
(d) Recovery furnace No. 2	23.4.1(1)	....do....	Do.
(e) Smelt tank vent No. 1	23.4.1(2)	....do....	Do.
(f) Smelt tank vent No. 2	23.4.1(2)	....do....	Do.
BOGALUSA			
Crown-Zellerbach:			
(a) Wood waste boiler 10-C	18.2, 21.3	Oct. 29, 1975	July 1, 1976.
(b) Recovery furnace No. 19	18.2, 23.4.1(1)	....do....	Oct 31, 1975.
(c) Smelt tank vent No. 19	23.4.1(2)	....do....	Sept. 29, 1975.
(d) Lime kiln	23.4.1(3)	....do....	Sept. 15, 1975.
BASTROP			
International Paper (Bastrop mill): (a) Wood waste boiler	21.3	Dec. 12, 1975	May 30, 1977.

Source, location	Regulation involved	Date schedule adopted	Final compliance date
BASTROP			
International Paper (Louisana mill):			
(a) Recovery furnace No. 4	18.2, 23.4.1(1)	do	Jan. 31, 1978.
(b) Recovery furnace No. 5	18.2, 23.4.1(1)	do	July 15, 1976.
(c) Wood waste boiler	18.2, 23.4.1(1)	do	Dec. 31, 1977.
SPRINGHILL			
International Paper (Springhill mill):			
(a) No. 2 power boiler	18.2	do	Feb. 15, 1976.
(b) No. 4 wood waste boiler	18.2, 23.4.1(4)	do	Oct. 30, 1976.
(c) No. 1 wood waste boiler	23.4.1(4)	do	Do.
(d) 6 power boilers	21.3	do	Dec. 31, 1976.
(e) Recovery furnace No. 1	23.4.1(1)	do	Feb. 15, 1976.
(f) Recovery furnace No. 2	23.4.1(1)	do	Do.
(g) Smelt tank vent No. 1	23.4.1(2)	do	Do.
(h) Smelt tank vent No. 2	23.4.1(2)	do	Do.
(i) No. 1 lime kiln	23.4.1(3)	do	Jan. 15, 1977.
(j) No. 3 lime kiln	23.4.1(3)	do	Do.
(k) Recovery furnace No. 3	23.4.1(1)	do	Dec. 22, 1975.
(l) Smelt tank vent No. 3	23.4.1(2)	do	Do.

[FR Doc.77-21019 Filed 7-21-77;8:45 am]

[FRL 761-5]

PART 52—APPROVAL AND PROMULGATION OF STATE IMPLEMENTATION PLANS

North Dakota Plan Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action approves a revision to the North Dakota State Implementation Plan (SIP) submitted by the Governor of North Dakota on December 22, 1976, extending the final compliance date for the W. J. Neal Power Plant near Velva, North Dakota, to December 31, 1978. EPA is taking this action because the State has approved the extension and has demonstrated that no violations of the Federal Air Quality standards will occur.

EFFECTIVE DATE: Immediately upon promulgation.

FOR FURTHER INFORMATION CONTACT:

Louis W. Johnson, Chief, Planning and Operations Section, Air Programs Branch. U.S. Environmental Protection Agency, Region VIII, 1860 Lincoln Street, Denver, Colorado 80295, 303-837-3711.

SUPPLEMENTARY INFORMATION: On December 24, 1975 (40 FR 59439), pursuant to Section 110 of the Clean Air Act and 40 CFR Part 51, the Administrator approved the compliance schedules for 24 sources covered by the North Dakota SIP.

On December 22, 1976, the Governor of North Dakota submitted a revision to the compliance schedule of one of these 24 sources, the Basin Electric William J. Neal Power Plant near Velva, North Dakota. EPA proposed to approve the North Dakota SIP revision on April 20, 1977 (42 FR 20480) and requested public comment. No comments were received.

The revision extends the final compliance date for the W. J. Neal Plant from November 1, 1975, to December 31, 1978. The final compliance date now extends beyond the attainment date for the national secondary ambient air quality standard for particulate matter. However, a demonstration was included in the revision that the secondary particulate standard is being maintained in the area affected by the power plant, and that no violations of any of the national ambient air quality standards will occur as a result of this action.

Requirements for public hearings, plan revisions, and compliance schedules (40 CFR 51.4, 51.6, and 51.5) have been met by the State's proposed revision. The demonstration that the area affected by the W. J. Neal Plant will continue to maintain the national ambient air quality standards has been reviewed and is consistent with EPA modeling techniques.

The Administrator finds that the North Dakota SIP revisions meet the substantive and procedural requirements of Section 110 of the Clean Air Act and 40 CFR Part 51. Therefore, the Administrator approves the North Dakota SIP revisions as set forth in this rulemaking.

This rulemaking will be effective immediately upon publication. The Agency finds that good cause exists for not deferring the effective date of this rulemaking because the regulations are already in effect under State law and Federal approval imposes no new burdens.

(Sec. 110, Clean Air Act, as amended (40 U.S.C. 1857c-5); sec. 301 as amended (42 U.S.C. 1857g).)

Dated: July 18, 1977.

BARBARA BLUM,
Acting Administrator.

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

Subpart JJ—North Dakota

1. In § 52.1820, paragraph (c)(8) is added as follows:

§ 52.1820 Identification of plan.

* * * * *

(c) * * *

(8) A revised compliance schedule for the Basin Electric Power Plant at Velva submitted on December 22, 1976, by the Governor.

2. In § 52.1830, the fifth line of the table is revised as follows:

§ 52.1830 Compliance schedules.

Source	Location	Regulation involved	Date of adoption	Effective date	Final compliance date
Basin elec.	Velva	23 to 25	Dec. 13, 1976	Dec. 13, 1976	Dec. 31, 1978

[FR Doc.77-21023 Filed 7-21-77;8:45 am]

Title 45—Public Welfare

CHAPTER XVI—LEGAL SERVICES CORPORATION

PART 1621—CLIENT GRIEVANCE PROCEDURE

AGENCY: Legal Services Corporation.

ACTION: Final regulation.

SUMMARY: This regulation establishes a client grievance procedure for legal services programs that receive financial assistance from the Legal Services Corporation. The procedure provides a remedy for a person who believes that he or she has been denied legal assistance improperly, or who is dissatisfied with assistance provided. The procedure will help to insure that legal services programs are accountable to those whom they are expected to serve.

EFFECTIVE DATE: August 24, 1977.

ADDRESSES: Legal Services Corporation, 733 15th Street NW., Suite 700, Washington, D.C. 20005.

FOR FURTHER INFORMATION CONTACT:

Linda Davis, 733 15th Street NW., Suite 700, Washington, D.C. 20005 (202-376-5113).

SUPPLEMENTARY INFORMATION: A proposed regulation establishing a client grievance procedure for adoption by legal services programs receiving funds from the Legal Services Corporation was published on January 26, 1977. Public comments were received and considered by the Corporation's Board of Directors, and on July 7, 1977 the Board approved the following final regulation.

A person who is denied legal assistance by a recipient, or who is dissatisfied with the assistance rendered, generally is unable to obtain legal assistance from another source. This lack of choice and the fact that the client does not pay a fee make it essential that adequate recourse be available when the client believes that the services provided by a recipient do not meet the high professional standards required by the Act. Further, the fact that a recipient carries on its activities with funds from a public source imposes an additional responsibility beyond those imposed on every lawyer by the Code of Professional Responsibility. An effective client grievance procedure is an appropriate means of insuring the accountability of a recipient to its clients, and maintaining a proper balance in the attorney-client relationship.

The regulation requires the governing body of a recipient to establish a grievance committee with authority to consider complaints that have not been resolved by staff action. A recipient that serves a very large geographic area, such as a statewide program, may establish separate local committees. A client is not, of course, required to submit her or his grievance to such a committee, and a decision to do so will not interfere with the right to complain to Bar committees or other bodies charged with overseeing the performance of attorneys.[1] The procedures contemplated by the regulation may, however, provide clients with a forum that is more sympathetic to them, and give programs an opportunity to correct improper practices without disruptive intervention by outside entities.

The Code of Professional Responsibility does not prevent a committee containing nonlawyers from inquiring into a lawyer's conduct of a case when the committee is acting at the request of the client. Ethical prohibitions against interference with the professional judgment of a lawyer are designed to insure that the lawyer will be directly responsible to the client, and not subject to interference or control by an intermediary. See ABA Formal Opinions 237 and 294. Inquiry by a grievance committee acting at the request of the client is consistent with these opinions.

The notice given to a person about the complaint procedure should also inform the client of the existence of a local group, such as the National Clients Council or the National Welfare Rights Organization, that may be able to counsel the client about the subject of the complaint.

The requirement in the proposed draft that a recipient provide assistance to a client in presenting a complaint has been omitted to avoid jeopardizing a recipient's malpractice insurance. Instead, Section 1621.3 requires a recipient to transcribe a brief statement made by a complainant, for inclusion in the file, if the complainant so desires.

Section 1621.4 was added in response to comments received on the proposed regulations. It authorizes a simplified procedure for handling complaints about eligibility determinations and similar decisions denying legal assistance, the number of which may make it unduly burdensome to follow the more detailed procedures. It is recognized that even these simplified procedures may not act quickly enough to provide relief where an applicant is facing an emergency.

Most offices, however, currently provide immediate review of eligibility determinations when an applicant protests. It is expected that such practices will continue. The further review contemplated by the regulation will enable applicants who have non-emergency problems to obtain service, and alert programs to problems in their intake process.

[1] The State Advisory Council is not the proper forum for complaints about the quality of assistance rendered, because its jurisdiction is limited to notifying the Corporation of any apparent violation of the prohibitions of the Act and Regulations. See Section 1004(f) of the Act and Section 1603.5 (a) of Corporation Regulations.

Secs.

1621.1 Purpose.
1621.2 Grievance Committee.
1621.3 Complaints about legal assistance.
1621.4 Complaints about denial of assistance.

AUTHORITY: Sec. 1006(b)(1), 41 U.S.C. 2996e(b)(1); sec. 1006(b)(3), 42 U.S.C. 2996e(b)(3); sec. 1007(a)(1), 42 U.S.C. 2996f(a)(1).

§ 1621.1 Purpose.

By providing an effective remedy for a person who believes that legal assistance has been denied improperly, or who is dissatisfied with the assistance provided, this Part seeks to insure that every recipient will be accountable to those it is expected to serve, and will provide the legal assistance required by the Act.

§ 1621.2 Grievance Committee.

The governing body of a recipient shall establish a grievance committee or committees, composed of lawyer and client members of the governing body in approximately the same proportion in which they are on the governing body.

§ 1621.3 Complaints about legal assistance.

(a) A recipient shall establish procedures for determining the validity of a complaint about the manner or quality of legal assistance that has been rendered.

(b) The procedures shall provide at least:

(1) Information to a client at the time of the initial visit about how to make a complaint, and

(2) Prompt consideration of each complaint by the director of the recipient, or the director's designee, and, if the director of the recipient is unable to resolve the matter,

(3) An opportunity for a complainant to submit an oral and written statement to a grievance committee established by the governing body. The complainant may be accompanied by another person. Upon request, the recipient shall transcribe a brief written statement, dictated by the complainant, for inclusion in the recipient's complaint file.

(c) A file containing every complaint and a statement of its disposition shall be preserved for examination by the Corporation. The file shall include any written statement submitted by the complainant.

§ 1621.4 Complaints about denial of assistance.

A recipient shall establish a simple procedure for review of a decision that a person is financially ineligible, or that

assistance is prohibited by the Act or Corporation Regulations, or by priorities established by the recipient pursuant to Section 1620. The procedure shall include information about how to make a complaint, adequate notice, an opportunity to confer with the director of the recipient or the director's designee, and, to the extent practicable, with a representative of the governing body.

THOMAS EHRLICH,
President,
Legal Services Corporation.

[FR Doc.77-21052 Filed 7-21-77;8:45 am]

Title 50—Wildlife and Fisheries

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

SUBCHAPTER B—TAKING, POSSESSION, TRANSPORTATION, SALE, PURCHASE, BARTER, EXPORTATION, AND IMPORTATION OF WILDLIFE

PART 20—MIGRATORY BIRD HUNTING

Final Regulations Frameworks (Except Shooting Hours) for 1977–78 Early Hunting Seasons on Certain Migratory Game Birds in the Contiguous United States, Alaska, and Hawaii

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: This rule prescribes final frameworks that is the outer season limits, daily bag and possession limits and geographical areas (except shooting hours) for early season migratory bird hunting regulations from which States may select season dates and daily bag and posession limits for the 1977–78 season.

DATES: Effective on July 22, 1977. Season selections due from the States by July 27, 1977.

ADDRESS: Season selections from States to Director (FWS/MRMO), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT:

John P. Rogers, Chief, Office of Migratory Bird Management, Department of the Interior, Washington, D.C. 20240, telephone 202–343–8827.

SUPPLEMENTARY INFORMATION: On March 10, 1977, the U.S. Fish and Wildlife Service (hereinafter the Service) published for public comment in the FEDERAL REGISTER (42 FR 13311) proposals to amend 50 CFR Part 20, with a comment period ending May 18, 1977. That document dealt with minor modifications in § 20.11 of Subpart B, the addition of § 20.40 in Subpart D, and with establishment of seasons, limits and shooting hours for migratory game birds under §§ 20.101 through 20.107 of Subpart K. On May 25, 1977, the Service published for public comment in the FEDERAL REGISTER (42 FR 26669) a second document in the series consisting of supplemental proposed rulemaking dealing specifically with a number of supplemental or modified proposals and clarification or correction of minor portions of the earlier document. On July 5, 1977, the Service published in the FEDERAL REGISTER (42 FR 34305) a third document in the series consisting of final rulemaking dealing specifically with final frameworks from which wildlife conservation agency officials in Puerto Rico and the Virgin Islands could select season dates for hunting certain migratory birds in Puerto Rico and the Virgin Islands during the 1977–78 season. On July 5, 1977, the Service also published for public comment in the FEDERAL REGISTER (42 FR 34342) a fourth document in the series consisting of supplemental proposed rulemaking dealing specifically with proposed frameworks for early season migratory bird hunting regulations from which, when finalized, States could select season dates and daily bag and possession limits for the 1977–78 season, and clarification of the Pacific Flyway boundary description as it relates to New Mexico. The present final rulemaking is the fifth in a series of proposed, supplemental, and final rulemaking documents for migratory game bird hunting regulations and deals specifically with final frameworks (except shooting hours) for early season migratory game bird hunting regulations from which State wildlife conservation agency officials may select season dates and daily bag and possession limits for the 1977–78 season.

A public hearing was held in Washington, D.C., on June 21, 1977, as announced in the FEDERAL REGISTER on May 25, 1977 (42 FR 26709), and proposed early season migratory game bird hunting regulations were discussed. The public was invited to participate in the hearing and/or submit written statements.

REVIEW OF PUBLIC COMMENTS AND THE SERVICE RESPONSE TO SAME

A total of 156 written comments about initial and supplemental proposed rulemaking regarding early season migratory game bird regulations for the 1977–78 hunting season had been received as of July 15, 1977. These proposals were published in the FEDERAL REGISTER on March 10 (42 FR 13311), May 25 (42 FR 26669), and July 5, 1977 (42 FR 34342). In many instances it was not possible to categorize the comments by early seasons (hunting seasons beginning prior to October 1, 1977) or late seasons (hunting seasons commencing on or after October 1, 1977) proposals. Of the 156 comments, 100 (including 3 routed through Members of Congress) were from individuals, 30 were from organizations, and 7 were from water-fowl flyway councils or migratory game bird technical committees.

In addition, 13 verbal comments, some supported by prepared statements, were received during the early season public hearing held on June 21, 1977, to review population status information and proposed regulations, and to receive public comments. These statements were made on behalf of 8 organizations, 3 State conservation agencies, and 3 waterfowl councils and migratory bird technical committees. In some instances, more than one statement was made per organization. Sometimes one joint statement was made on behalf of several organizations. Many of those submitting or presenting statements at the public hearing had commented in writing previously.

The service intends that the public comments relating to proposed early season migratory game bird hunting regulations be summarized, evaluated and considered prior to the adoption of final regulations. The following information is confined to that portion of the 156 comments received by July 15, 1977, which clearly relate to proposed hunting regulations for early seasons. In addition, all comments regarding shooting hours are included even though most of them clearly refer to waterfowl shooting hours because the same general shooting hours are being considered for both early and late seasons. Comments, either in favor of or in opposition to the Service's proposal, are categorized according to the Service's latest proposals. Some comments to the March 10, 1977, FEDERAL REGISTER were in opposition to the Service's proposals. In a few instances, the Service modified its proposals to such an extent that the initial adverse comments, in effect, became comments favoring the Service's latest proposals. An example is the proposal that hunting seasons for lesser sandhill cranes in portions of North Dakota and South Dakota be held in early September. Originally, the Service had proposed that the crane season be held in November, as in past years. Written comments opposing the November season proposal usually recommended a substitute season in September. Also, it should be noted that within the summary of written comments are 6 from State conservation agencies which expressed support of all Service proposals but which did not offer item-by-item comment.

The subject matter commented upon and responded to follows the same sequence and numbering as it appeared in the FEDERAL REGISTER of March 10, 1977.

1. *Shooting hours.* Those favoring retention of the usual one-half hour before sunrise to sunset shooting hours for migratory game birds including 13 individuals, 11 State conservation agencies, 2 organizations, and 2 flyway councils or technical committees. Those opposing these hours included 8 individuals, 2 organizations, and 1 State conservation agency. Another individual took no position but offered some observations on avian behavior. Of the opposing written comments, 7 individuals expressed opposition to hunting commencing one-half hour before sunrise. Of these, 4 recommended shooting hours commencing at sunrise while 3 urged that shooting be delayed until one-half hour after sunrise. Five individuals recommended that consideration be given to extending shooting hours to one-half hour after sunset. Of two dissenting organizations, one urged that shooting hours be confined to one-half hour after sunrise to sunset and the other urged modification of shooting hours to one-half hour after sunrise to

one-half hour before sunset. Opposition to the proposed shooting hours centers on species identification by hunters. Those opposing the proposed hours believe that hunters are unable to properly identify allowed species, particularly ducks, during early morning and evening. This, they allege, exposes protected and endangered species to risk of being mistakenly shot.

It should be noted that Defenders of Wildlife brought suit against the Secretary of the Interior et al. in U.S. District Court, Washington, District of Columbia, (Civil Action No. 76–1443) on August 3, 1976, regarding migratory game bird shooting hours starting one-half hour before sunrise and ending at sunset. Defender's main argument was that such hours did not enable hunters to distinguish between protected and endangered species and nonprotected species, thus jeopardizing those for which protection was desired. By the time that the U.S. District Court had rendered its declaration and order, the last of the 1976–77 hunting seasons had terminated, making the issue moot insofar as those regulations were concerned. Nonetheless, Judge Gerhard A. Gesell declared that the 1976–77 shooting hours were, "arbitrary and unlawful for failure to weigh the impact of such hours on protected species." Judge Gesell thereupon instructed the Service to "proceed with the current shooting hour rulemaking proceedings to identify and consider the impact of such hours on protected species."

In the 1977–78 regulatory cycle, the Service set forth its rationale for its proposed shooting hours in the March 10 FEDERAL REGISTER (42 FR 13311) before Judge Gesell's declaration was rendered. It subsequently completed a draft environmental assessment of shooting hours and announced the availability of the assessment in the FEDERAL REGISTER dated July 15, 1977 (42 FR 36495). The Service actively solicited comments on the draft assessment and hand-carried copies of the assessment to the plaintiffs in last year's lawsuit and other environmental groups. In preparing the environmental assessment, the Service analyzed information from waterfowl hunter observation surveys, wing collection survey receipts, and other sources. In conjunction with the preparation of the environmental assessment, a biological opinion was issued as a result of section 7 consultation under the Endangered Species Act of 1973. This opinion resulted from over 500 man hours of consultation conducted between the Office of Endangered Species and the Office of Migratory Bird Management on the impact of migratory game bird hunting on endangered and threatened species. A final environmental assessment will be prepared following a review and consideration of comments made on the draft assessment.

In order to comply with the procedural requirements of the National Environmental Policy Act and Judge Gesell's order, the Service will delay publishing final frameworks for shooting hours relating to the early season regulations until the comment period on the Assessment closes on July 25, 1977. The Service will then publish a separate final rulemaking for shooting hours frameworks for the early seasons, based upon the present information in the administrative record and any comments that are received on the draft assessment. State conservation agencies are advised, therefore, that the present final rulemaking contains final frameworks on all aspects of the early seasons for migratory game bird hunting except shooting hours which will be covered in a subsequent final rulemaking.

5. *Sea ducks.* Six comments, 5 from State conservation agencies and 1 from the Atlantic Flyway Council, favored retention of special seasons for sea ducks (scoters, eiders, and oldsquaws). The dissenting view was from a representative from Wildlife Preserves, Inc., who stated that such special seasons should be eliminated to simplify the regulations. The Service is of the view that such action would significantly reduce the opportunity to hunt sea ducks and that this is unnecessary from a management viewpoint.

6. *September teal season.* Eleven comments, originating from 8 State conservation agencies, 2 flyway councils or migratory bird technical committees, and 1 organization, favored retention of this special season. One individual suggested that the season length be extended to 20 days. The representative from Wildlife Preserves, Inc., opposed special seasons for certain species as a means of simplifying regulations. The Service's position and response is given under item 5.

16. *Migratory game bird seasons in Alaska.* Eight individuals and 6 State conservation agencies indicated support for the proposed Alaska migratory bird hunting regulations. No opposition to the proposal has been expressed. The representative from the Alaska Department of Fish and Game requested favorable consideration of the proposed migratory game bird regulations at the June 21 public hearing. Consequently, the Service intends to implement the proposed regulations.

17. *Migratory game bird seasons for falconers.* Eight individuals, chiefly falconers, expressed support for the proposal along with 13 State conservation agencies. The Tucson Audubon Society opposed the proposal for fear that the special regulations would set a precedent for other special interest groups. The Service believes that management options should be decided upon their own merits. The Service believes that this provision will have negligible impact upon the prey species and will afford some additional recreational opportunity to falconers.

18. *Lesser sandhill (little brown) cranes.* Six State conservation agencies, 1 individual, and 1 organization indicated support of the supplemental proposal to allow North Dakota and South Dakota to select sandhill crane seasons in early September rather than in November, as in the past. The Central Flyway Council supported the new September season but asked that hunting also be permitted during the November 12–30 period. The Service believes that the November period would allow little additional hunting opportunity as relatively few cranes would normally be present. A representative from the National Audubon Society expressed concern that an 11-day season in North Dakota and South Dakota might result in an excessive sandhill crane harvest. The Service subsequently modified its proposal to allow 5 consecutive days of hunting in the two States, during the period September 1 through 11 (42 FR 34342; July 5, 1977).

22. *Common (Wilson's) snipe.* Nine States and the Central Flyway Council concurred with the proposal that no changes be made in hunting regulations for this species. No dissenting opinions were expressed.

23. *Woodcock.* Six State conservation agencies and the Central Flyway Council concurred with the proposed woodcock hunting regulations. Four other State conservation agencies and two migratory bird technical committees endorsed the proposal that New Jersey be allowed to undertake experimental zoning of the State into North and South Zones for the purpose of setting woodcock hunting seasons. Representatives from the New Jersey Division of Fish, Game, and Shellfisheries presented testimony at the June 21 public hearing in support of experimental zoning in that State for woodcock seasons. No opposition to the proposal was expressed. The Service is of the view that a test of zoning in New Jersey, with provisions for guarding against an undesirable increase in harvest would provide useful information applicable to future management of woodcock hunting. One individual suggested that the woodcock season in North Carolina be lengthened so that it would coincide with the snipe season. The Service is of the view that the proposed 65-day season affords ample woodcock hunting opportunity and that further regulatory relaxations are unwarranted at this time.

24. *Band-tailed pigeons.* Three State conservation agencies endorsed the proposed regulations. Another State generally endorsed the proposals for this species but suggested that the season framework be extended from January 15 to January 20. No rationale or data accompanied the request. The Central Flyway Council urged deletion of the usual provision that States issue hunting permits for the Interior Population, which is found in Arizona, Colorado, New Mexico, and Utah. Two States concurred with the proposal that the hunting permit requirement be retained. The Service is of the opinion that the permit requirement should be retained for the present because it provides useful information on band-tailed pigeon hunting.

25. *Mourning doves.* A number of comments were received with respect to proposed hunting regulations for this species. Ten States, 1 individual, 1 flyway council and 1 organization supported the

regulations being proposed. Opposition to the proposals, mainly in regard to hunting in September was expressed by 5 individuals and 2 organizations. Two individuals recommended opening dove hunting seasons before September 1, a measure prohibited by the Migratory Bird Treaty Act. One individual urged that consideration be given to half-day hunting because of locally reduced populations, allegedly from severe winter weather. Another individual expressed total opposition to dove hunting.

In addition to written comments, 7 organizations, 2 flyway councils or technical committees, and 1 State submitted statements at the June 21 public hearing in support of the regulatory proposals. The eight organizations which opposed the early season mourning dove hunting were the Animal Welfare Institute, Committee for Dove Protection, Defenders of Wildlife, Desert Protective Council, Inc., Fund for Animals, Fund for Animal Welfare, The Humane Society of the United States and Let-Live. In some instances, the views of several organizations represented were conveyed in a joint statement. The statements, sometimes detailed and documented with references to past dove studies, opposed the continuation of early autumn dove hunting on biological, legal, and moral grounds. The views of these organizations are generally represented within two statements selected from among the group of comments presented.

The first is the statement from Let-Live and a number of affiliated organizations. The representative for Project Monitor stated that the mourning dove population is declining; the demand for hunting is increasing; evidence of glandular crop activity has been noted in hunter-killed adults; the length of time for young to become independent of their parents has not been fully investigated; mourning dove nesting occurs in September and October; young doves are fed by their parents during a period varying from 8 to 16 days; the age at which both nestlings could successfully be reared by one parent is not well documented; and that hunting activities often coincide with the nesting period.

Other representative views were conveyed in a letter submitted by members of The Humane Society of the United States, dated May 18, 1977, part of which is quoted below:

> This letter constitutes the comments of The Humane Society of the United States ("HSUS") on the "Proposed 1977–78 Migratory Game Bird Hunting Regulations (preliminary)" published on March 10, 1977, in FR Doc. 77–6969 (42 FR 13311, et seq.) pursuant to the authority of the Migratory Bird Treaty Act.
>
> HSUS challenges the propriety of the Fish and Wildlife Service's longstanding policy, which is confirmed by the 1977–78 proposed regulations, of allowing the hunting of mourning doves during September when a certain percentage of the nationwide dove population is still nesting. The hunting of the nesting segment of the adult dove population results in a secondary impact upon the overall population since, when adults are shot, nestlings starve and die without parental feeding and care, leaving aside for the moment the question of the exact extent of this impact.
>
> Our concern relates, first, to the quantitative issue of the possible numerical depression of the species resulting from such nestling mortality, and second, to the undesirability from the point of view of humaneness and sound wildlife management of deliberately setting a policy which promotes any nestling mortality, regardless of the number of birds involved, especially when feasible alternatives are apparently available.
>
> HSUS is familiar with FWS' allegations on this matter, to wit, that the number of doves nesting in September is insignificant, that nesting doves are exposed to less hunting pressure than non-nesting doves which tend to congregate in flocks, and that nestling mortality does not necessarily result from an adult being shot because a single adult is frequently capable of rearing young to the fledging state.
>
> * * * Regardless of the statistical extent of nestling mortality, any such mortality resulting from September hunting is totally unnecessary in the Deep South and Border States. FWS could eliminate it with the stroke of a pen simply by shifting the opening of the mourning dove season in the South to October 1, and adding a commensurate 2–3 weeks onto the end of the season in January. (The Service's apparent rationale for not delaying the opening of the dove season in the Northern States, namely that most doves have migrated out of the North by September 15th, simply does not apply to the South.) The proposed regulations offer several Southern States an option of a season starting on September 20th, which would indicate that no significant adverse impact on hunting opportunities could result from a season commencing on October 1. There is no indication that FWS ever has considered this alternative for the Southern States.
>
> Furthermore, FWS' reliance upon statistics which show that the mourning dove as a species cannot be depleted by nestling mortality in September is misplaced. Nestling mortality is a distasteful, cruel and barbaric result not intended or contemplated by the Migratory Bird Treaty Act in granting the Secretary of the Interior discretion to allow the taking of birds by public hunting. The Act's direction to the Secretary to take a species' breeding habits into account in determining rules governing the taking of migratory birds was not intended to insure maintenance of an overall species population level—other factors mentioned by the Act have that purpose (specifically, distribution and abundance)—but rather to incorporate into the Act the oft invoked ethic of sport hunting which proscribes the death of immature members of a species, or members of a species which are caring for young. Moreover, the absolute numbers of birds involved are not at all insignificant; only the percentages seem to be. When the 7% figure, which FWS asserts as an estimate of the amount of September nesting occurring, is applied to the nationwide estimated total population of 500 million mourning doves (FWS, "Final Environmental Statement for the Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds," p. 203, June 1975), the number of nesting birds and young which may be at stake is significant, to wit, 35–70 million, even when mitigating circumstances such as the frequent ability of a single adult to rear nestlings are taken into account.[1]
>
> It is inexcusable for FWS to sanction a hunting policy which causes, directly or indirectly, any such nestling mortality. The numbers of immature doves exposed to the hazards of September hunting run in the several millions, even as a conservative estimate. FWS could appreciably reduce this risk immediately by requiring the Southern States to begin their mourning dove season no sooner than October 1st, and should so amend the proposed regulations.

[1] A footnote by HSUS has been omitted by the Service.

It should be noted that the Service commented in detail on the rationale for allowing dove hunting in September in the FEDERAL REGISTER on March 10, 1977 (42 FR 13319), May 25, 1977 (42 FR 26669), and on July 5, 1977 (42 FR 34342) advised that an environmental assessment on the subject was in preparation. On July 18, 1977, the Director signed a negative declaration on the early dove hunting season environmental assessment, concluding that the decision to retain such seasons does not constitute a major federal action which could significantly affect the quality of the human environment within the meaning of the National Environmental Policy Act of 1969. This assessment includes an evaluation and summary of all pertinent data and studies and is available to the public. This document addresses the specific points raised by opponents to the proposed regulations and other considerations. This assessment may be viewed at or obtained by telephone or mail from the Office of Migratory Bird Management at the address stated earlier in this document.

26. *White-winged doves.* All but one comment on this species were in support of the proposed regulations for this species. Seven States supported the proposals in their entirety. One State favored the proposals but recommended that the season framework be extended from January 15 to January 20. No rationale or data were provided to support the request. One individual urged that the season be closed in Texas because of excessive harvests in Mexico. This allegation cannot be verified because of the absence of harvest data from Mexico. A representative of the Texas Parks and Wildlife Department presented information on the status of white-winged doves in Texas at the June 21 public hearing, and recommended that 5 days of hunting be allowed in areas where the species occurs. The Service announced its intention to accept this recommendation (42 FR 34342; July 5, 1977).

27. *Hawaii Mourning Doves.* No comments were received regarding the mourning dove hunting season proposed for Hawaii.

28. *Migratory game birds in Puerto Rico and doves and pigeons in the Virgin Islands.* One comment was received from the Puerto Rico Department of Natural Resources after the final regulatory frameworks had been submitted to the FEDERAL REGISTER. The letter indicated support for hunting seasons opening no earlier than September 1 for doves and pigeons. The comment contained biological data indicating that an earlier season would be unwise, even if it were possible under treaty obligations. The migratory game bird hunting regu-

lations frameworks for Puerto Rico were finalized in the FEDERAL REGISTER on July 5, 1977 (42 FR 34305).

Comments on the Service's regulations proposals are available for public inspection during normal business hours at the Service's Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Room 2243, U.S. Department of the Interior, 18th and C Streets, NW., Washington, D.C. 20240.

STEEL SHOT REGULATIONS

Non-toxic shot requirements in some areas apply to waterfowl regulations frameworks being finalized here. On April 28, 1977, the Service published in the FEDERAL REGISTER (42 FR 21614) final regulations regarding areas in the Atlantic and Mississippi Flyways in which shotshells loaded with steel shot will be required for waterfowl hunting in seasons commencing in 1977. Subsequently, the Service proposed in the FEDERAL REGISTER (42 FR 33354; June 30, 1977) that these requirements would apply only to 12 gauge shotshells. These requirements, as initially proposed or as modified, will be finalized before the early season regulations become effective. The intended effect of establishing these steel shot regulations is to reduce the number of deaths of waterfowl caused by ingesting spent lead pellets. The regulations appear under 50 CFR 20.21 and 20.108, and will also be summarized in the Service's regulations leaflets to be published late this summer.

ENVIRONMENTAL REVIEW

The "Final Environmental Statement for the Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (FES–75–54)" was filed with the Council on Environmental Quality on June 6, 1975, and notice of availability was published in the FEDERAL REGISTER on June 13, 1975 (40 FR 24241).

COMPLIANCE WITH SECTION 7 OF THE ENDANGERED SPECIES ACT OF 1973

Section 7 of this act provides that, "The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act," and "by taking such action necessary to insure that actions authorized, funded, or carried out * * * do not jeopardize the continued existence of such endangered or threatened species or result in the destruction or modification of habitat of such species * * * which is determined to be critical." Consequently, the Service reviewed all migratory bird regulations being contemplated for early seasons in the United States this year and concluded in a biological opinion that none of the proposals, including shooting hours, if implemented, would result in jeopardizing the continued existence of any species designated as endangered or threatened under the act, or adversely modify their critical habitat or habitats that may be determined as critical in the future. This opinion resulted from over 500 man hours of consultation conducted between the Office of Endangered Species and the Office of Migratory Bird Management. Likewise, the biological opinion concluded that the proposed regulations are not contrary to, and do not undermine, the Service's obligation to conserve endangered or threatened species. The proposed early season frameworks were evaluated as to possible impacts upon a number of endangered species, including the Aleution Canada goose (*Branta canadensis leucopareia*), Mexican duck (*Anas diazi*), whooping crane (*Grus americana*), bald eagle (*Haliaeetus leucocephalus*), peregrine falcon (*Falco peregrinus*), and the Everglade kite (*Rostrhamus sociabilis plumbeus*). As in the past, hunting regulations this year are designed, among other things, to remove or alleviate chances of conflict between seasons for migratory game birds and the protection and conservation of endangered and threatened species. An example of such consideration is the closure of a specific area in Alaska to all Canada goose hunting for the protection of the Aleutian Canada goose.

The Service's biological opinion resulting from its consultation under section 7 is considered a public document and is available for public inspection in the Office of Endangered Species and the Office of Migratory Bird Management, Department of the Interior.

REGULATIONS PROMULGATION

The rulemaking process for migratory game bird hunting must, by its nature, operate under severe time constraints. However, the Service is of the view that every attempt should be made to give the public the greatest possible opportunity to comment on the regulations. Thus, when the proposed rulemakings were published on March 10, May 25, and July 5, the Service established what it believed were the longest periods possible for public comment. In doing this, the Service recognized that at the periods' close, time would be of the essence. That is, if there were a delay in the effective date of these regulations after this final rulemaking, the Service is of the opinion that the States would have insufficient time to select their season dates, and bag limits; to communicate those selections to the Service, and finally to establish and publicize the necessary regulations and procedures to implement their decisions. The Service therefore finds that "good cause" exists, within the terms of 5 U.S.C. 553(d)(3) of the Administrative Procedure Act, and these frameworks will, therefore, take effect immediately upon publication.

Accordingly, the Service prescribes the final frameworks setting forth the species to be hunted, daily bag and possession limits, season lengths, the earliest opening and latest closing season dates, and special closures from which State conservation agency officials may select open season dates. Upon receipt of season selections from State officials, consideration of comments arising from reviews of the shooting hours environmental assessment and the publication of a final supplemental framework for shooting hours, the Service will publish in the FEDERAL REGISTER final rulemaking amending certain sections of Subpart K of 50 CFR Part 20 to reflect seasons, limits and shooting hours for the contiguous United States, Alaska, and Hawaii for the 1977–78 season.

FINAL REGULATIONS FRAMEWORKS (EXCEPT SHOOTING HOURS) FOR 1977–78 EARLY HUNTING SEASONS ON CERTAIN MIGRATORY GAME BIRDS

Pursuant to the Migratory Bird Treaty Act, the Secretary of the Interior has approved final frameworks which prescribe season lengths, limits, and outside dates within which States may select seasons for mourning doves, white-winged doves, band-tailed pigeons, rails, woodcock, snipe, and gallinules; for September teal seasons; for sea ducks in certain defined areas of the Atlantic Flyway; sandhill cranes in designated portions of North Dakota and South Dakota; and for waterfowl, coots, snipe, and sandhill cranes in Alaska. For the guidance of State conservation agencies, these frameworks are summarized below. Shooting hours will be finalized at a later date, following consideration of comments on the environmental assessment on shooting hours.

NOTE.—Any State desiring its season on gallinules, woodcock, snipe, or cranes to open in September must make its selection no later than July 27, 1977. Those States which desire their gallinule, woodcock, snipe or crane season to open after September may make their selection at the time they select their regular waterfowl season.

Those Atlantic Flyway coastal States desiring their seasons on sea ducks in certain defined areas to open in September must make their selections no later than July 27, 1977. Those Atlantic Flyway coastal States which desire their seasons on sea ducks in certain defined areas to open after September may make their selections at the time they select their regular waterfowl seasons.

MOURNING DOVES

Between September 1, 1977, and January 15, 1978, except as noted, States may select hunting seasons and bag limits as follows:

Eastern Management Unit: (All States east of the Mississippi River and Louisiana).

1. Shooting hours[1] (to be finalized later);

2. Daily bag and possession limits not to exceed 12 and 24, respectively, in all States;

3. Hunting seasons of not more than 70 half-days which may run consecutively or be split into not more than three periods.

4. As an option to the above, Alabama, Georgia, Louisiana, and Mississippi may elect to zone their States as follows:

A. Two zones per State having the following descriptions or division lines:

Alabama.—The South Zone consists

[1] The hours to be finalized later will also apply to hawking (taking by falconry).

of the area south of U.S. Highway 84 running east to the Covington County line, and including Coffee, Covington, Dale, Geneva, Henry, and Houston Counties. The North Zone consists of the remainder of Alabama.

Georgia.—U.S. Highway 280 east to Abbeville, thence along Ocmulgee and Altamaha Rivers to the Atlantic Ocean.

Louisiana.—Interstate Highway 10 from the Texas State line to Baton Rouge, Interstate Highway 12 from Baton Rouge to Slidell, and Interstate Highway 10 from Slidell to the Mississippi State line.

Mississippi.—State Highway 12 from Arkansas State line to Kosciusko, and State Highway 14 from Kosciusko to the Alabama State line.

B. Within each zone, these States may select hunting seasons of not more than 70 half-days which may run consecutively or be split into not more than three periods.

C. The hunting seasons in the South Zones of these States may commence no earlier than September 20, 1977.

Central Management Unit: (Arkansas, Colorado, Iowa, Kansas, Minnesota, Missouri, Montana, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, Texas, and Wyoming).

1. Shooting hours (to be finalized later);

2. Daily bag and possession limits not to exceed 10 and 20, respectively, in all States;

3. Hunting seasons in all States of not more than 60 full days which may run consecutively or be split into not more than three periods.

4. *Texas* may select hunting seasons for each of two previously established zones subject to the following conditions:

A. The hunting season may be split into not more than two periods.

B. The North Zone may have a season of not more than 60 days between September 1, 1977, and January 22, 1978.

C. The South Zone may have a season of not more than 60 days between September 20, 1977, and January 22, 1978. In that portion of Texas where white-winged dove hunting is allowed, the mourning dove season may be held concurrently with the white-winged dove season and with shooting hours coinciding with those for white-winged doves. However, the remainder of the season (60 days less the number of days of the white-winged dove season) must be within the September 20, 1977–January 22, 1978, period.

5. In New Mexico, daily bag and possession limits of mourning and white-winged doves may not exceed 10 and 20, singly or in the aggregate of the two species.

Western Management Unit: (Arizona, California, Idaho, Nevada, Oregon, Utah, and Washington).

1. Shooting hours (to be finalized later);

2. Daily bag and possession limits not to exceed 10 and 20, respectively.

3. Hunting seasons of not more than 50 full days which may run consecutively or be split into not more than three periods.

In the Nevada Counties of Clark and Nye, and in the California Counties of Imperial, Riverside, and San Bernardino, daily bag and possession limits of mourning and white-winged doves may not exceed 10 and 20, respectively, singly or in the aggregate of the two species.

White-Winged Doves

Arizona, California, Nevada, New Mexico, and *Texas* may select hunting seasons between September 1, 1977, and December 31, 1977, and daily bag and possession limits as stipulated below. Shooting hours (to be finalized later).

Arizona may select a hunting season for the entire State of not more than 25 consecutive days, to run concurrently with the first period of the split mourning dove season. The daily bag and possession limits may not exceed 10 white-winged doves.

California may select a hunting season for the Counties of Imperial, Riverside, and San Bernardino only. The daily bag and possession limits may not exceed 10 and 20 white-winged and mourning doves, respectively, singly or in the aggregate of the two species. Dates, limits, and hours are to conform with those for mourning doves.

Nevada may select a hunting season for the Counties of Clark and Nye only. The daily bag and possession limits may not exceed 10 and 20 white-winged and mourning doves, respectively, singly or in the aggregate of the two species. Dates, limits, and hours are to conform with those for mourning doves.

New Mexico may select a hunting season with daily bag and possession limits not to exceed 10 and 20 white-winged and mourning doves, respectively, singly or in the aggregate of the two species. Dates, limits, and hours are to conform with those for mourning doves.

Texas may select a hunting season of not more than 5 days for that portion of the State where the species occurs. The daily bag and possession limits may not exceed 10 and 20 white-winged doves, respectively. The season may be split within the overall time frame.

Band-Tailed Pigeons

West Coast States (California, Oregon, and Washington).

These States may select hunting seasons not to exceed 30 consecutive days between September 1, 1977, and January 15, 1978. Shooting hours (to be finalized later). The daily bag and possession limits may not exceed 8 band-tailed pigeons.

California may zone by selecting hunting seasons of 30 consecutive days for each of the following two zones:

1. In the Counties of Butte, Del Norte, Glenn, Humboldt, Lassen, Mendocino, Modoc, Plumas, Shasta, Sierra, Siskiyou, Tehama, and Trinity; and

2. The remainder of the State.

Four-Corners States (Arizona, Colorado, New Mexico, and Utah)

These States may select hunting seasons not to exceed 30 consecutive days between September 1 and November 30, 1977. Shooting hours (to be finalized later). The daily bag and possession limits may not exceed 5 and 10, respectively. These seasons shall be open only in the areas delineated by the respective States in their hunting regulations.

Provided, That each hunter must have been issued and carry on his person while hunting band-tailed pigeons a valid band-tailed pigeon hunting permit issued by the respective State conservation agency, and such permit will be valid in that State only: *And provided further,* That this season shall be open only in the areas delineated by the respective States in their hunting regulations.

New Mexico may divide its State into two zones, along a line following U.S. Highway 60 from the Arizona State line east to Interstate Highway 25 at Socorro and along Interstate Highway 25 from Socorro to the Texas State line. Between September 1, 1977, and November 30, 1977, in the North Zone, and October 1, 1977, and November 30 1977, in the South Zone, hunting seasons not to exceed 20 consecutive days in each zone may be selected by New Mexico.

Rails

(Clapper, King, Sora, and Virginia)

The States included herein may select seasons between September 1, 1977, and January 20, 1978, on clapper, king, sora, and Virginia rails as follows:

The season length for all species of rails may not exceed 70 days.

Shooting hours between (to be finalized later).

Clapper and King Rails

1. In Rhode Island, Connecticut, New Jersey, Delaware, and Maryland, the daily bag and possession limits may not exceed 10 and 20 clapper and king rails, respectively, singly or in the aggregate of these two species.

2. In Texas, Louisiana, Mississippi, Alabama, Georgia, Florida, South Carolina, North Carolina and Virginia, the daily bag and possession limits may not exceed 15 and 30 clapper and king rails, respectively, singly or in the aggregate of the two species.

3. The season will remain closed on clapper and king rails in all other States.

Sora and Virginia Rails

In addition to the prescribed limits for clapper and king rails, daily bag and possession limits not exceeding 25, singly or in the aggregate of sora and Virginia rails, are prescribed in States in the Atlantic, Mississippi, and Central Flyways.[3]

[3] The Central Flyway is defined as follows: Colorado and Wyoming (east of the Continental Divide), Kansas, Montana (east of Hill, Chouteau, Cascade, Meagher, and Park Counties), Nebraska, New Mexico, (east of the Continental Divide and outside the Jicarilla Apache Indian Reservation).

No hunting season is prescribed for rails in the Pacific Flyway.[4]

Woodcock

States in the Atlantic, Mississippi, and Central Flyways may select hunting seasons between September 1, 1977, and February 28, 1978, of not more than 65 days, with daily bag and possession limits of 5 and 10, respectively, *Provided*, That in the States of Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Delaware, Maryland, and Virginia the season must end by January 31. Shooting hours (to be finalized later). Any State may split its woodcock season without penalty. An option to allow New Jersey to experimentally set woodcock seasons by north and south zones, divided by State Highway 70, is provided. Seasons in each zone may not exceed 55 days.

Common (Wilson's) Snipe

States in the Atlantic, Mississippi, and Central Flyways may select hunting seasons between September 1, 1977, and February 28, 1978, not to exceed 107 days, except that in the States of Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Delaware, Maryland, and Virginia the season must end no later than January 31. Seasons between September 1, 1977, and February 28, 1978, and not to exceed 93 days, may be selected in the Pacific Flyway portions of Montana, Wyoming, Colorado and New Mexico.

All States in the Pacific Flyway, except those portions of Colorado, Montana, New Mexico, and Wyoming in the Pacific Flyway, must select their snipe seasons to run concurrently with their regular duck seasons. In these Pacific Flyway States, except portions of the four States noted previously, it will be unlawful to take snipe when it is unlawful to take ducks.

Shooting hours (to be finalized later). Daily bag and possession limits may not exceed 8 and 16, respectively. Any State may split its snipe season without penalty.

States or portions thereof in the three eastern Flyways may defer selections of snipe seasons at this time and make the selections in August when they select waterfowl seasons. In that event, the daily bag and possession limits will remain the same but shooting hours must conform with those for waterfowl.

Lesser Sandhill (Little Brown) Cranes

North Dakota and South Dakota may select sandhill crane seasons not to exceed 5 consecutive days during the period September 1 through 11, 1977, in certain designated areas.

In North Dakota, the season is confined to Kidder, Stutsman, Benson, Emmons, Pierce, McLean, Sheridan, and Burleigh Counties. In South Dakota the season is confined to Campbell, Walworth, Potter, Dewey, and Corson Counties. Shooting hours (to be finalized later). In both States, the bag limit is 3 birds daily and the possession limit is 6 birds. Each person participating in the season must obtain and carry in his possession while hunting a Federal lesser sandhill crane hunting permit.

Gallinules

States in the Atlantic, Mississippi and Central Flyways may select hunting seasons between September 1, 1977, and January 20, 1978, of not more than 70 days. States in the Pacific Flyway must select their hunting seasons within the waterfowl seasons. States may split their seasons without penalty. Shooting hours (to be finalized later). The daily bag and possession limits may not not exceed 15 and 30, respectively.

States may select their gallinule seasons at the time they select their waterfowl seasons. If the selection is deferred, daily bag and possession limits will remain the same, but shooting hours must conform with those for waterfowl, and the season length will be the same as that for waterfowl, or 70 days, whichever is the shorter period. *Exception:* A gallinule season selected by any State in the Pacific Flyway may not exceed its waterfowl season, and the daily bag and possession limits may not exceed 25 coots and gallinules, singly or in the aggregate of the two species.

Scoter, Eider, and Oldsquaw Ducks (Atlantic Flyway)

A maximum season of 107 days for taking scoter, eider, and oldsquaw ducks is prescribed during the period between September 18, 1977, and January 20, 1978, in all coastal waters and all waters of rivers and streams seaward from the first upstream bridge in the States of Maine, New Hampshire, Massachusetts, Rhode Island, and Connecticut; in those coastal waters of the State of New York lying in Long Island and Block Island Sounds and associated bays eastward from a line running between Miamogue Point in the town of Riverhead to Red Cedar Point in the town of Southampton, including any ocean waters of New York lying south of Long Island; in any waters of the Atlantic Ocean and in any tidal waters of any bay which are separated by at least 1 mile of open water from any shore, island, and emergent vegetation in the States of New Jersey, South Carolina, and Georgia; and in any waters of the Atlantic Ocean and in any tidal waters of any bay which are separated by at least 800 yards of open water from any shore, island, and emergent vegetation in the States of Delaware, Maryland, North Carolina, and Virginia: *Provided*, That any such areas have been described, delineated, and designated as special seaduck hunting areas under the hunting regulations adopted by the respective States. In all other areas of these States and in all other States in the Atlantic Flyway, sea ducks may be taken only during the regular open season for ducks.

The daily bag limit is 7 and the possession limit is 14, singly or in the aggregate of these species. During the regular duck season in the Atlantic Flyway, States may set, in addition to the regular limits, a daily limit of 7 and a possession limit of 14 scoter, eider, and oldsquaw ducks, singly or in the aggregate of these species.

Shooting hours (to be finalized later).

Any State desiring its sea duck season to open in September must make its selection no later than July 27, 1977. Those States desiring their sea duck season to open after September may make their selection at the time they select their waterfowl season.

In no instance shall the total number of days in any combination of duck seasons (regular duck season, sea duck season, September teal season, special scaup season, special scaup and goldeneye season, or special falconry season) exceed 107 days for any geographical area.

September Teal Season

Between September 1 and September 30, 1977, an open season on all species of teal may be selected by the States of Alabama, Arkansas, Colorado (Central Flyway portion only), Illinois, Indiana, Kansas, Kentucky, Louisiana, Mississippi, Missouri, New Mexico, (Central Flyway portion only), Ohio, Oklahoma, Tennessee, and Texas in areas delineated by State regulations.

Shooting hours (to be finalized later). The season may not exceed 9 consecutive days with a bag limit of 4 teal daily and 8 in possession. States must advise the Service of season dates and special provisions to protect non-target species by July 27, 1977.

In no instance shall the total number of days in any combination of duck seasons (regular duck season, sea duck season, September teal season, special scaup season, special scaup and goldeneye season, or falconry season) exceeed 107 days for any geographical area.

Migratory Game Bird Seasons in Alaska

Between September 1, 1977, and January 26, 1978, Alaska may select seasons on waterfowl, coots, snipe, and cranes, subject to the following limitations:

1. Shooting hours (to be finalized later).

2. *Season lengths:* A. In the Pribilof and Aleutian Islands, except Unimak Island, an open season of 107 consecutive days for ducks, geese, brant, and coots. In the Kodiak (State game management unit 8) area, an open season of 107 days for ducks, geese, brant, and coots and the season may be split without penalty.

B. Exception: the season is closed on Canada geese from Unimak Pass westward in the Aleutian Island chain.

C. In the remainder of Alaska including Unimak Island, an open season of

[4] The Pacific Flyway is defined as follows: Arizona, California, Idaho, Nevada, Oregon, Utah, and Washington; those portions of Colorado and Wyoming lying west of the Continental Divide; New Mexico west of the Continental Divide plus the entire Jicarilla Apache Indian Reservation; and in Montana, the counties of Hill, Chouteau, Cascade, Meagher, and Park, and all counties west thereof.

107 consecutive days for ducks, geese, brant, and coots.

D. An open season for snipe concurrent with the duck season.

E. An open season for lesser sandhill (little brown) cranes concurrent with the duck season.

3. *Bag and Possession Limits:* A. *Ducks.*—Execpt as noted, a basic daily bag limit of 7 and a possession limit of 21 ducks. Daily bag and possession limits in the North Zone are 10 and 30, and in the Gulf Coast Zone they are 8 and 24, respectively. In addition to the basic limit, there is a daily bag limit of 15 and a possession limit of 30 scoter, eider, oldsquaw, harlequin, and American and red-breasted mergansers, singly or in the aggregate of these species.

B. *Geese.*—A basic daily bag limit of 6 and a possession limit of 12, of which not more than 4 daily and 8 in possession may be white-fronted or Canada geese, singly or in the aggregate of these species. In addition to the basic limit, there is a daily bag limit of 6 and a possession limit of 12 Emperor geese.

C. *Brant.*—A daily bag limit of 4 and a possession limit of 8.

D. *Coots.*—A daily bag and possession limit of 15.

E. *Snipe.*—A daily bag limit of 8 and a possession limit of 16.

F. *Lesser sandhill (little brown) cranes.*—A daily bag limit of 2 and a possession limit of 4.

SPECIAL FALCONRY REGULATIONS

Any State that provides special falconry hunting seasons may select extended seasons for taking certain migratory game birds in accordance with the following provisions:

1. Seasons must fall within the framework dates provided for selecting regular hunting seasons for the various groups of species (e.g. October 1–January 20 for waterfowl, etc.).

2. Season lengths for all permitted methods of hunting within a given area may not exceed 107 days for any species.

3. Hunting hours (to be finalized later).

4. Daily bag and possession limits for waterfowl (ducks, geese, and mergansers) shall not exceed 2 and 4 birds, respectively, singly or in the aggregate.

5. Daily bag and possession limits for certain other species (coots, gallinules, rails, snipe, woodcock, doves and pigeons only) shall not exceed 4 and 8 birds, respectively, singly or in the aggregate.

6. States offering extended seasons shall evaluate and report to the Service the results of each hunting season (regular and extended) each year.

Hunting by falconry during regular migratory game bird seasons is permitted in accordance with applicable regulations.

States selecting extended falconry seasons must inform the Service of seasons and other regulations and publish said regulations.

DRAFTING INFORMATION

This final rulemaking was authored by Dr. John P. Rogers, Chief, Office of Migratory Bird Management.

ECONOMIC IMPACT REVIEW

The 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.

Issued in Washington, D.C., July 19, 1977.

LYNN A. GREENWALT,
Director, United States Fish and Wildlife Service.

[FR Doc.77-21072 Filed 7-21-77;8:45 am]

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

PART 611—FOREIGN FISHING

Authorized Fishing Area; Atlantic Herring

AGENCY: National Oceanic and Atmospheric Administration/Commerce.

ACTION: Final Regulations.

SUMMARY: The Foreign Fishing Regulations under the Fishery Conservation and Management Act of 1976, are amended concerning the description of the authorized area for the directed fishery for Atlantic herring by foreign fishing vessels during the open season because the existing regulation would tend to mislead foreign fishermen concerning the general location of the authorized fishing area.

EFFECTIVE DATE: July 22, 1977.

FOR FURTHER INFORMATION CONTACT:

Richard Schaefer, Fishery Management Operations Division, National Marine Fisheries Service, Washington, D.C. 20235, (202–634–7454).

SUPPLEMENTARY INFORMATION: Section 611.53 of the foreign fishing regulations (42 FR 8813) describes the specific regulations for Atlantic herring. Under paragraph (c) "open season and areas", a statement is included relative to adjacent waters to the west and south within Statistical Area 6. Reference to Statistical Area 6 is inconsistent with the conditions and restrictions outlined in the preliminary management plan for the Atlantic herring which does not refer to Statistical Area 6. In addition the authorized fishing area identified in the preliminary management plan does not extend into Statistical Area 6 and, therefore, reference to that area is not relevant. Therefore, the Secretary finds that the formal notice of proposed rulemaking is impractical, unnecessary and contrary to the best interest of the United States because the existing regulation would tend to mislead foreign fishermen concerning the general location of the authorized fishing area.

Therefore, paragraph (c) of § 611.53 is revised to read as follows:

§ 611.53 Atlantic herring.

* * * * *

(c) *Open season and areas.* The open season for the directed fishery for Atlantic herring by foreign fishing vessels shall be from August 15, 1977, to September 30, 1977, in Division 5Z of Subarea 5 of the ICNAF convention area, bounded by straight lines joining the following coordinates: 42°10′ N., 69°00′ W.; 42°10′ N., 68°35′ W.; 41°30′ N., 68°35′ W.; 41°10′ N., 69°00′ W.

Issued on July 18, 1977, at Washington, D.C.

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

[FR Doc.77-21085 Filed 7-21-77;8:45 am]

PART 661—SALMON FISHERY

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

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Final regulations.

SUMMARY: National Oceanic and Atmospheric Administration publishes final 1977 regulations for the commercial and recreational salmon fisheries off the coasts of Washington, Oregon, and California as recommended by the Pacific Fishery Management Council to the Secretary of Commerce in support of their fishery management plan. These regulations set forth among other things, management areas, open seasons and areas, gear restrictions, and size restrictions for commercial fisheries and certain catch and size limits for recreational fisheries.

EFFECTIVE DATE: 0001 hours, July 25, 1977.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: On April 26, 1977, the Secretary published emergency regulations (42 FR 2142) implementing the Commercial and Recreational Salmon Fisheries Off the Coasts of Washington, Oregon, and California fishery management plan prepared by the Pacific Fishery Management Council. The promulgation of the emergency regulations is authorized under section 305(e) of the Fishery Conservation and Management Act of 1976 for a 45 day period, which ended on June 9, 1977. On May 24, 1977, an amendment to the emergency regulations was published (42 FR 26580) that changed the opening and closing fishing dates in Management Areas A through E, the minimum length of chinook salmon from 26 to 28 inches, and established new sections about the rights of the Makah Indian Tribe and test fisheries. This amendment was also published for a 45 day period, ending on July 8, 1977. On June 9, 1977, the emergency regulations

as amended, which were originally published on April 26, 1977 were repromulgated (42 FR 29845) for an additional 45 day period, as authorized under section 305(e) of the Act. That period will end on July 24, 1977. On June 24, 1977, a second amendment was published (42 FR 32250) to provide fishing rights to the Quileute Indian Tribe.

During the period the emergency regulations were in force, numerous letters were received in addition to the public comments which had been made at the six hearings which were conducted prior to the promulgation of the emergency regulations. The public comments, both oral and written, centered on the following major issues.

1. Ocean commercial fishermen stated that the regulations were discriminatory against them. Other user groups have been restricted by management actions in recent years, while the only effective restriction upon ocean commercial fishermen has been inclement weather. The management bodies believe these regulations create a reasonable balance of treatment among the various groups.

2. Some trollers stated that the regulations favored foreign fishermen, particularly Canadians. Canadians fishing in the U.S. zone are required to observe the same restrictions as U.S. fishermen and other foreign fishermen are not permitted to catch or retain any salmon.

3. Adjustments in commercial harvest by inside net fisheries was an alternative to meet conservation requirements. The inshore net fishermen have borne the brunt of restrictions and closures for several years and recreational fishermen in Washington were restricted beginning in 1976. However, offshore trollers have had almost no new restrictions in recent years. The results of those regulations will be carefully monitored to determine the impact on user groups, but existing information indicates that these regulations will maximize fishing opportunities for all user groups.

4. Some California fishermen stated that the regulations had resulted in an influx of boats from Washington and Oregon. California Department of Fish and Game hold-inspection reports show that the distribution of boats by home port is about the same as that observed during similar periods in previous years.

5. Some comments indicated that citizen inputs on proposed regulations were not effective. Important modifications of the regulations have occurred throughout the development process. In response to citizen comments, the Pacific Fishery Management Council and the Secretary of Commerce have taken steps which have resulted in modification of proposed regulations. Impact on trollers has been reduced by reducing the mid-season closure from 30 days to 15. This section undoubtedly reduced the potential for a large influx into California of Washington and Oregon boats.

A variety of other comments were made questioning the adequacy of data that provided the basis of the proposed regulations. There were comments to the effect that the increased minimum size would increase the mortality rate of release fish. Some disagreed with the estimated values expressed in the plan. There were also comments that some values were not adequately considered such as the secondary economic impact on coastal communities and regional economic activity. We believe these points were discussed in the Plan to the extent they can be.

Alternative means were also suggested to enhance fishery production, especially improved fish habitat through pollution control or expanded supplemental production such as fish hatcheries. The Pacific Fishery Management Council is currently working on a comprehensive plan that will address a variety of factors concerning the fresh water part of the life cycle which were not reflected in the proposed regulations. The current plan was developed for 1977 and changes such as habitat protection will not alter productivity within this time span.

The changes to final regulations which have been made in correcting these emergency regulations based on similar approved modifications to the fishery management plan made by the Pacific Fishery Management Council.

Therefore, under section 305(a) of the Act, the Secretary may now publish final regulations. These final regulations are published in their entirety to provide fishermen in Washington, Oregon, and California a complete single document, including amendments.

Issued at Washington, D.C., and dated July 18, 1977.

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

Sec.

661.1 Purpose.
661.2 Relation to State laws.
661.3 Definitions.
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661.7 Emergency Regulations.
661.8 Commercial fishing.
661.9 Recreational fishing.
661.10 Treaty Indian Rights.
661.11 Test fisheries.

AUTHORITY: 16 U.S.C. 1801–1882.

§ 661.1 Purpose.

Regulations of this section apply to salmon taken seaward of Washington, Oregon and California, in the area over which the United States exercises exclusive fisheries management authority (the Pacific Council Management Area). However, these regulations do not apply to fishing conducted under the Convention for the Protection, Preservation, and Extension of the Sockeye Salmon Fishery of the Fraser River System, as amended by the Pink Salmon Protocol.

§ 661.2 Relation to State laws.

Regulations of this section implement the Pacific Regional Fishery Management Council's Fishery Management Plan for salmon fisheries of the Pacific Ocean pursuant to authority conferred by the Fishery Conservation and Management Act of 1976. These regulations recognize that State laws, otherwise valid pertaining to vessels registered under the laws of that State which are consistent with the Salmon Management Plan, including State landing laws, will continue to apply to the fisheries addressed in these regulations.

§ 661.3 Definitions.

(a) Act—Means the Fishery Conservation and Management Act of 1976, Pub. L. 94–265 (16 U.S.C. 1801–1882).

(b) Angling—Means fishing by means of a rod and/or line capable of being held in hand while taking the fish.

(c) Authorized Officer—Means: (1) Any commissioned, warrant, or petty officer of the Coast Guard;

(2) Any enforcement agent of the National Marine Fisheries Service;

(3) Any officer designated by the head of any Federal or State agency which has entered into an agreement with the Secretary or the Commandant of the Coast Guard to enforce the provisions of the Act; and

(4) Any Coast Guard personnel accompanying and acting under the direction of any person described in subparagraph (1) of this paragraph.

(d) Commercial fishing—Means fishing for the purpose of sale or barter.

(e) Fishing—Means: (1) The catching, taking, or harvesting of fish;

(2) The attempted catching, taking or harvesting of fish; or

(3) Any other activity which can reasonably be expected to result in the catching, taking or harvesting of fish.

(f) Fishing vessel (or vessel)—Means any boat, ship or other craft which is used for, equipped to be used for, or of a type which is normally used for fishing.

(g) Land or landing—Means bringing fish to shore or off-loading fish from a fishing vessel.

(h) Recreational fishing—Means fishing for personal use.

(i) Salmon—Means any anadromous species of the family *Salmonidae* and genus Oncorhynchus, commonly known as salmon, including but not limited to:

Chinook (or King) salmon—*Oncorhynchus tshawytscha.*

Coho (or Silver) salmon—*Oncorhynchus kisutch.*

Pink (or Humpback) salmon—*Oncorhynchus gorbuscha.*

Chum (or Dog) salmon—*Oncorhynchus keta.*

Sockeye (or Red, Blueback) salmon—*Oncorhynchus nerka.*

(j) Salmon length—Means the shortest distance between the tip of the snout or jaw (whichever extends further) and the tip of the longest lobe of the tail, measured while the salmon is lying on its side, without resort to any force (including squeezing the tail) or mutilation of the salmon.

(k) Secretary—Means the Secretary of Commerce or a designee.

(l) Single/barbless hook—Means a hook with a single shank and point, with no secondary points or barbs curving or projected in any other direction.

(m) Troll gear—Means gear which consists of one or more lines used to drag lures behind a moving vessel, which lines originate from a spool or receptacle fastened to the vessel, and the extension or retraction of which is directly to the spool or receptacle without disengaging any gurdy or outboard arm from its fixed position on the vessel.

§ 661.4 Salmon fishery management areas.

(a) The Pacific Council Management Area shall be divided into the following management areas for the regulation of salmon fishing, with the following lateral limits:

(1) Management Area A—(i) Northern limit (United States-Canada) is a line connecting the following coordinates:

48°29'37.19" N. lat., 124°43'33.19" W. long.;
48°30'11" N. lat., 124°47'13" W. long.;
48°30'22" N. lat., 124°50'21" W. long.;
48°30'14" N. lat., 124°52'52" W. long.;
48°29'57" N. lat., 124°59'14" W. long.;
48°29'44" N. lat., 125°00'06" W. long.;
48°28'09" N. lat., 125°05'47" W. long.;
48°27'10" N. lat., 125°08'25" W. long.;
48°26'47" N. lat., 125°09'12" W. long.;
48°20'16" N. lat., 125°22'48" W. long.;
48°18'22" N. lat., 125°29'58" W. long.;
48°11'05" N. lat., 125°53'48" W. long.;
47°49'15" N. lat., 126°40'57" W. long.;
47°36'47" N. lat., 127°11'58" W. long.;
47°22'00" N. lat., 127°41'23" W. long.;
46°42'05" N. lat., 128°51'56" W. long.;
46°31'47" N. lat., 129°07'39" W. long.

(ii) Southern limit: 47°18'19" N. lat. (Point Grenville Light).

(2) Management Area B—(i) Northern limit: 47°18'19" N. lat. (Point Grenville Light).

(ii) Southern limit: 42°00'00" N. lat. (Tillamook Head Lighthouse).

(3) Management Area C—(i) Northern limits: 45°56.2' N. lat. (Tillamook Head Lighthouse).

(ii) Southern limit: 42°00'00" N. lat. (Oregon-California border).

(4) Management Area D—(i) Northern limit: 42°00'00" N. lat. (Oregon-California Border).

(ii) Southern limit: 38°14'27" N. lat. (Tomales Point—Northern tip).

(5) Management Area E—(i) Northern limit: 38°14'27" N. lat. (Tomales Point—Northern tip).

(ii) Southern limit: (United States-Mexico) is a line connecting the following coordinates:

32°35'22.11 N. lat., 117°27'49.42" W. long.;
32°37'37.00" N. lat., 117°49'31.00" W. long.;
31°07'58.00" N. lat., 118°36'18.00" W. long.;
30°32'31.20" N. lat., 121°51'58.37" W. long.

(b) Any person fishing subject to these regulations shall be bound by the above described international boundaries, notwithstanding any dispute or negotiation between the United States and any neighboring country regarding their respective jurisdictions, until such time as new boundaries are published by the United States.

(c) The inner boundary of each Management Area is a line coterminous with the seaward boundaries of Washington, Oregon and California, and the outer boundary of each Management Area is a line drawn in such a manner that each point on it is 200 nautical miles from the baseline from which the territorial sea is measured.

§ 661.5 Restrictions.

The following restrictions apply to all salmon fishing in Management Areas A, B, C, D, and E, except that the restrictions in these regulations shall not apply to fishing for pink and sockeye salmon pursuant to the Convention for the Protection, Preservation, and Extension of the Sockeye Salmon Fishery of the Fraser River System, as amended by the Pink Salmon Protocol, north of 48°00'00" north latitude.

(a) No person shall use nets to fish for salmon except that a landing net may be used to bring hooked salmon on board a vessel.

(b) No person shall take any species of salmon.

(1) Which is less than the minimum size (measured in terms of the salmon's length as defined in § 661.3(j)) specified in these regulations;

(2) During closed seasons or in closed areas specified in these regulations;

(3) In numbers greater than any catch limit specified in these regulations; or

(4) By means of gear or methods prohibited by these regulations.

(c) No person shall possess, have custody or control of, ship, transport, offer for sale, sell, purchase, import, export, or land, any species of salmon or salmon part which was taken in violation of the Act, these regulations, or any other regulation issued under the Act.

(d) No person shall possess on board a vessel any salmon taken in the Pacific Council Management Area for which a size limit is set forth in these regulations, in such condition that its size cannot be determined.

(e) No person shall fish while on a vessel which has aboard:

(1) Any salmon which is less than the minimum length for that species in the Management Area where the fishing is taking place; or

(2) Any species of salmon for which the season is closed in the Management Area where the fishing is taking place; or

(3) Any salmon in such condition that its size cannot be determined.

(f) No person, while on board a fishing vessel, shall mutilate or otherwise disfigure any salmon in a manner which extends its length to conform to any minimum size requirement specified in these regulations.

(g) No person shall: (1) Refuse to permit an Authorized Officer to board a fishing vessel subject to such person's control for purposes of conducting any search or inspection in connection with the enforcement of this Act, these regulations, or any other regulation issued under the Act;

(2) Forcibly assault, resist, oppose, impede, intimidate or interfere with any Authorized Officer in the conduct of any search or inspection described in subparagraph (1) of this paragraph;

(3) Resist a lawful arrest for any act prohibited by these regulations; or

(4) Interfere with, delay, or prevent, by any means, the apprehension or arrest of another person knowing that such other person has committed any Act prohibited by these regulations.

§ 661.6 Penalties.

Any person or vessel found to be in violation of these regulations will be subject to the civil and criminal penalty provisions and forfeiture provisions prescribed in the Act.

§ 661.7 Emergency regulations.

The Secretary may issue emergency regulations, if and when needed, under section 305(e) of the Act, announced by publication of a notice in the FEDERAL REGISTER.

§ 661.8 Commercial fishing.

(a) *Open seasons and areas.* All open seasons shall begin at 0001 hours and terminate at 2400 hours on the dates specified herein. Unless otherwise specified, Pacific Daylight Time will apply. The Pacific Council Management Area is closed to commercial salmon fishing except for the following open seasons and areas:

(1) In Management Area A the open season for salmon fishing shall be as follows:

(i) The season for all salmon species, except coho, shall begin on May 1, 1977, and terminate on June 14, 1977.

(ii) The season for all salmon species, including coho, shall begin on July 1, 1977, and terminate on September 15, 1977.

(2) In Management Area B, the open season for salmon fishing shall be as follows:

(i) The season for all salmon species, except coho, shall begin on May 1, 1977, and terminate on June 14, 1977.

(ii) The season for all salmon species, including coho, shall begin on July 1, 1977 and terminate on October 31, 1977, at 2400 hours Pacific Standard Time.

(3) In Management Area C, the open season for salmon fishing shall be as follows:

(i) The season for all salmon species, except coho, shall begin on May 1, 1977, and terminate on June 14, 1977.

(ii) The season for all salmon species, including coho, shall begin on June 15, 1977, and terminate on October 31, 1977, at 2400 hours Pacific Standard Time.

(4) In Management Areas D and E the open season for salmon fishing shall be as follows:

(i) The season for all salmon species, except coho, shall begin on April 15, 1977, and terminate on May 14, 1977.

(ii) The season for all salmon species, including coho, shall begin on May 15, 1977, and terminate on September 30, 1977.

(b) *Gear restrictions:* (1) Only troll gear shall be used for commerical salmon fishing while in the Pacific Council Management Area. However, in Management Areas D and E troll gear need not be

fixed to the vessel as specified in § 661.3 (m).

(2) Only single/barbless hooks shall be used for commercial salmon fishing before July, 1977, while in Management Areas A and B.

(c) *Size restrictions.* (1) No person shall take and retain any chinook salmon (*Oncorhynchus tshawytscha*) while aboard a vessel used for commercial fishing less than:

(i) Twenty-eight inches in length in Management Areas A and B; or

(ii) Twenty-six inches in length in Management Areas C, D and E.

(2) No person shall take and retain any coho salmon (*Oncorhynchus kisutch*) less than:

(i) 16 inches in length in Management Areas A, B and C; or

(ii) 22 inches in length in Management Areas D and E while aboard a vessel used for commercial fishing.

(d) *Vessel inspection and certification.* (1) Any vessel subject to State hold inspection, fishing in Management Areas A and B between July 1 and July 10, 1977, must have on board documentation of such inspection as may be issued by the State adjacent to such Management Area.

(2) Any vessel 26 feet or longer with coho salmon on board in Management Areas D and E between May 15 and May 25, 1977, shall have on board documentation of hold inspection issued by the State adjacent to such Management Areas.

(e) No person shall take and retain any steelhead (*Salmo gairdneri*) within the Pacific Council Management Area.

§ 661.9 Recreational fishing.

(a) *Open seasons and areas.* All seasons shall begin at 0001 hours and terminate at 2400 hours on the dates specified herein. Unless otherwise specified, Pacific Daylight Time will apply. The Pacific Council Management Area is closed to recreational salmon fishing except for the following open seasons and areas:

(1) In Management Areas A and B the season shall open on April 30, 1977, and terminate on October 31, 1977, at 2400 hours Pacific Standard Time.

(2) In Management Area C, the season shall open on April 30, 1977, and terminate on October 31, 1977, at 2400 hours Pacific Standard Time.

(3) In Management Area D the season shall be open the entire year.

(4) In Management Area E, the season shall open on February 12, 1977, at 0001 hours Pacific Standard Time and terminate on November 13, 1977, at 2400 hours Pacific Standard Time.

(b) *Gear restrictions.* (1) No gear other than angling gear may be used for recreational salmon fishing, except that in Management Areas D and E, during the commercial salmon season (§ 661.8(a)(4)), closely attended rods and/or lines may be used.

(2) No person shall use more than one rod and/or line while fishing in Management Areas A, B and C.

(3) There shall be no limit on the number of rods and/or lines used for fishing in Management Areas D and E.

(c) *Size restrictions.* (1) In Management Areas A and B no person shall take and retain any chinook salmon less than 24 inches in length or any coho salmon less than 16 inches in length.

(2) In Management Area C there shall be no limit on the length of salmon which may be taken and retained.

(3) In Management Areas D and E no person shall take and retain any salmon less than 22 inches in length, except that one salmon per day may be less than 22 inches but not less than 20 inches in length.

(d) *Catch limits.* No person shall take and retain, or possess more than three salmon per day while in the Pacific Council Management Area.

§ 661.10 Treaty Indian rights.

(a) Persons entitled to exercise rights under the Treaty with the Makah may fish for all salmon species in that portion of Management Area A north of 48°-07'36" 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 regulation issued under the Act.

(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.

(c) The Secretary will give due consideration in promulgating emergency regulations under § 661.7 to the treaty rights of Indian tribes with usual and accustomed fishing grounds in the area affected by such regulations.

§ 661.11 Test fisheries.

The Secretary may, upon recommendation of the Pacific Council, allow in the Pacific Council Management Area such limited test fisheries for scientific purposes as may be proposed by the Pacific Council, the Federal Government, State Governments and Treaty Indian Tribes having usual and accustomed fishing grounds in the Pacific Council Management Area.

[FR Doc.77-21053 Filed 7-21-77;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

Agricultural Marketing Service

[7 CFR Part 1040]

[Docket No. AO-225-A32]

MILK IN THE SOUTHERN MICHIGAN MARKETING AREA

Decision on Proposed Amendments to Marketing Agreement and to Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: The decision would amend the present order based on industry proposals considered at a public hearing held January 4–5, 1977. The principal amendments proposed relate to the rates used to adjust milk prices for different plant locations and to the performance standards for pooling distributing plants. The proposed amendments are needed to reflect recent increases in hauling costs and to aid the orderly marketing of milk by dairy farmers. Dairy farmer cooperatives will be polled to determine whether dairy farmers supplying the market favor issuance of the proposed amended order.

FOR FURTHER INFORMATION CONTACT:

Irving E. Sutin, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202–447–4829.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding:

Notice of hearing, issued November 11, 1976; published November 16, 1976 (41 FR 50453).

Emergency final decision (partial), issued February 9, 1977; published February 14, 1977 (42 FR 9027).

Final order, issued February 16, 1977; published February 23, 1977 (42 FR 10680).

Recommended decision, issued June 6, 1977; published June 10, 1977 (42 FR 29881)

Preliminary Statement

A public hearing was held upon proposed amendments to the marketing agreement and the order regulating the handling of milk in the Southern Michigan marketing area. The hearing was held, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice (7 CFR Part 900), at East Lansing, Michigan, on January 4–5, 1977, pursuant to notice thereof issued on November 11, 1976 (41 FR 50453).

Upon the basis of the evidence introduced at the hearing and the record thereof, the Acting Administrator, on June 6, 1977, filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision containing notice of the opportunity to file written exceptions thereto.

The material issues, findings and conclusions, rulings, and general findings of the recommended decision are hereby approved and adopted and are set forth in full herein, subject to the following modification:

Under "1. Location adjustments", paragraphs 19, 23, 24, and 46 are revised and five paragraphs are added immediately following the last paragraph.

The material issues on the record relate to:

1. Revision of location adjustments.

2. Pool plant status of a plant that qualifies for pooling under Southern Michigan and another order in the same month.

3. Extending the time a quarantined producer may retain his established base.

4. Classification of frozen yogurt and frozen yogurt mixes.

5. Need for emergency action on Proposal No. 3.

This decision deals with all the above issues except Issue Nos. 3 and 5. These issues were dealt with separately in a prior partial decision on this record.

Findings and Conclusions

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

1. *Location adjustments.* The location adjustments (the amounts by which the Class I price, uniform price, adjusted uniform price and uniform price for base milk are reduced) at plants located within specified geographic areas in the State of Michigan, which are designated as Zones II, III, IV, V, VI, and VII, should be increased 2 cents for each zone: from 3, 5, 7, 9, 12, and 15 cents, respectively, to 5, 7, 9, 11, 14, and 17 cents, respectively.

The 8-cent per hundredweight "direct delivery differential", an additional amount that handlers must pay producers for milk delivered directly from their farms to plants in Wayne County and the townships of Royal Oak and Southfield in Oakland County, should be increased to 10 cents. There was no proposal at the hearing to change the other direct delivery differential under the order, the 4-cent rate at plants in Oakland County outside the townships of Royal Oak and Southfield. Nine pool distributing plants are located in the present 8-cent direct delivery differential area and one in the 4-cent area. The territory included in the direct delivery differential areas is, in effect, the Detroit metropolitan area.

A principal effect of this decision is to increase by 4 cents per hundredweight the difference between the price a handler must pay for milk delivered from farms to his plant in the Detroit area and the Class I price at any plant where a location adjustment applies. The uniform price, the adjusted uniform price and the uniform price for base milk would be similarly affected.

The 7 designated location adjustment zones, which are unchanged by this decision, are as follows:

(a) Zone I, where no location adjustment applies and for which no change is proposed in this decision, includes Genesee, Lenawee, Macomb, Monroe, Oakland, and Wayne Counties; and major portions of Bay, Saginaw, St. Clair, and Washtenaw Counties.

(b) Zone II includes Ingham, Jackson, and Livingston Counties and the townships in Washtenaw County that are not in Zone I.

(c) Zone III includes Arenac, Clinton, Eaton, Gladwin, Gratiot, Huron, Isabella, Lapeer, Midland, Sanilac, Shiawassee, and Tuscola Counties; major portions of Ionia and Montcalm Counties; and the townships in Bay, Saginaw, and St. Clair Counties that are not in Zone I.

(d) Zone IV includes Barry, Branch, Calhoun, Hillsdale, Kalamazoo, Kent, Mecosta, and St. Joseph Counties; and the townships in Ionia, Montcalm, and Allegan Counties that are not in Zone III or Zone V.

(e) Zone V includes Berrien, Cass, Clare, Iosco, Lake, Mason, Missaukee, Muskegon, Newaygo, Oceana, Ogemaw, Osceola, Ottawa, Roscommon, and Van Buren Counties and a major portion of Allegan County.

(f) Zone VI includes Alcona, Crawford, Grand Traverse, Kalkaska, Manistee, Oscoda, and Wexford Counties.

(g) Zone VII includes Alpena, Antrim, Benzie, Charlevoix, Cheboygan, Emmet, Leelanau, Montmorency, Otsego, and Presque Isle Counties.

The designated counties and townships in Zone I, where no location adjustment applies, are within or close to the Detroit metropolitan area. The increasingly larger location adjustments in Zones II through VII reflect the costs of transporting milk from distant locations to the Detroit metropolitan area. For example, Zone VII, where the largest zone location adjustment applies, is the zone farthest from the Detroit metropolitan area.

The location adjustment at a plant located outside the designated zones is

calculated by adding to the location adjustment applicable at the nearest point in the nearest zone one cent for each 10 miles from such point to the plant. There was no proposal to change the basis for computing location adjustments at such plants.

Michigan Milk Producers Association (MMPA), whose producer-members deliver milk to plants in all location adjustment zones, proposed increasing the direct delivery differential from 8 cents to 10 cents, as is provided in this decision. It also proposed increasing the location adjustments in Zones II, III, IV, V, and VI of 3, 5, 7, 9, and 12 cents, respectively, to 5, 8, 10, 12, and 15 cents, respectively.

The MMPA spokesman contended that adoption of the cooperative's proposal would give recognition to the increase in hauling costs that has occurred since the present rates were adopted in 1968. The revised rates are necessary, he said, to insure the delivery of a continuing and reliable supply of milk from producers' farms to plants in the principal population centers in the market, particularly to Class I packaging plants in the Detroit metropolitan area.

In its hearing notice proposal, McDonald Dairy Cooperative Association (hereinafter referred to as McDonald) proposed the same zone location adjustment changes as MMPA. In addition, McDonald proposed a zoning change that would include its pool supply plant in Chesaning in Zone II. Chesaning is now in Zone III, for which zone an 8-cent location adjustment was proposed in the hearing notice. McDonald argued that the present 5-cent location adjustment now applicable at Chesaning should be retained whether or not any location adjustment changes resulted from the hearing.

The Chesaning plant is basically a manufacturing operation. McDonald argued that retention of the location adjustment now applicable at the Chesaning plant is warranted because Chesaning is a balancing plant for the total McDonald operation. That is, the plant is a source of supplemental supplies for McDonald's Class I operations and takes off the market and utilizes for manufacture McDonald's producer-member milk when it is not needed at McDonald's other plants for Class I purposes.

McDonald currently receives milk from producer-members at its pool distributing plants in Flint, Bay City, and Detroit. All three plants are in Zone I (no location adjustment) and the milk received at the Detroit plant is subject to the plus 8-cent direct delivery differential. McDonald is in the process of transferring its Detroit Class I operations to Flint. The supply of producer milk currently being shipped to the Detroit plant will be shifted to the Flint plant.

At the hearing and in its exceptions McDonald opposed increasing the 8-cent direct delivery differential to 10 cents. In support of that position its spokesman suggested that the hauling costs of producers who will be shifted from Detroit to Flint would be reduced less than the 8-cent direct delivery differential they now receive for milk delivered from their farms to Detroit. To adopt the 10-cent direct delivery differential and to increase the location adjustments at Chesaning and other outlying locations, the McDonald spokesman argued, would enable Detroit handlers to outbid supply plants and pool distributing plants at urban locations outside the Detroit area (e.g., Flint) for producer milk supplies in the outlying areas.

Kraft, Inc., which operates two pool supply plants using relatively large quantities of milk in Class III, opposed increasing the direct delivery differential from 8 cents to 10 cents. The handler also opposed changing the location adjustment rates applicable to the Class I price and to producer prices. Kraft contended that the changes proposed are not warranted under current conditions in the market and would damage rather than benefit the orderly marketing of milk under the order.

The two plants operated by Kraft, located in Pinconning in Zone III and in Clare in Zone V, are subject to location adjustments of 5 cents and 9 cents, respectively. The handler proposed zoning changes to include Pinconning in Zone I (no location adjustment) and Clare in Zone III (a 5-cent location adjustment). The basis for these proposed changes is that these plants perform a service for the market by handling producer milk supplies when they are not needed for fluid use. If these plants were not in operation, Kraft claimed, the cost of handling the market's reserve supplies would be greatly increased. Kraft also argued that its proposed location pricing at Pinconning and Clare is justified because of the proximity of these plants to zones with lower location adjustments.

According to Kraft, Pinconning is so located that milk from the north coming into Detroit actually passes that plant on a main highway within one mile of Pinconning. The Kraft spokesman claimed that paying producers an increased direct delivery differential of 10 cents plus increasing the location adjustment, which would reduce the producer pay price applicable at Pinconning and Clare, would attract milk away from its plants to Detroit. If this should happen, Kraft claimed, it would have to increase its present rate of producer payments above the minimum order prices to keep its producer supply.

At the hearing and in its exceptions Michigan Producers Dairy (MPD), which operates two pool supply plants, opposed making any changes in the present location adjustment provisions. MPD's plants are located in Adrian and Sebewaing. No location adjustment is applicable at Adrian (Zone I) and a 5-cent location adjustment is applicable at Sebewaing (Zone III). None of the proposals at the hearing would change the location pricing at Adrian.

The MPD spokesman contended that the present location adjustment provisions are currently satisfying their intended objectives and that the various changes proposed are unwarranted. Some of the proposed changes, he stated, would adversely affect its Sebewaing operation and could result in forcing MPD to close its Sebewaing plant. This plant, according to MPD, is performing a valuable service as a balancing plant for the market. Forcing it to close would be a significant loss to the market of a needed outlet for reserve supplies.

Increasing the direct delivery differential by 2 cents (from 8 cents to 10 cents) and the Zone III location adjustment by 3 cents (from 5 cents to 8 cents), as proposed by MMPA, would raise from 13 cents to 18 cents the additional amount per hundredweight a Sebewaing producer would receive for milk delivered to Detroit. Such an increase, MPD stated, would provide a strong incentive for producers to leave the Sebewaing plant and ship directly to Detroit.

MPD opposed the proposals of McDonald and Kraft to change the pricing zones in which their supply plants at Chesaning and Pinconning, respectively, are now included. These plants, along with the MMPA supply plant located in Ovid, are now, and historically have been, in the same zone (Zone III) as Sebewaing. Adopting the McDonald and Kraft proposals, MPD argued would unjustifiably give their supply plants a significant procurement advantage over Sebewaing.

Independent Cooperative Milk Producers Association Inc., proposed that the present location adjustments in most of Zone I and in all of Zones II through V, which now range from zero to 9 cents, be fixed at 5 cents. "Independent" is a major supplier of pool distributing plants in the Grand Rapids area. Grand Rapids, which is 149 miles west of Detroit, is in the heart of a heavy milk production area. Milk of Independent's producer-members in excess of its buying handlers' Class I needs is delivered to the cooperative's supply plant in Kalamazoo for manufacture. Grand Rapids and Kalamazoo are in Zone IV, where a 7-cent location adjustment applies.

The Independent spokesman acknowledged the need for a direct delivery differential for milk delivered from producers' farms to the Detroit area. He contended, however, that a single location adjustment of not more than 5 cents at plants in Zones I through V is necessary to enable Grand Rapids area handlers and handlers in cities outside the Detroit area to compete with Detroit handlers for supplies of producer milk.

Currently, the price payable to a producer under the order for milk delivered from his farm to a plant in Grand Rapids is 15 cents less than for milk delivered from the same farm to a plant in Detroit. For milk delivered to Grand Rapids, the producer pay price is subject to a 7-cent location adjustment. For milk delivered to Detroit no location adjustment is applicable and the payment to the producer is increased by the 8-cent direct delivery differential. The 5-cent location adjustment proposed by Independent in conjunction with the 10-cent direct delivery differential adopted in this de-

cision would retain the present 15-cent difference between the producer pay prices at Grand Rapids and Detroit.

Borden, Inc., which operates a pool distributing plant in the Detroit area where the 8-cent direct delivery differential applies, opposed increasing the differential to 10 cents. It contended that the 2-cent increase and adoption of the proposed location adjustment rates would adversely affect Borden in competing in their common sales areas with distribution from plants in different pricing zones. Borden competes for sales with distribution from plants in Lansing and Grand Rapids. The Borden spokesman argued that increasing the location adjustments by 2 cents and 3 cents, respectively, at these locations (as proposed by MMPA) and adopting the proposed 2-cent increase in the direct delivery differential would increase by 4 cents and 5 cents, respectively, the price Borden must pay over their Lansing and Grand Rapids competitors for producer milk.

Borden and other pool plant operators subject to the 8-cent direct delivery differential now pay an additional 2 cents per hundredweight to MMPA for its producer-member milk delivered to their plants. Although Borden testified in opposition to increasing the direct delivery differential to 10 cents, its spokesman stated that including the 10-cent differential in the order would be acceptable to Borden if it had assurance that the applicable order prices were the actual prices it was required to pay MMPA for producer milk.

Liberty Dairy proposed that any change in the location pricing resulting from the hearing should be applicable in the farthest out zone, Zone VII, and at plant locations beyond Zone VII. Liberty operates a pool distributing plant in Zone V and has been receiving some milk from farther out plants. The handler contended that if there is any justification for increasing the location adjustment rates for Zones II through VI, such justification would be equally applicable with respect to Zone VII and at plant locations beyond Zone VII.

The purpose of location adjustments and the direct delivery differential is to assure that milk is delivered as efficiently as possible to plants where it is needed for Class I purposes. Such adjustments, insofar as it is practicable, should be reflective of the cost of transporting milk from outlying locations to the principal consumption center in the market.

These factors were given appropriate consideration in establishing the present zone pricing structure and direct delivery differential arrangement in the order, which were strongly supported at the hearing. There were no proposals for a different system of zone pricing and direct delivery differentials from that presently used. The positions taken by the various producer associations and proprietary handlers at the hearing differed only with regard to the rates that should be applicable in specified zones and with regard to limited changes in the territory to be included in several zones.

The present system of location pricing and direct delivery differentials has been in effect in the order continuously since 1965. The rates applicable in each zone and the direct delivery differentials in their present form became effective May 1, 1968.

The cost of transporting milk from producers' farms to handlers' plants has increased substantially in recent years. This had made it necessary for a major cooperative to subsidize producer hauling costs in order to get enough milk for handlers' Class I needs delivered to the Detroit area plants. Since March 1974, this cooperative has charged Detroit area handlers a 2-cent per hundredweight "special transportation charge" for milk delivered to their plants. This is in addition to the 8-cent direct delivery differential such handlers are required to pay under the order. The fund created by the 2-cent special transportation charge is distributed by the cooperative among haulers at the rates necessary to obtain adequate supplies of Class I milk delivered to the market.

More than 60 percent of the Class I milk under the order is distributed from plants in the direct delivery differential areas. More than 20 percent of the market's Class I distribution is from those plants in Zone I outside the direct delivery differential areas and from plants in Zone II, in which zones the location adjustments are zero and minus 3 cents, respectively. The preponderance of the marketing area population is included in the contiguous area comprising Zones I and II, the hub of which is the Detroit metropolitan area.

Most of the regular needs of the market's fluid milk processors is met by milk delivered directly from producers' farms, including milk delivered through pump-over stations (reload points). Reflective of the increased cost of transporting milk in recent years is the experience of the major cooperative that operates a number of reload points from which milk is moved regularly to Detroit area plants.

One reload point operated by the cooperative is in Lowell, Michigan, about 125 miles from Detroit. The milk handled at that reload point is a part of the regular supply of a Detroit area processor. This cooperative engages a private hauler on a bid basis to transport the milk from Lowell to Detroit. The cost during the past year for such hauling was 20.56 cents per hundredweight, 4.65 cents more than the cooperative paid for the same hauling in 1973. Increases in hauling costs since 1973 to Detroit from other of the cooperative's reload points ranged from 3 cents to 5 cents per hundredweight.

The changes adopted herein would result in Detroit area handlers paying 4 cents more for Class I milk received at their plants from producers' farms than plant operators in Zone II and beyond. While the Detroit operators would be subject to a 2-cent per hundredweight direct delivery differential increase (from 8 cents to 10 cents), the location adjustment at plants in Zone II and beyond would decrease their Class I prices by 2 cents per hundredweight. The 4-cent increase in the difference between the prices handlers would pay for producer milk f.o.b. Detroit as compared to delivery to plants in Zone II and beyond represents to a substantial degree the increase in hauling costs in recent years for milk delivered from outlying areas to Detroit.

Producer milk is not available to plants in the 8-cent direct delivery differential area at less than a 10-cent direct delivery charge. Both producers and handlers recognize that an additional cost (beyond that reflected in the location adjustment rates) is incurred in delivering milk from producers' farms to plants in the heavily trafficked and densely populated area where the 8-cent charge applies. The 2-cent increase in this charge adopted herein reflects the increase since 1968 (when the 8-cent direct delivery charge became effective) in the cost of having producer milk delivered to inner city plants.

Opposition to increasing the 8-cent direct delivery differential to 10 cents was principally from handlers who would not be directly affected by the change. It is apparent from the record that a payment of at least 2 cents per hundredweight, in addition to the present 8-cent direct delivery differential, is necessary to get producer milk delivered to Detroit area plants. The increased rate, which is a needed incentive to encourage the delivery of adequate supplies of producer milk to Detroit area processors for their Class I needs, will be helpful in maintaining orderly marketing conditions under the order.

The 2-cent increase in the location adjustment rates for Zone II and beyond is the same as the increase proposed by various proponents for Zone II (from 3 cents to 5 cents). The same proponents proposed increasing the rates for Zones III through VI by 3 cents. One handler proposed a 3-cent location adjustment rate increase for Zone VII and beyond. No testimony was presented to justify a different increase at locations beyond Zone II than in Zone II or for not applying the same location adjustment rate increases in Zone VII and beyond as is applied in other zones. The basis adopted herein for increasing the location adjustment rate 2 cents per hundredweight is equally applicable for all zones and for plant locations beyond Zone VII.

The 10-cent direct delivery differential adopted in this decision and the 2-cent increase in the location adjustment rates together give reasonable recognition to the increased costs of transporting milk from outlying locations to the Detroit metropolitan area. These adjustments will be helpful in achieving a better relationship between the f.o.b. prices applicable at such plant locations and the cost of transporting milk to Detroit area plants for Class I use.

A cooperative proposed increasing the Class I price by an amount that, when combined with any change in location

pricing resulting from this decision, would result in no reduction in the prices paid producers. As proposed, the Class I price would be increased by an amount necessary to offset any reduction in returns to producers attributable to the 2-cent increase in the location adjustment at plants in Zones II and beyond.

The location pricing adopted in this decision will result in negligible, if any, change in the total returns to producers. This is because the amount realized from the 2-cent per hundredweight increase in the direct delivery differential that handlers will have to pay for all milk delivered to Detroit area plants will approximate or exceed that resulting from the 2-cent increase in the location adjustment deduction from the Class I price at plants in Zones II and beyond. Thus, there will be practically no change in the total amount of money paid by handlers for distribution to producers.

As indicated elsewhere in this decision, the purpose of location adjustments is to encourage the delivery of milk to plants in the market center (the Detroit area) to meet their Class I needs and to reflect the cost of transporting milk from outlying locations to such plants. The location pricing adopted in this decision gives appropriate recognition to these factors. In this circumstance, and in view of the more than adequate production to meet the market's Class I needs, the proposal to increase the Class I price is denied.

The proposals to achieve lower location adjustment rates at McDonald's Chesaning and Kraft's Pinconning and Clare plants relative to other plants under the order should not be adopted. The principal argument for including these pool supply plants in lower location adjustment zones is that they are performing a service for the market by taking milk off the market when it is not needed for Class I purposes. The three plants are basically manufacturing operations.

Increasing the producer prices at Chesaning, Pinconning and Clare relative to other plant locations, as proposed, would tend to encourage the delivery of milk to these plants for manufacturing rather than to distributing plants at the consumption centers for Class I use. This would be inconsistent with the need for attracting milk to city distributing plants. Also, to adopt the location pricing proposed by McDonald and Kraft for their supply plants would provide them with an unwarranted advantage in their procurement over other plants in the same region. No evidence was presented on the record that would justify a location adjustment for these plants different from that applicable to other plants similarly situated.

The proposed 5-cent location adjustment for Zones I through V, which was made by a cooperative supplying handlers in the Grand Rapids area where a 7-cent location adjustment now applies, is denied. A principal basis for the cooperative's proposal was that a lower location adjustment should apply at plants in Grand Rapids and at other marketing area cities outside the Detroit area to attract milk to these urban areas.

The supply of milk in the areas in proximity to Grand Rapids and other cities outside the Detroit area is substantially in excess of the Class I needs of the pool plants in these urban areas. The combination of location adjustment rates and direct delivery differentials that have been effective in the order, and updated by this decision, tends to appropriately relate the location value of producer milk f.o.b. the principal population center in the market (the Detroit metropolitan area) with its value at whatever plant it is delivered to.

In its exceptions, the cooperative supplying handlers in the Grand Rapids area repeated its claim that a 5-cent location adjustment, instead of the 9-cent rate adopted in this decision, should be applicable at Grand Rapids. It argued that the lower location adjustment is justified because its principal buying handler in the Grand Rapids area is paying the cooperative a Class I price for producer milk that is 4 cents more than the Class I price applicable under the order.

It is a common practice in the Southern Michigan market for cooperatives to negotiate "over-order" prices with handlers. The over-order payments often reflect factors unrelated to the availability of milk supplies relative to demand or to the location value of producer milk at the plant to which delivered. In fact, the over-order payments may represent a payment for services provided by the cooperative to its buying handlers that equates with the value of such services. The payment of a negotiated over-order price thus may not necessarily reflect a greater value of Class I milk at a specific location relative to other locations in the marketing area.

It was argued in exceptions filed by McDonald that a 2-cent location adjustment increase in Zones II through VII and beyond is inappropriate because "increased costs of moving milk in cents per hundredweight are greater at longer distances than at shorter distances". Although McDonald proposed no specific location adjustment rate for each zone, its exceptions suggested that the same location adjustment percentage increase should be made in each zone. On that basis, the increase from 3 to 5 cents in the Zone II location adjustment adopted in this decision would call for a 10-cent increase in the Zone VII location adjustment, from 15 cents to 25 cents.

An exhibit at the hearing, "An Analysis of the Milk Hauling Cost Structure in Lower Michigan",[1] analyzed the hauling costs of 22 "short haul" and 20 "long haul" milk haulers for the months of August and September 1975. The average daily round trip distance for the short haul routes was 133 miles and for the long haul routes was 287 miles. The average cost per hundredweight of milk per 10 miles hauled was 3.06 cents for the 22 short haul haulers and 1.73 cents for the 22 long haul haulers. In view of this, it cannot be concluded, as McDonald claims, that the costs per hundredweight of moving milk are greater at longer distances than at shorter distances.

In its exceptions, Kraft reiterated the position it took at the hearing and argued in its brief, i.e., the present location pricing provisions of the order should not be changed except to provide lower location adjustments at Kraft's Clare and Pinconning plants. For the reasons already stated in this decision, the location pricing changes adopted herein are necessary to effectuate the intent of the Act under current conditions in the market. The Kraft exceptions are without merit and are denied.

2. *Pooling a plant that qualifies under Southern Michigan and another order in the same month.* A distributing plant that qualifies for pooling under this and another order in the same month should be pooled under the Southern Michigan order until the third consecutive month in which its route disposition in the marketing area of the other order is greater than in the Southern Michigan marketing area.

The present order provides that a distributing plant qualified for pooling under the Southern Michigan order and another order in the same month shall be pooled under the other order in the first month in which its route disposition in the marketing area of the other order is greater than in the Southern Michigan marketing area. A supply plant qualified for pooling under the Southern Michigan order and another order in the same month is pooled under the other order in the first month in which shipments to pool distributing plants under roder in the first month in which its shipments to pool distributing plants under the Southern Michigan order. There was no proposal to change the basis for pooling such a supply plant.

The provision adopted in this decision, which is commonly referred to as a "lock-in" provision, is the same as in the nearby Indiana order and is included in a number of Federal orders. Its inclusion in the Southern Michigan order was proposed by a Southern Michigan handler (McDonald Cooperative Dairy) who also operates a fully regulated distributing plant under the Indiana order. Fluid milk products from that plant, located in Benton Harbor, Michigan, are distributed in the Indiana and Southern Michigan marketing areas and in places outside these marketing areas. No testimony was presented in opposition to the proposal.

Although proponent's witness foresaw no immediate problem regarding the order under which the Benton Harbor plant would be regulated, he stated that the proposed lock-in provision was needed to achieve uniform and equitable treatment for any distributing plant qualifying under Southern Michigan and another order in the same month. He called attention particularly to the disruptive marketing conditions and the confusion among producers that would result if regulation of the plant they

[1] Research Report 325—Agricultural Business. From the Michigan State University Agricultural Experiment Station, East Lansing and the Cooperative Extension Service, December 1976.

supplied shifted back and forth between the Southern Michigan and Indiana orders. The proposed lock-in provision, he contended, would provide an appropriate safeguard against such a shifting back and forth between orders.

The Indiana order provides for a "takeout-pay back" fall production incentive plan, which withholds 20 cents per hundredweight from the payments otherwise due producers for their deliveries in April–July. This money is distributed to producers on the basis of their production in the pay back months of September–December. Under the Southern Michigan order, producers are paid on a base-excess plan throughout the year. The base on which each producer is paid is determined by his deliveries in the preceding August–December. Unless a plant were to shift permanently from one market to another, the producers involved could lose the benefits of the producer payment plan in the order under which their milk is usually pooled without obtaining the comparable benefits realized by producers regularly associated with the other order.

Ideally, a distributing plant that qualifies for pooling under the two orders should be regulated under the order applicable to the marketing area in which its route disposition is greater. In this way, all handlers having their principal sales in a market are subject to the same price and other regulatory provisions of their main competitors. However, appropriate consideration must be given to the adverse effects of shifting back and forth from month to month by a distributing plant that is usually associated with the Southern Michigan market.

It must be recognized that an unanticipated loss or gain of a substantial sales outlet by a distributing plant having sales in two regulated markets could result in shifting regulation from one order to another. When such a shift of sales takes place unexpectedly, the plant operator may elect to adjust the plant's distribution in its various sales areas to insure its regulation by the order under which it had been continuously regulated. A lock-in provision, as herein provided, (i.e., not regulating a Southern Michigan handler under another order until the third consecutive month of greater route disposition from his plant in the other order market) will afford him adequate time to take whatever steps are necessary to assure the continued regulation of his plant under either the Southern Michigan order or the other order.

Pooling a distributing plant under the Southern Michigan order until the third consecutive month in which its route disposition is greater in another order market is a reasonable basis for concluding that the plant has become more associated with the other market than with the Southern Michigan market. This is an appropriate standard for determining when the sales pattern of a plant has changed to the extent that it will continue to have greater route disposition in the marketing area of the other order. The stability of both order markets would be best realized by keeping such a plant pooled under Southern Michigan until it was evident that the plant continued for a reasonable period to have more route disposition in the other market.

Under certain conditions, the order should exempt from pooling a distributing plant with greater route disposition in the Southern Michigan marketing area than in the marketing area of the other order, but which is nevertheless subject to full regulation under the other order. This is necessary to avoid the possible conflict of the two orders. Accordingly, the lock-in provision herein adopted would not be applicable if the other order does not release a plant from regulation for the first two months in which it had more route disposition in such other marketing area. Also, since a number of other orders have lock-in provisions, it is appropriate to provide (as is commonly provided in other orders) that a plant with more route disposition in the Southern Michigan marketing area than in the marketing area of another order be exempt from pooling under Southern Michigan for the months it is pooled under the other order's lock-in provision.

4. *Classification of frozen yogurt and frozen yogurt mixes.* The products commonly referred to as frozen yogurt and frozen yogurt mixes should be classified in Class III.

The McDonald Cooperative Dairy, which proposed a Class III classification for these products, produces and processes a frozen yogurt mix and distributes it along with ice cream mixes and ice milk mixes to its customers. The proponent contends that frozen yogurt and frozen yogurt mixes are frozen dessert items and should be classified in the frozen dessert classification (Class III). There was no opposition to its proposal.

Frozen yogurt, a new product that first appeared in the market about six months ago, has been sold in other parts of the country for several years. Neither frozen yogurt nor frozen yogurt mix is referred to in the order as a product to which a specified classification is applicable.

Before frozen yogurt mix is sold for consumption as frozen yogurt, it is run through a "soft-serve" type freezer. The product is sold as a soft-serve frozen dessert product in the same manner as high-solids ice milk mixes are marketed.

Except for the addition of a culture, the ingredients used in the manufacture of frozen yogurt are the same as those used in the manufacture of ice milk mix, namely: cream, milk, skim milk, condensed milk, sucrose, corn sugar, stabilizers, emulsifiers and whey solids. The consistencies of frozen yogurt and ice milk as sold to the consumer are essentially the same.

From the above, it is apparent that frozen yogurt and frozen yogurt mixes are considered in a category of those products known as frozen desserts. It is appropriate, therefore, that the order include frozen yogurt and frozen yogurt mixes in the classification specified for frozen desserts, Class III.

Rulings on Proposed Findings and Conclusions

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

General Findings

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the tentative marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

Rulings on Exceptions

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

Marketing Agreement and Order

Annexed hereto and made a part hereof are two documents, a Marketing Agreement regulating the handling of milk, and an order amending the order

regulating the handling of milk in the Southern Michigan marketing area which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered, That this entire decision, except the attached marketing agreement, be published in the FEDERAL REGISTER. The regulatory provisions of the marketing agreement are identical with those contained in the order as hereby proposed to be amended by the attached order which is published with this decision.

DETERMINATION OF PRODUCER APPROVAL AND REPRESENTATIVE PERIOD

May 1977 is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of the order, as amended and as hereby proposed to be amended, regulating the handling of milk in the Southern Michigan marketing area is approved or favored by producers, as defined under the terms of the order (as amended and as hereby proposed to be amended), who during such representative period were engaged in the production of milk for sale within the aforesaid marketing area.

Signed at Washington, D.C., on: July 18, 1977.

ROBERT H. MEYER,
Assistant Secretary for Marketing Services.

Order[1] amending the order, regulating the handling of milk in the Southern Michigan marketing area.

FINDINGS AND DETERMINATIONS

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings.* A public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Southern Michigan marketing area. The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure (7 CFR Part 900).

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

Order relative to handling. It is therefore ordered that on and after the effective date hereof the handling of milk in the Southern Michigan marketing area shall be in conformity to and in compliance with the terms and conditions of the order, as amended, and as hereby amended, as follows:

The provisions of the proposed marketing agreement and order amending the order contained in the recommended decision issued by the Acting Administrator on June 6, 1977, and published in the FEDERAL REGISTER on June 10, 1977 (42 FR 29881) shall be and are the terms and provisions of this order, amending the order, and are set forth in full herein:

1. In § 1040.7, paragraph (c) is revised to read as follows:

§ 1040.7 Pool plant.

* * * * *

(c) The term "pool plant" shall not apply to the following plants:

(1) A producer-handler plant;

(2) An exempt plant;

(3) A distributing plant from which the Secretary determines there is a greater proportion of route disposition (except filled milk) in another marketing area regulated by another order issued pursuant to the Act than in the Southern Michigan marketing area and such plant is fully subject to regulation of such other order: *Provided*, That a distributing plant which was a pool plant under this order in the immediately preceding month shall continue to be subject to all of the provisions of this part until the third consecutive month in which it has a greater proportion of its route disposition (except filled milk) in such other marketing area, unless, notwithstanding the provisions of this subparagraph, it is regulated by such other order;

(4) A distributing plant which meets the requirements of paragraph (a) of this section which also meets the pooling requirements of another order on the basis of its route disposition in such other marketing area and from which the Secretary determines there is a greater quantity of route disposition (except filled milk) during the month in this marketing area than in such other marketing area but which plant is nevertheless fully regulated under such other order; and

(5) A supply plant which during the month is fully subject to the pricing and pooling provisions of another order issued pursuant to the Act, unless such plant is qualified as a pool plant pursuant to paragraph (b) of this section and a greater volume of fluid milk products (except filled milk) is moved to pool distributing plants than is moved to plants qualified as fully regulated plants under such other order on the basis of route disposition in the other marketing area.

2. In § 1040.40, paragraph (c)(1)(iv) is revised to read as follows:

§ 1040.40 Classes of utilization.

* * * * *

(c) * * *

(1) * * *

(iv) Milk shake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts (including frozen yogurt), and frozen dessert mixes (including frozen yogurt mixes);

* * * * *

§ 1040.50 [Amended]

3. In § 1040.50, paragraph (a)(1) is amended by changing "Zone II, 3 cents", "Zone III, 5 cents", "Zone IV, 7 cents", "Zone V, 9 cents", "Zone VI, 12 cents" and "Zone VII, 15 cents" to "Zone II, 5 cents", "Zone III, 7 cents", "Zone IV, 9 cents", "Zone V, 11 cents", "Zone VI, 14 cents" and "Zone VII, 17 cents", respectively.

§ 1040.75 [Amended]

4. In § 1040.75, paragraph (a)(3) is amended by changing "8 cents" to "10 cents".

[FR Doc.77-21064 Filed 7-21-77;8:45 am]

[7 CFR Part 1065]

[Docket No. AO 86-A37]

MILK IN THE NEBRASKA-WESTERN IOWA MARKETING AREA

Decision on Proposed Amendments to Marketing Agreement

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This final decision proposes several amendments to the Nebraska-Western Iowa Federal milk marketing order. The decision is in response to industry proposals considered at a public hearing in October 1976. Dairy farmer cooperatives will be polled to determine whether producers favor issuance of the proposed amended order.

A principal amendment would reduce the quantity of milk that a supply plant must ship to distributing plants to be a fully regulated plant under the order. This would help supply plants avoid unnecessary and costly milk shipments that might otherwise be made just to keep the plant qualified as a pool plant. Another amendment, intended to simplify the administration of the order, would alter the manner in which a cooperative association is paid for farm bulk tank milk that it delivers to a regulated pool

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

plant. This would not affect a plant operator's cost of milk or the level of payments to producers.

FOR FURTHER INFORMATION CONTACT:

Maurice M. Martin, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202–447–7183.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding:

Notice of Hearing. Issued September 15, 1976; published September 20, 1976 (41 FR 40495).

Notice of Extension of Time for Filing Briefs. Issued November 12, 1976; published November 17, 1976 (41 FR 50696).

Recommended Decision. Issued May 10, 1977; published May 16, 1977 (42 FR 24744).

Notice of Extension of Time for Filing Exceptions to the Recommended Decision. Issued June 2, 1977; published June 6, 1977 (42 FR 28897).

PRELIMINARY STATEMENT

A public hearing was held upon proposed amendments to the marketing agreement and the order regulating the handling of milk in the Nebraska–Western Iowa marketing area. The hearing was held, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice (7 CFR Part 900), at Omaha, Nebraska, on October 6–7, 1976 pursuant to notice thereof.

Upon the basis of the evidence introduced at the hearing and the record thereof, the Acting Administrator on May 10, 1977, filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision containing notice of the opportunity to file written exceptions thereto.

The material issues, findings and conclusions, rulings, and general findings of the recommended decision are hereby approved and adopted and are set forth in full herein, subject to the following modifications:

1. Under the heading "1. *Pooling standards for a supply plant.*":

a. Seven new paragraphs are added after paragraph 25.

b. Paragraph 28 is changed.

c. Three new paragraphs are added after paragraph 29.

d. Two new paragraphs are added after paragraph 32.

e. A new paragraph is added after paragraph 33.

2. Under the heading "2. *The Class I price zones within the marketing area and the applicable price for each zone.*", two new paragraphs are added after paragraph 32.

3. Under the heading "3. *Payment and accounting for farm bulk tank milk received by a handler from a cooperative association.*", a new paragraph is added at the end of the discussion.

The material issues on the record of the hearing relate to:

1. The pooling standards for a supply plant.

2. The Class I price zones within the marketing area and the applicable price for each zone.

3. The payment and accounting for farm bulk tank milk received by a handler from a cooperative association.

FINDINGS AND CONCLUSIONS

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

1. *Pooling standards for a supply plant.* The pooling requirements for a supply plant (other than a cooperative balancing plant) should be revised to require that at least 40 percent of the plant's monthly receipts of Grade A milk from dairy farmers (including milk diverted from the plant) be shipped as fluid milk products to pool distributing plants. Additionally, a plant that was pooled as a supply plant in each of the months of September through December should be provided continuing pool plant status during each of the following months of January through August in the event the plant does not meet the 40 percent shipping requirement, unless the plant operator requests that the plant be a nonpool plant.

Under the terms of the present order, a supply plant must ship at least 50 percent of its receipts of Grade A milk from dairy farmers (excluding diversions to nonpool plants) to pool distributing plants during the month to qualify for pooling in such month. A plant which is pooled as a supply plant in each of the months of August through December is accorded automatic pooling status in the subsequent months of January through July unless nonpool plant status is requested.

The order also provides that a supply plant operated by a cooperative association may qualify as a pool plant on the basis of the cooperative's total milk movements to pool distributing plants either by transfer from a supply plant or directly from member producers' farms. This provision is not at issue in the proceeding. However, for the purpose of this discussion, such a pool supply plant shall be referred to herein as a "cooperative balancing plant."

A cooperative association proposed that a supply plant no longer be granted automatic pooling status but instead be required to ship at least a specified amount of milk each month to qualify for pooling. As proposed, a supply plant that had met the 50 percent shipping requirement during each of the months of August through December could continue to be a pool plant during the subsequent January through July period by shipping a minimum of 30 percent of its receipts each month. If the fall shipping requirement was not met, then the plant would have to meet the 50 percent requirement in any month for which pooling is desired.

Additionally, the cooperative proposed that for the purpose of determining a plant's qualification for pooling, milk diverted from a supply plant to a nonpool plant be treated as a receipt of producer milk at the supply plant. Also, it proposed that any route disposition in the marketing area from the supply plant be treated as a shipment by such plant.

In its post-hearing brief, the proponent cooperative modified its initial position and concluded that a 40 percent and 25 percent shipping requirement would be acceptable for the August through December period and the January through July period, respectively. This modification was made on the basis that diverted milk be included as a receipt at the supply plant in determining whether the plant qualifies for pool status.

The proponent cooperative indicated that its proposal for year-round shipping requirements was prompted by the recent increase in manufacturing plants that have become pool supply plants under the order. The cooperative alleged that the automatic pooling provision provides an opportunity for a supply plant operator to pool a supply of milk without assuming any responsibility to supply the fluid market on a continuing basis throughout the year. Proponent maintained that additional manufacturing plants are qualifying as pool supply plants under the order so that the plant operators can use the marketwide pool to help them pay a competitive price (the order's blend price) to their dairy farmers and thus insure a supply of milk at their plants. The proponent cooperative reasoned that since most of the new supply plants are primarily engaged in manufacturing they should be required to maintain a substantial association with the fluid market by meeting year-round shipping requirements.

In further support of its position, the cooperative presented testimony on how it serves the fluid milk needs of handlers on a year-round basis. It was noted that every effort is made by the cooperative to meet the requirements of its fluid milk customers at all times. In this connection, the cooperative indicated that it is a source of supply for 15 of the 16 pool distributing plants in the market. Such supply needs of the distributing plants are met by direct shipments from member producers' farms or by transfers from the cooperative's four pool balancing plants. It was pointed out that the cooperative's monthly shipments to distributing plants in 1975 ranged from 68 to 83 percent of the total producer receipts under the order.

As indicated, the proponent cooperative proposed that milk diverted from a supply plant be counted as a receipt at the plant in determining its qualification as a pool plant. In support of this change, the proponent's witness contended that the exclusion of diversions as a receipt at the supply plant permits the pooling of substantial additional milk supplies which may not be available to meet the fluid needs of the market but which are intended solely for manufacturing use. The witness also indicated that such ex-

clusion of diversions can result in a potential inequity between handlers who maintain dual plant operations (facilities for the separate handling of Grade A milk and manufacturing grade milk at the same location) and those who do not since the latter probably would not divert milk to a manufacturing plant and thus would have to meet higher shipping requirements. In addition, the witness indicated that since other provisions of the order treat milk diverted from a pool plant as part of such plant's total supply, it is only appropriate to include diverted milk as a receipt in determining the pool status of a supply plant.

A second cooperative in the market that operates a pool supply plant opposed the modification of the pool supply plant provisions as initially proposed by proponent. A similar position was also taken by still another cooperative association which had commenced qualifying a plant as a pool supply plant in September 1976. The principal concern expressed by the two cooperatives was the recommendation to include milk diverted from a supply plant as a receipt at such plant for pooling purposes. They held that the inclusion of diverted milk as a receipt without any accompanying reduction in the shipping requirements during the qualifying period would effectively deny pool status to plants now pooled as supply plants under the order.

The witness for one of these cooperatives claimed that if diversions are included as a receipt for pool plant qualification purposes, about 40 percent more milk would have to be shipped from the cooperative's supply plant in order to meet the 50 percent shipping requirement. The witness further testified that even under the existing shipping requirements the cooperative has incurred financial losses in order to maintain pool status for its plant during the qualifying months of August through December.

Both of these cooperatives, on the other hand, proposed at the hearing that any deliveries of milk by a cooperative directly from the farms of member producers to a pool distributing plant be considered as having been received first at a plant of such cooperative. This recommendation was supported in its post-hearing brief by the cooperative that proposed the year-round supply plant shipments.

At the hearing, one of these cooperatives also proposed (1) the elimination of August as a qualifying month for automatic pooling of supply plants, (2) the continuation for one month of the pool status of a supply plant if it fails to meet the shipping requirements, provided it was a pool plant during each of the preceding 12 months, and (3) if diverted milk from a supply plant is included as part of the plant's receipts, a reduction of the shipping requirements for a pool supply plant to 35 percent of its receipts during the qualifying period and to 20 percent during the remainder of the year.

Six proprietary handlers who are operating pool supply plants with extensive manufacturing operations opposed any of the proposals or modifications thereto that would "tighten" pooling standards for supply plants. They generally favored a lower shipping requirement during the fall qualifying period for automatic pooling status, the continuance of the automatic pooling feature, and the elimination of August as a qualifying month. Five of the six handlers recommended in their post-hearing brief a 30 percent shipping standard in each of the months of September through December, with the continuance of the automatic pooling provision for the remaining months.

One of the proprietary handlers testified about the problems he encountered during the most recent qualifying period in making the required shipments to distributing plants. He indicated that in order to maintain pool status for one of his supply plants (a pool plant under the order since 1974) he had to arrange to deliver more milk from his supply plant to a distributing plant than it needed, and then backhaul the excess to his supply plant for manufacturing. He also expressed concern that the continuation of the present pooling standards could jeopardize his ability to maintain continued pool plant status because of competition from a greater number of supply plants competing for distributing plant outlets.

The representative of another proprietary handler who recently qualified his supply plant as a pool plant denied that it was their intent to take advantage of the automatic pooling provision and exploit the pool, as suggested by the proponent cooperative. He stated that milk associated with their supply plant has been and would be available to distributing plants when needed and that substantial quantities of the supply plant's producer receipts were being shipped to distributing plants.

The purpose of pooling standards for supply plants is to distinguish between those plants substantially engaged in serving the fluid needs of the regulated market and those plants that do not serve the market to a degree that warrants their sharing, through pooling, in the market's Class I returns. It is necessary, then, to establish pooling standards that reflect the needs of the local market. Basically, the minimum performance requirements should assure that supply plants associated with the market will make milk available to distributing plants at the times and in the quantities needed. Supply plants regularly serving the market should not be required, however, to ship substantial quantities of milk when it is not needed.

Presently, the order permits supply plants that have met the minimum shipping requirements during the months of August through December to remain pooled during the other months without making shipments to distributing plants at the same minimum level as during the short production months. This reflects the customary situation where the demand for supply plant milk is usually greater during the months of seasonally low milk production than during other months. A distributing plant's needs for supply plant milk may be substantially reduced during the months of seasonally high production when direct deliveries from producers largely fulfill the distributor's needs for milk. The automatic pooling provisions thus eliminate the need for supply plants to make costly, unneeded shipments to distributing plants during the months of heavier production merely to maintain their pool plant status. Moreover, such provisions permit those producers who have established their association with the fluid market by shipping to a pool supply plant to continue to share in the market's Class I sales during the period when supply plant milk may not be needed for fluid use.

The adoption of year-round shipping requirements should be based on an indication that distributing plants are having difficulty in obtaining adequate milk supplies from pool supply plants. This record does not demonstrate that this is the case. Instead, it is apparent that distributing plants are able to acquire from supply plants whatever milk supplies they need and when needed. This is so even at a time when distributors have become increasingly dependent on supply plant milk because of changes in their bottling patterns and their desire for milk of a standardized butterfat test.

Dairy farmers in the supply area for this market have been shifting from Grade B to Grade A milk production. This has resulted in an expanding Grade A milk supply seeking to share in the market pool. The principal means by which new producers enter the pool is by delivering to an existing pool plant or to a supply plant that later becomes fully regulated by its shipments to distributing plants. As was pointed out at the hearing, the pooling of these additional Grade A supplies has been accomplished principally by manufacturing plants upgrading their total farm supply to Grade A status and then making the required shipments to distributing plants.

At the time of the hearing, there were six such manufacturing plants that had established pool qualification under the order. Three of these plants have been pool supply plants for several years while the remainder acquired pool status at or near the beginning of the most recent qualifying period.[1] Most of the receipts at these plants are from dairy farmers who recently converted their production facilities to meet Grade A inspection requirements. Part of the milk supply at these plants, however, is being furnished by producers who have been associated with the market for quite some time.

Proponent's basic contention was that the automatic pooling feature has encouraged manufacturing plants to affiliate with the market to maintain a supply of milk for manufacturing purposes rather than to serve the fluid market on a substantial and continuing basis. By implication, proponent's position sug-

[1] Official notice is taken of the Nebraska-Western Iowa market administrator's monthly uniform price announcements for 1974–1976.

gests that such plants are meeting only the minimum shipping requirements during the qualifying period and then failing to make needed shipments to distributing plants during the period in which shipments are not required by the order. This is not supported by the record evidence. Supply plants are making milk supplies available to distributing plants when the milk is needed.

It is recognized that there can be an incentive for operators of manufacturing plants to associate milk supplies with the market for manufacturing purposes. Because of this, and in view of the number of such plants operating in this market, it is reasonable that the order provide greater assurance that milk supplies will be committed to fluid uses when needed by distributors.

As indicated previously, there have been instances where a supply plant operator, for the purpose of qualifying his plant, has made specific prearrangements for a distributing plant to receive the necessary qualifying shipments of milk and then ship the milk back to the supply plant for manufacturing uses. While this practice involves additional hauling and handling costs and results in uneconomic movements of milk, it has off-setting benefits to the supply plant operator in that he can acquire his milk at the Class III price and yet pay his producers the higher uniform price through the marketwide pool. Such practice in essence constitutes a predetermined commitment of pool milk for manufacturing use. The order should provide a safeguard against such exploitation of the pool.

Accordingly, to help assure that each supply plant pooled represents a continuing, reliable source of milk for the fluid market, the order should provide that only the net amount of milk shipped during the month to a pool distributing plant from the supply plant shall be counted as qualifying shipments. For example, a supply plant may ship fluid milk products to a distributing plant and arrange to have the latter plant transfer fluid milk products back to the supply plant in the same month. In this case, only that quantity of the supply plant's shipments not offset by the return shipments should count toward meeting the minimum shipping requirement for the supply plant. Also, a supply plant operator could operate another plant (pool or nonpool) and arrange to ship milk from his supply plant to a pool distributing plant and then have it transferred to his other plant for manufacturing, thereby facilitating the pooling of the supply plant. In this circumstance, the supply plant's shipments to the distributing plant should be reduced by the transfers to the supply plant operator's second plant in determining the quantity of qualifying shipments by the supply plant. These net shipment provisions should discourage any circumvention of the intent of the present supply plant performance provisions of the order without having any significant impact on normal marketing practices of pool supply plant operators.

Several of the proprietary handlers who operate pool supply plants with extensive manufacturing operations excepted to the requirement that only net shipments to a pool distributing plant count toward meeting the shipping requirement of a supply plant. Exceptors argued that such a requirement would jeopardize their ability to continue pool status when they are unable to make the necessary qualifying shipments to distributing plants. They further contended that any loss of pool plant status because of the net shipment requirement would unreasonably deny to some Grade A producers access to the fluid milk market.

Contrary to exceptors' position, loss of pooling status for any supply plant as a result of the net shipment requirement would demonstrate that there was an insufficient association of such plant with the fluid market to warrant its sharing in the market's higher Class I proceeds. Such loss of pooling status would not be inappropriate under existing marketing conditions in the market.

One of the pool supply plant operators also excepted to the net shipment requirement on the basis that there was no proposal presented at the hearing for such a provision. It is true that the net shipment requirement adopted herein was not proposed by the industry. However, the adoption of such a provision is fully within the scope of this proceeding.

Included in the notice of hearing was a proposal to change the pooling standards for supply plants. To quote from the Administrative Procedure Act (5 U.S.C. 553(b)), this provided the industry with notice of the "terms or substance of the proposed rule or a description of the subjects and issues involved." At the hearing the proponent of this proposal described the basis for the proposal, contending in part that a change in the current pooling standards was necessary to preclude the pooling of milk intended solely for manufacturing uses. In conjunction with this review of the present pooling standards, several modifications of the present standards were proposed at the hearing by other parties as well. Through these several proposals, industry concerns were brought out on the record relative to the appropriateness of the current pooling standards.

As already indicated, the evidence does not show that more stringent shipping requirements need to be imposed upon supply plants to assure that such plants are meeting the necessary association with the fluid market. At the same time, the evidence demonstrates a means whereby the current pooling standards can be circumvented if plant operators are inclined to do so. It cannot be overlooked that several supply plant operators in the market are in the manufacturing business. In view of this, it is not unreasonable to take steps to assure the integrity of the present standards. The net shipment requirement represents a reasonable means of doing this.

Although this provision was not specifically considered at the hearing, such a provision represents an alternative means of dealing with the concerns of the industry that were explored on the record. The Secretary cannot be restricted to adopting solely those changes that may be proposed in specific terms at a hearing. If this were so, he could be in a position of having a record that demonstrates a need for order amendments to remedy certain marketing problems but not having before him specific industry proposals that would result in the corrective action needed. Within the scope of the hearing proposals and evidence received, he must have the latitude to propose those order changes that will best meet the marketing problems before him.

The changes in the pooling standards adopted herein are not designed to necessarily lessen the amount of milk that may be pooled under the order. Neither are they intended to affect the pooling status of any such plant having a bona fide association with the market. Rather, such changes will promote the orderly and efficient marketing of milk in the marketing area.

The proposal that the pool qualifications for a supply plant be based on the actual receipts of Grade A milk from dairy farmers at the plant plus the milk of producers diverted from such plant should be adopted. Diverted milk may now be pooled without being counted as a part of the supply of the plant from which diverted in determining the plant's pool status.

Under the present arrangement, the current 50 percent minimum shipping requirement for a pool supply plant can be effectively reduced depending on the extent of such plant's total diversions. For example, if 30 percent[3] of the producer milk normally associated with such plant is diverted without being counted as part of the plant's total producer milk supply, the plant could qualify as a pool plant by shipping to pool distributing plants only 35 percent (rather than 50 percent) of its regular supply of producer milk. On the other hand, a supply plant that diverts no milk would have to ship 50 percent of its actual producer receipts to qualify for pooling. This procedure, which is currently being employed by some of the pool supply plants, results in inequity among supply plants in acquiring and maintaining pool status. It is reasonable, therefore, to include milk diverted from a supply plant as a receipt in determining such plant's pool status.

Such a change, however, requires a reduction in the present shipping percentage for pool supply plants. Including diverted milk as part of a supply plant's total receipts from producers for pooling purposes could result in some plants having difficulty in meeting the shipping requirements unless they adjusted their present operations. The change in the diversion arrangement adopted herein is

[3] The maximum allowable diversions by a pool supply plant operator is 30 percent during each of the months of January–March and September–November, and 40 percent during any other month, of the producer milk actually received at the plant.

not expected to result in substantial adjustments.

In view of current supply-demand conditions existing in this market, a reduction of 10 percentage points (from 50 to 40 percent) in the shipping standard appears reasonable. This lower shipping standard should be adequate to assure that milk associated with supply plants will continue to be available to distributing plants when needed.

A cooperative association that recently qualified a supply plant under the order excepted to the concept of including diverted milk as part of a supply plant's receipts in determining such plant's pooling status. The cooperative contended that adoption of the proposed change would make it difficult to maintain continuing pool status for its supply plant without resorting to unnecessary hauling and handling of milk. It is not apparent from its exception how the cooperative arrives at this conclusion. However, if the proposed changes result in nonpool status for the supply plant, this could not be construed as being inappropriate since it would be a direct manifestation of such plant's insufficient association with the fluid market.

In its exceptions, a cooperative that operates a pool supply plant reiterated its position taken at the hearing that the minimum shipping requirement for a supply plant should be no more than 35 percent of the plant's total receipts if diverted milk is included as a plant receipt in determining a supply plant's eligibility for pooling. The exceptor claimed that this minimum shipping requirement would be more appropriate because it would correspond to the total amount of milk that a supply plant can now pool under the order during the fall qualifying period on the basis of the present pooling and diversion provisions. Exceptor alleged that failure to adopt its recommendation could possibly result in uneconomic milk movements having to be made during the qualifying months solely for the purpose of maintaining pool status for its plants.

The record however, does not support exceptor's contention. Exceptor's witness conceded at the hearing that its supply plant could meet a 40 percent shipping standard based on including diversions as a plant receipt providing August was eliminated as a qualifying shipping month. As previously noted, this month is proposed to be eliminated as a qualifying shipping month. Moreover, there was no indication on the record that any other pool supply plant operator would experience difficulty in meeting the proposed 40 percent shipping standard. Thus, there is no need for shipping standards lower than initially adopted in the recommended decision.

The months of September–December, rather than August–December, should be used as the qualifying period in which a supply plant may earn automatic pooling status for the following months when there is less demand for supply plant milk. This change would more nearly reflect the current seasonal production pattern for the market. The four months of September–December is the period when milk production is lower relative to demand than in the remaining months of the year. During the most recent such four-month period (September through December 1975) for which data were available at the hearing, Class I utilization of producer milk was 59 percent. In the following eight months (January through August 1976) the comparable Class I utilization was 48 percent.

August, which would be eliminated as a qualifying month for automatic pooling, is now a month of relatively high production relative to demand. For the years 1974, 1975 and 1976, the Class I utilization of producer milk in August was 47 percent, 50 percent and 44 percent, respectively. These percentages for August are essentially at the same level as for the months of seasonally high production in this market. In fact, over the same three-year period, only the months of May, June and July had a lower Class I utilization than did August. In this circumstance, supply plants should not be forced to make substantial shipments when there is little demand for the milk. The qualifying period of September through December should be adequate to establish a supply plant's association with the fluid market.

Qualifying shipments by a supply plant that is not a cooperative balancing plant should not include milk delivered directly from farms to distributing plants by the supply plant operator. This was proposed at the hearing by a cooperative for the purpose of facilitating the continued pooling of its supply plant. The order already provides for this type of pooling arrangement in that a cooperative's plant may be a pool balancing plant if 51 percent or more of the cooperative's producer milk is moved to pool distributing plants either by transfer from the balancing plant or directly from members' farms. Thus, there is no need for the type of change proposed by the cooperative. Moreover, other changes in the pooling provisions adopted herein should aid the cooperative with respect to the pooling of its plant.

The two cooperative associations that operate pool supply plants in this market urged in their exceptions that cooperatives be allowed to meet supply plant shipping requirements on the basis of direct deliveries from producers' farms. The cooperatives' exceptions provide no basis, however, for taking a different position on this matter. For the reasons previously cited, direct deliveries from producer farms to distributing plants should not be considered as qualifying shipments of a supply plant.

In its exceptions, a proprietary handler requested that appropriate provisions be adopted to permit the proprietary operator of a pool supply plant to divert milk directly from the farm to a distributing plant and allow such diversions to count as a qualifying shipment from the supply plant. The need for this type of provision for proprietary handlers was not explored at the hearing. Thus, there is no adequate basis on this record to make an evaluation of the request.

At the hearing, a cooperative association proposed that a supply plant which fails to meet the shipping percentage requirement in any month nevertheless be permitted to remain pooled for such month if it was a pool supply plant in each of the preceding 12 months. This should not be adopted. The spokesman for the cooperative did not present any specific testimony on this issue other than merely offering the proposal. Moreover, the record provides no evidence of marketing problems that would warrant the implementation of such a "depooling" safeguard.

A group of proprietary pool supply plant operators excepted to this conclusion on the basis that a "depooling" safeguard is needed to offset any unforeseen circumstance beyond the control of the plant operator that would prevent milk movements from occurring. The exception provides no basis, however, for changing the conclusion reached in the recommended decision on this matter.

No action is taken on the proposal that route disposition in the marketing area from a supply plant be counted as a qualifying shipment for pooling purposes. This suggested change was included in the supply plant definition as initially proposed in the hearing notice. However, there was no testimony presented at the hearing either in support of or in opposition to the proposal.

2. *The Class I price zones within the marketing area and the applicable price for each zone.* No change should be made on the basis of this record in the zone price structure now applicable to pool plants located within the marketing area.

Currently, the marketing area is divided into three pricing zones. Zone 1 includes 39 eastern Nebraska counties, five western Iowa counties plus part of the Iowa county of Pottawattamie, and a portion of Union County, South Dakota. The largest cities in the marketing area are located in Zone 1, which include Omaha and Lincoln, Nebraska, and Council Bluffs and Sioux City, Iowa.

The extreme eastern part of the marketing area is included in Zone 2. This zone comprises 11 Iowa counties and that part of Pottawattamie County, Iowa, not included in Zone 1. The zone is predominately rural, with the largest populated center being Le Mars, Iowa.

The western portion of the marketing area, consisting of 31 Nebraska counties and extending westward from Zone 1 to the Wyoming State line, is included in Zone 3. Grand Island, Hastings, North Platte, Kearney and Scottsbluff, Nebraska, are the principal cities in Zone 3.

The Class I price at plants located in Zone 1 is $1.60 over the basic formula price. The Zone 2 Class I price is 10 cents less. The Zone 3 Class I price is 15 cents more than the Zone 1 price.

Six pricing proposals by three proprietary handlers, all of which would revise the zone price structure, were included in the hearing notice. At the hearing, however, proponents revised many of the proposals, or abandoned them.

Proposals initially offered by a handler at Le Mars, Iowa, who operates the only pool distributing plant in Zone 2, would have changed the prices applicable in each of the present zones, plus establishing an additional price zone. At the hearing, the handler modified his proposals set forth in the hearing notice and supported changes that: (1) would reduce the Zone 2 Class I price by 10 cents per hundredweight and (2) would establish a new two-county price zone comprising Woodbury County, Iowa, and Dakota County, Nebraska, both of which are now in Zone 1. The handler recommended that a Class I price 15 cents less than the Zone 1 price apply to the new zone.

The primary reason cited by the representatives of the proponent handler for the zone price revisions was that they would restore the historical Class I price relationships that existed between the Le Mars handler and handlers in Sioux Falls, South Dakota, prior to the June 1, 1976, amendment to the Eastern South Dakota order. This amendment reduced the Eastern South Dakota order's Class I differential from $1.50 to $1.40. Prior to the amendment, the Eastern South Dakota's Class I differential was identical to the Nebraska-Western Iowa Zone 2 Class I differential. Proponent claimed that the lowering of the Class I differential in the Eastern South Dakota market has seriously affected his ability to compete with handlers regulated under that order in his principal area of distribution.

In supporting the handler's position, witnesses stated that historically the alignment of Class I prices in Federal order markets has been based on the cost of transporting milk from Eau Claire, Wisconsin, which is in an area that is an important source of alternative milk supplies for various markets. They held that the Sioux Falls price is properly aligned with Eau Claire and that the Le Mars price should be similarly aligned. The witnesses reasoned that since the distance from the alternative milk supply area to Le Mars and to Sioux Falls is about the same, the $1.40 Class I price differential applicable at Sioux Falls is also proper for Le Mars.

Witnesses for the proponent handler also contended that the Zone 2 price has always been too high relative to the Omaha price (Zone 1). They maintained that their proposed Zone 2 price would improve the price alignment between Le Mars and Omaha.

To facilitate the alignment of prices, the handler also proposed establishing a new price zone encompassing Dakota County, Nebraska, and Woodbury County, Iowa (principally the Sioux City, Iowa area) with a Class I price differential of $1.45. It was argued by proponent that this would more accurately reflect the location value of milk in this area in relation to Omaha.

In further support of his position, the proponent handler noted that a factor considered by the Department in reducing the Eastern South Dakota order's Class I price was the availability of additional milk supplies for Sioux Falls handlers from the nearby heavy milk producing area of Swift, Yellow Medicine and Brown Counties, Minnesota. Since this milk production area is about equi-distant from Le Mars and Sioux Falls, proponent maintained that a Class I differential of $1.40 at Le Mars would be high enough to attract milk supplies from these three counties to his plant when needed.

Two proposals included in the hearing notice by the operator of three pool distributing plants at Grand Island and Omaha, Nebraska, and Sioux City, Iowa, which would revise the zone price structure as to territory and price, were abandoned at the hearing. Instead, the handler proposed the elimination of price zones and recommended that a differential of $1.60 (the present Zone 1 differential) apply throughout the marketing area. Additionally, he proposes that a 10-cent credit be allowed on any Class I sales in a lower-priced Federal order market by a pool handler. The handler believed that his proposed changes would enhance producer prices and improve handler equity from a competitive standpoint.

A third handler who operates a pool distributing plant at Norfolk, Nebraska (Zone 1), originally proposed the consolidation of Zones 1 and 2, with the present Zone 1 Class I price applying to the entire area. At the hearing, the handler did not support the proposal. Instead, he urged that no change be made in the Class I price structure until it can be reviewed at a hearing dealing with the merger of several orders in the region.[3] He did state, however, that if it were determined that a change in the zone price structure is necessary, then his recommendation would be to consolidate Zones 1 and 2 and have a $1.40 Class I differential apply to the entire area. Another alternative recommendation advanced by the handler was that if the proposed $1.40 Class I differential is adopted for Zone 2, then the proposed new two-county pricing zone should be expanded to include 10 additional counties now in Zone 1. Under this recommendation, the handler's plant would be included in the new price zone. The handler stated that his alternative recommendations were intended to maintain the same general competitive relationship with the two handlers at Sioux City and Le Mars that now exists under the present zone price structure.

At the hearing, a cooperative association opposed any change in the price structure for Sioux City and Zone 2 that would have the effect of reducing prices in those areas. The witness for the cooperative held that any price reduction would have an adverse effect on the maintenance of an adequate milk supply at distributing plants in these areas, particularly the single Zone 2 plant. He also maintained that any change in the price structure would disrupt the historical competitive relationship between handlers in Zones 1 and 2.

The cooperative did propose at the hearing, however, shifting to Zone 1 all the territory east of Garden and Deuel Counties, Nebraska, now included in Zone 3. The shift would involve 19 Zone 3 Nebraska counties, including the population centers of North Platte, Grand Island and Hastings. There are presently eight pool plants located in this 19-county area—four distributing plants, three supply plants and one cooperative balancing plant. Under its proposal, the "panhandle" section of Nebraska, comprising 11 western Nebraska counties, would be the only territory remaining in Zone 3.

The principal reason cited by the cooperative for the change was that the 15-cent higher price in Zone 3 relative to Zone 1 is no longer necessary to attract an adequate supply of milk at the distributing plants located in the 19-county area. In support of its position, the cooperative's witness claimed that marketing conditions have changed since the adoption in June 1968 of the present price structure for the 19-county area. One change cited was the decline in the number of distributing plants in the area—from five in 1968 to four at the present time. Another change was the supply-demand situation. The witness claimed that milk supplies in Zone 3 have become excessive in relation to the Class I sales of the distributing plants located in the area. He further testified that as a result of the increased supplies available in Zone 3 the cooperative has found it necessary to seek alternative outlets in a higher-priced market to enhance the returns to its member producers. This was accomplished, according to the witness, by pooling their former Nebraska-Western Iowa order pool supply plants at Broken Bow, Nebraska, and Ellis, Kansas, under the Eastern Colorado order.

Another cooperative that supplies several pool distributing plants in the market, although it did not testify at the hearing regarding zone pricing, supported in its post-hearing brief the proposal to shift 19 Zone 3 counties to Zone 1.

A handler who operates two pool distributing plants (at Lincoln and North Platte, Nebraska) opposed any change in the present zone price structure. The handler's representative stated that any price change for a single zone, as advocated by the Le Mars, Iowa, handler, would disrupt the historical price relationships among the three zones and as between adjoining markets. He further held that if the proposal to reduce the Zone 2 price by 10 cents is adopted, then the price in the other zones should be reduced the same amount in order to maintain historical price relationships within the marketing area.

Another handler who operates distributing plants at Lincoln and Grand Island, Nebraska, also opposed any change in the present zone price structure. The witness for the handler held

[3] The orders referred to here would include at least Eastern South Dakota, Greater Kansas City and Nebraska-Western Iowa. Such a merger, however, is not a matter pending before the Secretary at this time.

that the proposals to reduce the Zone 2 and Sioux City Class I prices, if adopted, would have an adverse effect on the handler's Lincoln plant in competing with the two plants at Le Mars and Sioux City. In his post-hearing brief, the handler revised his position taken at the hearing against any changes and supported the limited proposal to shift 19 Zone 3 counties to Zone 1.

At the hearing two other handlers (operators of a pool distributing plant and a pool supply plant, respectively) opposed any change in the present zone price structure. In their post-hearing briefs, the operators of several pool supply plants also expressed opposition to any change in the provisions establishing zone pricing.

The order's present zone price structure was established on the basis of the Assistant Secretary's decision issued April 15, 1968 (33 FR 6046) when the Sioux City, Iowa, order was merged with the Nebraska-Western Iowa order. It was reviewed at a public hearing held in May 1974. As a result of that hearing, the Assistant Secretary concluded in his decision issued November 26, 1974 (39 FR 41729), that no change should be made in the boundaries of Zones 1, 2 and 3 of the marketing area or in the prices applicable to such zones.

Except for the testimony of the handler who proposed that the same Class I price apply throughout the marketing area, the testimony presented at the current hearing supported the continuance of zone pricing under the order. The handler's proposal for a single Class I price throughout the marketing area would have the effect of reducing the Zone III Class I price by 15 cents and increasing the Zone II price by 10 cents. The handler's witness presented no specific facts or marketing problems supporting the proposal. There was no reason given why the Zone III price should be reduced. Neither was there any indication why the value of milk in Zone II should be more than what the present price reflects.

Under such a pricing scheme, producers obviously would want to deliver their milk only to the plants located nearest their farms to escape the transportation cost involved in more distant movements to other plant locations at which milk is needed. The likely result of this would be to increase the total handling and transportation costs for some handlers as opposed to others in obtaining adequate milk supplies. Accordingly, a single uniform Class I price applicable throughout the expansive marketing area would be inappropriate and could contribute to disorderly marketing conditions.

Under the order's price structure, Class I prices at various locations increase in relation to distance from the eastern to the western segment of the marketing area. This graduation of prices reflects the additional value that milk has at the various plant locations within the marketing area relative to the cost of obtaining milk supplies on a regular basis from alternative sources (an important source of alternative milk supplies for this market as well as for many other markets is the Upper Midwest region). It is anticipated that even in the absence of a regulatory program the Class I price structure would gradually increase in a westerly direction from the heavy milk producing Upper Midwest region reflecting the variable cost of moving milk supplies from this region.

The Class I prices that now apply at various locations in the Nebraska-Western Iowa market were thus established to reflect the value of an economic service to handlers by distant producers bearing the cost of moving their milk to a handler's plant. This is the case even though a handler may obtain his entire supply from local producers. In the absence of an adequate local supply, the handler would have to procure milk from other areas. Thus, the value of milk at such plant's location necessarily must reflect the cost of obtaining milk from alternative supply sources.

Additionally, the economic value of milk to the producer is determined by the alternative outlets for his milk. If this value is not properly reflected in the Class I price at various locations, the milk, over time, would not be available to plants at such locations.

The record evidence does not demonstrate that the present Class I price structure for the Nebraska-Western Iowa market is inappropriate or is contributing to disorderly marketing conditions. To the contrary, it appears that the present price structure is providing adequate milk supplies at all locations at which milk is delivered by producers and the necessary alignment of prices not only with other markets but also among the various segments within the market. Accordingly, the Class I zone price structure now applicable to the marketing area should be retained.

Present marketing conditions do not warrant a reduction in the Zone 2 Class I prices. As previously noted, the proponent handler's basic argument for reducing the Zone 2 Class I differential by 10 cents was that the present Eastern South Dakota Class I price applicable at Sioux Falls plants provides such plants with a competitive advantage over his Le Mars, Iowa, plant. Two Sioux Falls plants compete with the Le Mars plant for Class I sales, principally in the Sioux City, Iowa, area of Zone 1. Le Mars and Sioux Falls are located 25 miles and 85 miles, respectively, north of Sioux City. Based on the location differential rate of 1.5 cents per 10 miles contained in the order, the 85-mile distance from Sioux Falls to Sioux City would suggest a hauling cost of about 14 cents per hundredweight. In contrast, the cost of moving bulk milk from Le Mars to Sioux City would be about 4 cents. This would suggest a price difference of 10 cents per hundredweight between Sioux Falls and Le Mars, which is presently the case. Thus, this price difference cannot be regarded as disruptive to the Le Mars handler in competing with Sioux Falls handlers for fluid milk sales in the Sioux City area.

In further support of his basic argument, the proponent handler claimed that following the 10-cent reduction in the Eastern South Dakota order Class I price, he lost a bid on a sizeable wholesale account at Vermillion, South Dakota, to a Sioux Falls handler. Considering the greater distance to Vermillion from Sioux Falls (about 55 miles) than from Le Mars (about 36 miles), it is unlikely that Sioux Falls milk could be delivered to Vermillion at a cost significanty less than what the Le Mars handler would incur in serving the area.

The argument of the Le Mars handler that he has substantial sales in other markets where Class I prices are lower provides no basis, in itself, for reducing the Zone 2 Class I differential. A handler may distribute milk in any area he chooses. Should he decide to sell milk in an area where handlers have a lower cost, he must assume any competitive risks involved. It would be uneconomic to have the order provide a handler with cost comparability at any location at which he may choose to distribute milk.

The fact that the Le Mars handler has the same access, distance-wise, as Sioux Falls handlers to the three-county supply area in southwestern Minnesota referred to earlier provides no compelling basis for adopting the Le Mars handler's Zone 2 price proposal. There is no indication on this record that the present price for milk delivered to the Le Mars location does not reflect the economic value that such milk has to the Le Mars handler.

The Le Mars handler excepted to the above recommendation that the present Zone 2 Class I price should be retained. Exceptor's arguments generally implied that the Department applied different standards in denying his proposal for a 10 cent lower price in Zone 2 than was used in the Upper Midwest decision which reduced the Eastern South Dakota Class I price 10 cents. As evidence of this, the exceptor cited selected parts of the Upper Midwest decision to argue his points. In this connection, exceptor argues that the appropriate Class I pricing structure for Zone 2 should be based essentially on the cost of obtaining milk supplies from the nearest sources of reserve milk. He claims that this was the prime consideration used in reducing the Eastern South Dakota order's Class I price and supports his position regarding a 10-cent lower price for Zone 2.

This argument, however, fails to recognize that in providing an appropriate pricing structure for a market, it is most important that consideration be given both to the level of prices that are necessary to assure an adequate supply of milk and the necessary alignment of prices not only with other markets but also among the various segments within the market. Establishing a pricing structure on the basis advocated by the exceptor is only a peripheral consideration. Accordingly, exceptor's position is not supportable and there is no basis

for reaching a different conclusion on the Zone 2 Class I price.

The proposal to remove Woodbury County, Iowa, and Dakota County, Nebraska, from Zone 1, and include them in a new pricing zone with a 15-cent lower Class I price, which would affect only the price structure at the Sioux City plant, was proposed by the Le Mars handler as a corollary proposal to his proposed price reduction at Le Mars. Since the latter proposal is not adopted, further consideration is not given to the proposed 15-cent reduction at Sioux City. Moreover, the operator of the Sioux City plant testified that he was opposed to any price reduction at this time that might adversely affect producer returns and ultimately affect milk supplies in the market.

The proposal to reduce the Class I price 15 cents per hundredweight in 19 Zone 3 counties by shifting these counties to the lower-priced Zone 1 cannot be justified by the record evidence. Contrary to the proponent cooperative's position, the record evidence suggests that milk supplies in and around this area are not excessive and that additional supplies for plants in the area are obtained from the heavy production region in northcentral Nebraska (principally in the Zone 1 area), which is a principal supply area for Omaha distributing plants. The use of a 15-cent per hundredweight higher price in this 19-county area of the marketing area reflects the graduation of Class I prices from east to west that is necessary to reflect the differences in economic value that milk has to handlers in Zone 1 and 3. Without this alignment of prices, plants in the Omaha area, because of distance, would be preferential outlets for milk produced in northcentral Nebraska relative to plants in Zone 3.

Further, some of the milk produced in the 19-county area is delivered to plants regulated by orders south and west of this area where the price is higher. The present higher price in this general area provides the necessary alignment with such higher-priced markets. A 15-cent decrease in that portion of Zone 3, as proposed, could impair the ability of plants located therein to compete for the supplies available in the local area. The economic value of milk produced locally is determined by the alternative outlets for the milk. If this value is not properly reflected in the Class I prices at various locations, the milk, over time, probably would not be available to plants at those locations. The present 15-cent higher price in the 19-county area reflects the additional value that milk has at plants in this area.

As indicated previously, a handler proposed at the hearing that a 10-cent per hundredweight credit be granted to a pool handler on any Class I sales made in a lower-priced Federal order market. This proposal, however, does not comport with the Act since the Act provides for the pricing of producer milk at "the location at which delivery * * * is made." Moreover, the price established under the order at each plant location is the price that is considered necessary to bring forth an adequate supply of milk at that location. To reduce the price at any location because the handler has route distribution into a lower-priced area could jeopardize the ability of the handler to continue over time to receive an adequate supply of milk. Accordingly, the proposal is denied.

3. *Payment and accounting for farm bulk tank milk received by a handler from a cooperative association.* The method of payment to a cooperative association as the handler for farm bulk tank milk should be revised.

Presently, a pool plant operator who receives milk from a cooperative bulk tank handler is required to pay the cooperative association at the classified use value of such milk. Under this payment procedure, the cooperative association is responsible to the producer-settlement fund at class prices for such milk delivered to a pool plant rather than the pool plant operator.

A cooperative association proposed that the order provide that milk received at a pool plant from a cooperative bulk tank handler be paid for at the uniform price and the pool plant operator be obligated to the producer-settlement fund for such milk at its classified use value. There was no opposition to the proposal.

The cooperative's representative testified that the present payment procedure on such milk involves unnecessarily a third party (the cooperative bulk tank handler) in the transaction as related to obligations to the producer-settlement fund. In this connection, the witness contended the proposal would simplify the accounting for such milk received by the pool plant operator and would result in more effective administration of the order regarding the billing and collection of audit adjustments resulting from changes in classification of milk.

The order should specify, as proposed, that milk delivered to a pool plant by a cooperative bulk tank handler be treated as a receipt of producer milk and be paid for at the uniform price by the pool plant operator. The pool plant operator in turn would be responsible, rather than the cooperative, to the producer-settlement fund for the accounting of the utilization of such milk.

This change will simplify the accounting for such milk by the pool plant operator and will facilitate the administration of the order with respect to matters of financial responsibility, enforcement, and subsequent audit adjustments that may arise. Since the actual utilization of such milk reflects the receiving pool plant's operations, it is reasonable, therefore, that the responsibility for its accounting and payment be placed directly on the pool plant operator.

Under the revision adopted herein, a cooperative's obligation to the producer-settlement fund would continue to be the same as presently required (1) on producer milk received at its pool plant, (2) on producer milk it diverts to a nonpool plant from its own pool plant or from another pool plant, and (3) on any milk for which it is the bulk tank handler that exceeds the quantity of such milk delivered to pool plants. Also, the pool plant operator would continue to be responsible for the administrative assessment on the milk received from the cooperative bulk tank handler as is the case now under the order.

To accommodate the adopted change in the method of payment and accounting for cooperative farm bulk tank milk received by a handler, it is necessary to revise certain other provisions of the order to conform to the change. A group of pool supply plant operators excepted to the conforming revisions that were made in the classification of producer milk provisions on the basis that such revisions will deny a market to nonmember producers. Exceptors misunderstand the effect of the conforming changes. Such changes are not substantial and have no bearing on the availability of a market for member or nonmember producers.

Rulings on Proposed Findings and Conclusions

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

General Findings

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of the said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the tentative marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in

the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

RULINGS ON EXCEPTIONS

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

MARKETING AGREEMENT AND ORDER

Annexed hereto and made a part hereof are two documents, a Marketing Agreement regulating the handling of milk, and an Order amending the order regulating the handling of milk in the Nebraska-Western Iowa marketing area which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered, That this entire decision, except the attached marketing agreement, be published in the FEDERAL REGISTER. The regulatory provisions of the marketing agreement are identical with those contained in the order as hereby proposed to be amended by the attached order which is published with this decision.

DETERMINATION OF PRODUCER APPROVAL AND REPRESENTATIVE PERIOD

May 1977 is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of the order, as amended and as hereby proposed to be amended, regulating the handling of milk in the Nebraska-Western Iowa marketing area is approved or favored by producers, as defined under the terms of the order (as amended and as hereby proposed to be amended), who during such representative period were engaged in the production of milk for sale within the aforesaid marketing area.

Signed at Washington, D.C., on July 18, 1977.

ROBERT H. MEYER,
Assistant Secretary for Marketing Services.

Order[1] amending the order, regulating the handling of milk in the Nebraska-Western Iowa marketing area.

FINDINGS AND DETERMINATIONS

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings.* A public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Nebraska-Western Iowa marketing area. The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure (7 CFR Part 900).

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

Order relative to handling. It is therefore ordered that on and after the effective date hereof the handling of milk in the Nebraska-Western Iowa marketing area shall be in conformity and in compliance with the terms and conditions of the order, as amended, and as hereby amended, as follows:

The provisions of the proposed marketing agreement and order amending the order contained in the recommended decision issued by the Acting Administrator on May 10, 1977, and published in the FEDERAL REGISTER on May 16, 1977 (42 FR 24744) shall be and are the terms and provisions of this order, amending the order, and are set forth in full herein:

1. In § 1065.7, the word "July" where it appears in paragraph (d)(3) is changed to "August", and paragraph (b) is revised to read as follows:

§ 1065.7 Pool plant.

* * * * *

(b) A supply plant from which the volume of fluid milk products, except filled milk, shipped during the month to pool plants qualified pursuant to paragraph (a) of this section (excluding fluid milk products transferred from any such distributing plant to the supply plant or to any other plant operated by the operator of the supply plant) is not less than 40 percent of the Grade A milk received at such plant from dairy farmers (including receipts of producer milk diverted from the plant pursuant to § 1065.13) and handlers described in § 1065.9(c) during such month. A supply plant that qualifies as a pool plant in each of the immediately preceding months of September through December shall be a pool plant for the months of January through August unless the plant operator requests of the market administrator, in writing, that such plant not be a pool plant, such nonpool plant status to be effective the first month following such notice and thereafter until the plant again qualifies as a pool plant on the basis of shipments.

* * * * *

2. In § 1065.13, paragraphs (a) and (b) are revised to read as follows:

§ 1065.13 Producer milk.

* * * * *

(a) Received at a pool plant directly from a producer or a handler described in § 1065.9(c);

(b) Received by a handler described in § 1065.9(c) from producers in excess of the quantity delivered to pool plants; or

* * * * *

3. In § 1065.41, paragraph (b)(1) is revised to read as follows:

§ 1065.41 Shrinkage.

* * * * *

(b) * * *

(1) Two percent of the skim milk and butterfat, respectively, in producer milk (excluding milk diverted by the plant operator to another plant and milk received from a handler described in § 1065.9(c));

* * * * *

4. In § 1065.42, the semicolon at the end of paragraph (a)(1) is changed to a period; the word "and" immediately following is deleted; all of paragraph (a)(2) is revoked; and the introductory text of paragraph (a) is revised to read as follows:

§ 1065.42 Classification of transfers and diversions.

(a) *Transfers to pool plants.* Skim milk or butterfat transferred in the form of a fluid milk product or a bulk fluid cream product from a pool plant to another pool plant shall be classified as follows:

* * * * *

5. In § 1065.44, paragraphs (a)(8)(ii) (b) and (13) are revised to read as follows:

§ 1065.44 Classification of producer milk.

* * * * *

(a) * * *

(8) * * *

(ii) * * *

(b) Subtract from the above result the sum of the pounds of skim milk in receipts at all pool plants of the handler of producer milk, fluid milk products from pool plants of other handlers, and bulk fluid milk products from other order plants that were not subtracted pur-

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

suant to paragraph (a)(7)(vi) of this section; and

* * * * *

(13) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk in receipts of fluid milk products and bulk fluid cream products from another pool plant according to the classification of such products pursuant to § 1065.42(a); and

* * * * *

6. In § 1065.45, paragraph (d) is revised to read as follows:

§ 1065.45 Market administrator's reports and announcements concerning classification.

* * * * *

(d) On or before the 12th day after the end of each month, report to each cooperative association which so requests the class utilization of producer milk received by each handler from a cooperative association or from members of the association. For the purpose of this report, the milk caused to be so delivered by an association shall be prorated to each class in the proportion that the total receipts of milk received from producers by such handler were used in each class.

7. In § 1065.73, paragraph (d)(2) is revised to read as follows:

§ 1065.73 Payments to producers and to cooperative associations.

* * * * *

(d) * * *

(2) On or before the 14th day after the end of each month not less than the value of such milk at the uniform price as adjusted by the butterfat differential specified in § 1065.74 applicable at the location of the receiving handler's plant, less payment made pursuant to paragraph (d)(1) of this section;

* * * * *

8. In § 1065.85, paragraph (a) is revised to read as follows:

§ 1065.85 Assessment for order administration.

* * * * *

(a) Producer milk (including such handler's own production);

* * * * *

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Commodity Credit Corporation

[7 CFR Part 1435]

PRICE SUPPORT PAYMENT PROGRAM FOR 1977—CROP SUGAR

Extension of Comment Period

AGENCY: Commodity Credit Corporation, USDA.

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. The extension has been granted at the request of officials in the sugar industry.

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

ADDRESS: Mail comments to Chairman, Sugar Task Force, USDA–ASCS, Post Office Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT:

Robert R. Stansberry, Jr. (202–447–5735).

SUPPLEMENTARY INFORMATION: On June 14, a Notice of Proposed Rulemaking was published in the FEDERAL REGISTER (42 FR 30409) to advise that the Secretary of Agriculture proposes to establish a price support payments program beginning with the 1977 crop of sugar, and to provide that any written comments must be received on or before July 14, 1977. After reviewing concerns expressed to the Department by some officials of the sugar industry who asked for more time to analyze the proposed regulations, the comment period is being extended to assure all interested parties adequate opportunity to prepare written comments. Prior to adopting the program, the Department will give consideration to comments submitted in writing within the comment period, as extended, to the Chairman, Sugar Task Force. 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 3639, South Building, 14th and Independence Avenue SW., Washington, D.C. (7 CFR 1.27 (b)).

Signed at Washington, D.C., on July 18, 1977.

RAY FITZGERALD,
Executive Vice President,
Commodity Credit Corporation.

[FR Doc.77-21117 Filed 7-21-77;8:45 am]

Rural Electrification Administration

[7 CFR Part 1701]

RURAL ELECTRIC PROGRAM

Electric Distribution Borrowers' Financial and Statistical Report

AGENCY: Rural Electrification Administration, USDA.

ACTION: Advance notice of proposed rule.

SUMMARY: The Rural Electrification Administration (REA) proposes to amend Bulletin 108–1, Electric Distribution Borrowers' Financial and Statistical Report, containing instructions for completion of REA Form 7, Financial and Statistical Report, and REA Form 7a, Annual Supplement to Financial and Statistical Report. It is proposed that these reports be revised to provide REA more current information and to delete unnecessary information. The revisions are intended to create a more useful and pertinent report for the REA borrowers.

DATE: Public comments must be received by REA on or before August 18, 1977.

ADDRESS: Interested persons may submit written data, views or comments to the Director, Electronic Borrowers' Management Division, Room 3346, South Building, U.S. Department of Agriculture, Washington, D.C. 20250. All written submissions made pursuant to this notice will be made available for public inspection in the Office of the Director, Electric Borrowers' Management Division, during regular business hours.

FOR FURTHER INFORMATION CONTACT:

Mr. Charles R. Weaver, Director, Electric Borrowers' Management Division, Rural Electrification Administration, Room 3346, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, telephone 202–447–5900.

SUPPLEMENTARY INFORMATION: Pursuant to the Rural Electrification Act, as amended (7 U.S.C. 901 et seq.), REA proposes to revise REA Bulletin 108–1 issued October 29, 1964. The proposed revisions to REA Bulletin 108–1 are as follows:

1. *REA Form 7, Part A:* Line 7.1, Customer Service and Informational Expense, this line is added to the format to provide for reporting balances in accounts "907 through 910" as prescribed in the Uniform System of Accounts for REA Borrowers. The instructions covering the preparation of this report are also revised to include this new line.

2. *REA Form 7, Certification:* The treasurer is no longer required to execute the operating report and the lines for such execution have been deleted from this section of the report.

3. *REA Form 7, Part C, Balance Sheet:* Margins earned during the current year are no longer to be reported as patronage capital on line 26 for the December 31 report. The asterisks for lines 28, 29, 30 and the footnote after line 45 are deleted from the format. The instructions are also revised accordingly.

4. *REA Form 7, Part D, Consumer Sales and Revenue Data:* Consumer classes have been consolidated or revised to conform with FPC classifications as prescribed in the Uniform System of Accounts. Major changes are:

a. Sales for residential and domestic service regardless of location (excluding such sales made on a seasonal basis which are still handled as a separate classification) are now to be reported as one classification.

b. *Single phase service* to schools, churches, lodges and other public buildings are now to be classified as residential and domestic service and reported accordingly.

c. *Multiphase service* to schools, churches, lodges and other public buildings are now to be classified as commercial and industrial service and reported accordingly.

d. Sales to air force bases, missile sites, military bases, municipalities, and other divisions or agencies of federal or state governments, under special agreements or service classifications applicable only to public authorities, are now to be reported as Other Sales to Public Authorities.

e. Sales for Resale are now reported as one classification.

f. Security Light Data (former lines 14 and 15) are deleted from the report.

5. *REA Form 7a, Part B, Analysis of Accumulated Provision for Depreciation and Amortization—Total Utility Plant:* This part has been expanded to add a column for Balance, Beginning of Year.

6. *REA Form 7a, Part C, Estimate of Funds Invested in Plant During Year:* This part

has been deleted and dropped from the report and the instructions.

7. *REA Form 7a, Parts D through M* of the old form are relettered as Parts C through L.

8. *REA Form 7a, Part N, Continuing Property Records:* This part has been deleted from the report and the instructions.

9. *REA Form 7a, Parts P through V* of the old form are relettered as Parts M through T.

10. *REA Form 7a, Part R, Maintenance Renewal and Replacement Calculation* has been deleted and dropped from the report.

11. *REA Form 7a, Part P, Long Term Debt and Debt Service* has been added to furnish data, not currently available, that is necessary to evaluate the effect of supplemental and alternative financing on individual borrowers and on the rural electric program as a whole.

12. The instructions thoughout the bulletin have been revised to incorporate the above changes.

13. Requirements for submitting REA Form 7 to REA are changed to an annual submission of the report for the period ending December 31, unless the individual borrower is requested to submit the report on a more frequent basis.

A copy of the proposed revision of REA Bulletin 108-1 and REA Forms 7 and 7a may be secured in person or by written request from the Office of the Director, Electric Borrowers' Management Division.

Dated: July 14, 1977.

RICHARD F. RICHTER,
Acting Administrator.

[FR Doc.77-20031 Filed 7-21-77;8:45 am]

FEDERAL ENERGY ADMINISTRATION

[10 CFR Part 212]

POSTED PRICE MANUAL

Extension of Time for Filing of Comments

AGENCY: Federal Energy Administration, (FEA).

ACTION: Extension of comment period.

SUMMARY: The Federal Energy Administration ("FEA") is extending the comment period for its notice of inquiry on a preliminary list of posted prices for domestic crude oil. The extension is granted in response to several requests for additional time.

DATES: The comment deadline is extended to August 12, 1977.

ADDRESSES: Comments to: Federal Energy Administration, 2000 M Street, NW., Room 6304G, Washington, D.C. 20460. Attention: Theodore L. Flood.

FOR FURTHER INFORMATION CONTACT:

Theodore L. Flood (Office of Regulatory Programs), 2000 M Street, NW., Room 6304G, Washington, D.C. 20460 (202-254-8690).

SUPPLEMENTARY INFORMATION: On June 27, 1977, FEA issued a notice of inquiry on a preliminary list of posted prices for domestic crude oil (42 FR 34660, July 6, 1977). The notice solicited comments on the adequacy and accuracy of that list, and established July 22, 1977 as the deadline for the submission of such comments.

FEA has received several requests for an extension of the deadline for filing written comments due to the fact that the list, as printed in the FEDERAL REGISTER, was in part illegible. In addition, several persons have advised the FEA that the preparation of comments in response to the notice of inquiry is considerably more complex and time-consuming than originally anticipated.

Accordingly, in order to obtain the most comprehensive information possible, the deadline for filing comments in this proceeding is extended to August 12, 1977.

Issued in Washington, D.C., July 18, 1977.

ERIC J. FYGI,
Acting General Counsel,
Federal Energy Administration.

[FR Doc.77-21041 Filed 7-21-77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 500]

[Docket No. 77N-0133]

METHYLENE BLUE

Oral Use in Dogs and Cats

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The agency proposes to require approved new animal drug applications (NADA's) for animal drugs that contain methylene blue and are orally administered to cats and dogs, because studies indicate such drugs are neither safe nor effective.

DATES: Comments by September 20, 1977.

ADDRESSES: Written comments to the Hearing Clerk (HFC-20), Room 4-65, Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Andrew J. Beaulieu, Bureau of Veterinary Medicine (HFV-214), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857 (301-443-3183).

SUPPLEMENTARY INFORMATION: The thiazine dye, methylene blue, (tetramethylthionine chloride) has been used by oral administration as a weak antiseptic for the treatment of urinary tract infections in cats and dogs. It has been demonstrated to produce Heinz bodies indicative of hemolytic anemia in these animals. The reaction can be severe enough to cause death in cats.

In 1890, Robert Heinz, described the action of certain chemical substances, especially phenylhydrazine and its derivatives, to produce characteristic inclusion bodies in red blood cells (R. Heinz, "Morphologische Veranderungen der rothen Blutkorperchen durch gifte," Archow's Archives of Pathology and Anatomy, 122:112-116, 1890). Since that time, many substances, particularly aromatic compounds containing amino-, nitro-, or hydroxy-groups, have been found to produce "Heinz bodies" in the erythrocytes of many species of animals. Although the precise nature of Heinz bodies and the exact mechanism by which they are formed is unclear, some sources believe these inclusion bodies are a reliable sign of an existing or threatening anemia and that the Heinz-body test is a simple method for predicting substances that are destructive to red blood cells.

In 1949, it was demonstrated in a laboratory test that methylene blue could cause Heinz bodies in red blood cells of cats (S. S. Spicer, and Thompson, E. C., "Heinz Body Formation in vivo A property of Methylene Blue", Journal of Industrial Hygiene and Toxicology, 31:206-208, July 1949). In a more recent study (Schecter, Schalm and Kaneko, "Heinz Body Hemolytic Anemia Associated with the Use of Urinary Antiseptics Containing Methylene Blue in the Cat," Journal of the American Veterinary Medicine Association, (162) 1:37-44, January 1, 1973), two urinary antiseptic-antispasmodic preparations for oral use that contain methylene blue caused Heinz-body hemolytic anemia in cats when used according to label directions. One of six animals died, and several others had reactions that reportedly would have resulted in their death had not counteracting therapy been instituted. The drugs used in this study were representative of a large number of similar products that generally contain methylene blue, atropine sulfate, hyoscyamine sulfate, gelsemium, methenamine, salol and benzoic acid. The cause of adverse reactions was determined to be methylene blue, which was present in the amount of 5.4 milligrams per tablet. The products were administered at the recommended dosage levels three times daily for periods ranging from 2 to 15 days. Methylene blue has also been demonstrated to produce a Heinz-body hemolytic anemia reaction in dogs under laboratory conditions.

In addition to finding these drugs unsafe, the Commissioner finds that the effectiveness of orally administered methylene blue as a urinary antiseptic is open to question. It appears that following oral administration, methylene blue is poorly and erratically absorbed and also slowly and erratically excreted in the urine. Studies in the dog indicated it is excreted in the urine essentially as leuko-methylene blue stabilized in some manner. Methylene blue itself is stepwise demethylated in alkaline solutions (alkaline urine being a frequent consequence of urinary infection) to Azure B, Azure A, and Azure C. The antiseptic efficacy of all of these excretion products is unsubstantiated.

In view of the foregoing, the Commissioner concludes that methylene blue for oral administration to cats and dogs is neither safe nor generally recognized as

effective. Therefore, animal drugs containing methylene blue for such use are now considered new animal drugs within the meaning of section 201(w) of the act (21 U.S.C. 321(w)) for which approved new animal drug applications are required. Accordingly, all prior formal and informal opinions expressed by FDA that such drugs are "not new drugs" or "no longer new drugs" are hereby revoked.

Animal drugs that contain methylene blue for oral use in cats and dogs and are not the subject of an approved NADA will be deemed to be adulterated under the provisions of section 501(a) (5) and/or (6) and/or misbranded under section 502(a) of the act (21 U.S.C. 351(a) (5) and (6) and 352(a)) and subject to regulatory action 30 days after the date of publication of a final order based on this proposal. Sponsors of such products may submit NADA's in conformity with § 514.1 Applications (21 CFR 514.1), which will be processed in accord with section 512 of the act. Submission of an NADA will not constitute grounds for continued marketing of this substance until the NADA is approved.

A copy of the article "Heinz Body Hemolytic Anemia Associated with the Use of Urinary Antiseptics Containing Methylene Blue in the Cat" and other supporting data for this proposal are on file in the office of the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

The Commissioner has carefully considered the environmental effects of the proposed regulation and, because the proposed action will not significantly affect the quality of the human environment, has concluded that an environmental impact statement is not required.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 512, 701 (a), 52 Stat. 1055, 82 Stat. 343-351 (21 U.S.C. 360b, 371(a))), and under authority delegated to the Commissioner (21 CFR 5.1), it is proposed that new § 500.50 be added to Subpart A, to read as follows:

§ 500.50 Methylene - blue - containing drugs for use in animals.

(a) New information requires a reevaluation of the status of drugs containing methylene blue (tetramethylthionine chloride) for oral use in cats or dogs.

(1) (i) It has been demonstrated that two orally administered urinary antiseptic-antispasmodic preparations that contained methylene blue caused Heinz-body hemolytic anemia in cats when used according to label directions. The specific cause of the reaction was determined to be the methylene blue contained in the preparations. The reaction can be severe enough to cause death of treated animals.

(ii) The Heinz body hemolytic anemia reaction to methylene blue has also been demonstrated in dogs under laboratory conditions. The precise mechanism by which methylene blue produces the characteristic erythrocytic inclusion bodies (Heinz bodies) and associated hemolytic anemia is unclear.

(2) The effectiveness of orally administered methylene blue as a urinary antiseptic is open to question. It appears that following oral administration, methylene blue is poorly and erratically absorbed and also slowly and erratically excreted in the urine. Studies in the dog indicate it is excreted in the urine essentially as leuko-methylene blue stabilized in some manner. Methylene blue itself is stepwise demethylated in alkaline solutions (alkaline urine being a frequent consequence of urinary infection) to Azure B, Azure A, and Azure C. The antiseptic efficacy of all of these excretion products is unsubstantiated.

(3) In view of the foregoing, the Commissioner has concluded that animal drugs containing methylene blue for oral use in cats or dogs are neither safe nor generally recognized as effective within the meaning of section 201(w) of the act and are therefore considered new animal drugs. Accordingly, all prior formal and informal opinions expressed by the Food and Drug Administration that such drugs are "not new drugs' or "no longer new drugs" are hereby revoked.

(b) Animal drugs that contain methylene blue for oral use in cats or dogs and not the subject of an approved new animal drug application (NADA) are deemed to be adulterated under the provisions of section 501(a) (5) and/or (6) and/or misbranded under section 502(a) of the act and subject to regulatory action as of 30 days after the date of publication of the final regulation.

(c) Sponsors of animal drugs that contain methylene blue for oral use in cats or dogs and not the subject of an approved new animal drug application (NADA) may submit an application in conformity with § 514.1 of this chapter. Such applications will be processed in accordance with section 512 of the act. Submission of an NADA will not constitute grounds for continued marketing of this drug substance until such application is approved.

(d) New animal drug applications required by this regulation pursuant to section 512 of the act shall be submitted to the Food and Drug Administration, Bureau of Veterinary Medicine, Office of Scientific Evaluation (HFV-100), 5600 Fishers Lane, Rockville, Md. 20857.

Interested persons may, on or before September 20, 1977, submit to the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

NOTE.—The Food and Drug Administration has determined that this document does not contain a major proposal requiring preparation of an inflation impact statement under Executive Order 11821 and OMB Circular A-107. A copy of the inflation impact assessment is on file with the Hearing Clerk, Food and Drug Administration.

Dated: July 14, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc.77-20784 Filed 7-21-77;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 765-6; PP 6E1792/P51]

[40 CFR Part 180]

PESTICIDE PROGRAMS

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Proposed Tolerances for the Pesticide Chemical Aldicarb

AGENCY: Office of Pesticide Programs (EPA).

ACTION: Proposed rule.

SUMMARY: This notice proposes a tolerance for residues of the insecticide aldicarb on bananas. This proposal was submitted by Union Carbide Corp. This amendment will establish a maximum permissible level for residues of aldicarb on bananas.

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

ADDRESS: Comments to: Federal Register Section, Technical Services Division (WN-569), Office of Pesticide Programs, EPA, Rm. 401, East Tower, 401 M St. SW, Washington DC 20460.

FOR FURTHER INFORMATION CONTACT:

Mr. Frank Sanders, Product Manager (PM) 12, Registration Division (WH-567), Office of Pesticide Programs, EPA, 202-426-9425.

SUPPLEMENTARY INFORMATION: Union Carbide Corp., 1730 Pennsylvania Ave. NW, Washington DC 20006, has submitted a pesticide petition (PP6E1792) to the EPA. This petition requests that the Administrator propose that 40 CFR 180.269 be amended by the establishment of a tolerance for combined residues of the insecticide aldicarb (2-methyl-2-(methylthio-propionaldehyde *O*-(methylcarbamoyl) oxime and its cholinesterase - inhibiting metabolites 2 - methyl - 2 - (methylsulfinyl) propionaldehyde *O* (methylcarbamoyl) oxime and 2-methyl-2-(methylsolponyl) propionaldehyde *O* (methylcarbamoyl) oxime in or on the raw agricultural commodity bananas at 0.3 part per million (ppm).

The data submitted in the petition and all other relevant material have been evaluated, and it is concluded that the tolerance of 0.3 ppm established by amending 40 CFR 180.269 will protect the public health. The scientific data submitted with this petition to support the proposed tolerance consisted of two 18-month mouse feeding studies, a three-generation rat reproduction study, a dominant lethal mutagenicity study, a

90-day dog-feeding study, a cholinesterase-inhibition study, acute oral and dermal LD_{50} (lethal dose) studies and an inhalation study. Previously submitted studies were twoyear rat-feeding, hen neurotoxicity, and rat teratogenicity studies were two-year rat-feeding, hen year dog-feeding study with a no-effect level (NEL) of 3.3 ppm, a two-year rat-feeding study with a 2 ppm NEL, and a three-generation rat reproduction study with a 2 ppm NEL.

In addition, the degradation of aldicarb in plants and animals is understood and an adequate analytical method (gas chromatography using a flame-photometric detector) is available. Tolerances have previously been established for aldicarb from 1 ppm to 0.002 ppm on a wide variety of raw agricultural commodities. The pesticide is considered useful for the purpose for which tolerances are sought, and there is no reasonable expectation of residues in eggs, meat, milk, or poultry, as delineated in 40 CFR 180.6(a)(3) from the proposed use. It is proposed, therefore, that the tolerance be established 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, within 30 days after publication of this notice in the FEDERAL REGISTER, that this proposal be referred to an advisory committee in accordance with section 408(e) of the Federal Food, Drug, and Cosemtic 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, "PP6E1792/P51". 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.

STATUTORY AUTHORITY: Section 408(e) of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 346a(e)].

Dated: July 15, 1977.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

It is proposed that Part 180, Subpart C, § 180.269 be amended by alphabetically inserting the new item "bananas" in the table, as follows:

§ 180.269 Aldicarb; tolerances for residues.

* * * * *

Commodity:	*Parts per million*
* * *	* * *

[FR Doc.77-21031 Filed 7-21-77;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.

ADVISORY COMMITTEE ON FEDERAL PAY

PROPOSED ADJUSTMENT IN FEDERAL PAY FOR FISCAL 1978

Public Discussions

The Advisory Committee on Federal Pay announces that its public discussions of the proposed adjustment in Federal pay for Fiscal 1978, scheduled for July 27 and 28 (announced in the FEDERAL REGISTER of July 13) have been postponed. The dates for the discussions will be announced in a subsequent issue of the FEDERAL REGISTER.

JEROME M. ROSOW,
Chairman, Advisory Committee on Federal Pay.

[FR Doc.77-21294 Filed 7-21-77;8:45 am]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

FARMER-TO-CONSUMER DIRECT MARKETING ACT OF 1976

Policies and Procedures Governing Administration

AGENCY: Extension Service, Agricultural Marketing Service, USDA.

ACTION: Notice.

SUMMARY: This document establishes the policies, procedures and responsibilities for distributing and allocating funds appropriated to carry out section 5 of the Farmer-to-Consumer Direct Marketing Act of 1976.

EFFECTIVE DATE: It is to the benefit of the public that this program be made effective as soon as practicable in order to allow implementation during the summer period when direct marketing is of the most advantage to both the producer and the consumer. Accordingly, good cause is found that notice and opportunity for public comment is impracticable, unnecessary and contrary to public interest, and good cause is found to make this program effective July 22, 1977.

FOR FURTHER INFORMATION CONTACT:

Sharon Hoobler, Extension Service, telephone 202-447-5633, and James Toomey, Agricultural Marketing Service, telephone 202-447-2704, U.S. Department of Agriculture, Washington, D.C. 20250.

SUPPLEMENTARY INFORMATION: The Farmer-to-Consumer Direct Marketing Act of 1976 provides for support from both the State Extension Services and the State Departments of Agriculture for aiding in the development and expansion of direct farmer-to-consumer marketing of agricultural products. Funds will be allocated to the State Cooperative Extension Services and State Departments of Agriculture based on approved project proposals.

SECTION 1. *Project Proposals.*—The project proposals, where possible, should contain the proposed educational program to be provided by a State Extension Service, the services to be carried out by a State Department of Agriculture and an estimate of funds needed by each agency for each fiscal year to complete the total project. Project proposals are to be submitted to the Administrators of Agricultural Marketing Service and Extension Service, USDA. Guidelines for submitting project proposals and budgets will be forwarded to State Extension Services and State Departments of Agriculture. The appropriated funds will be used to support projects submitted by the States for the purpose of conducting new and additional programs which will help individuals and groups evaluate direct marketing-to-consumer alternatives, help establish such facilities and arrangements, where appropriate, and help increase the efficiency and effectiveness of direct farmer-to-consumer marketing operations, including helping farmers identify consumer groups interested in direct marketing and to work more closely with consumers for their common interest. The activities shall include, but shall not be limited to:

1. Sponsoring conferences to facilitate the sharing of information (among farm producers, consumers, and other interested persons or groups), concerning the establishment and operation of direct marketing from farmers to consumers, and to discuss research findings and other information important in direct marketing;

2. Compiling laws and regulations relevant to the conduct of the various methods of such direct marketing within the state, formulating drafts to enabling legislation needed to facilitate such direct marketing;

3. Determining feasible locations for additional facilities for such direct marketing;

4. Preparing and communicating practical information needed on the establishment and operation of such direct marketing; and

5. Providing assistance to interested individuals or groups in establishing arrangements for direct marketing from farmers to consumers, including projects for the inner city and those emphasizing programs for limited resource farmers.

Final date for submission of Project proposals will be July 25, 1977.

SEC. 2. *Criteria for Evaluating Project Proposals.*—The Administrators of Extension Service and Agricultural Marketing Service will jointly review proposals in consultation with representatives from Economic Research Service, Farmer Cooperative Service, State Departments of Agriculture and State Cooperative Extension Services.

In evaluating project proposals, priority will be given to:

1. Those of a prototype nature, and emphasizing new and innovative approaches which can have a significant impact on the development and/or expansion of effective direct farmer-to-consumer markets for farm products and carry out the purposes of the Farmer-to-Consumer Direct Marketing Act of 1976.

2. Proposals from states with staffs available to develop and conduct significant prototype programs during the two-year period (FY 1977 and 1978).

3. Proposals which provide for an evaluation of the contribution of the project to increasing the volume of direct farmer-to-consumer sales, and estimates of benefits to producers in terms of increased returns and benefits to consumers in terms of reduced costs and/or improved quality.

Programs encompassing two or more states will be considered.

SEC. 3. *Approvals.*—Project proposals will be approved for not to exceed a two-year period, subject to the availability of funds for Fiscal Year 1978.

SEC. 4. *Progress Reports.*—A report of progress and accomplishment shall be submitted by State Departments of Agriculture and State Extension Services to the Administrators of Extension Service and Agricultural Marketing Service, U.S. Department of Agriculture, six months from the date of approval of the project proposal, and at every six-month interval thereafter until completed.

Dated: June 23, 1977.

JOHN S. BOTTUM,
Acting Administrator, Extension Service.

Dated: June 27, 1977.

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

[FR Doc.77-21116 Filed 7-21-77;8:45 am]

Animal and Plant Health Inspection Service

NEW YORK ANIMAL IMPORT CENTER, NEWBURGH, NEW YORK

Availability of Draft Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of

1969, the Animal and Plant Health Inspection Service, Department of Agriculture, has prepared a draft environmental statement for the proposed New York Animal Import Center, Newburgh, New York, USDA–APHIS–ADM–76–1–D.

The draft environmental statement concerns the construction of a proposed Animal Import Center on a site at Stewart Airport near Newburgh, New York. This proposed Animal Import Center will replace an existing facility in Clifton, New Jersey.

The draft environmental statement was transmitted to the Council on Environmental Quality on June 17, 1977.

Copies are available for inspection during regular working hours at the following locations:

USDA, APHIS, ASD, Architectural Engineering Branch, Room 522, Presidential Building, 6525 Belcrest Road, Hyattsville, Maryland 20782.

Metropolitan Transportation Authority, Stewart Airport, Newburgh, New York 12550.

Public Library, Grand Street, Newburgh, New York 12550.

A limited number of single copies are available upon request to Architectural Engineering Branch, Administrative Services Division, Animal and Plant Health Inspection Service, United States Department of Agriculture, Room 522, Presidential Building, 6525 Belcrest Road, Hyattsville, Maryland 20782.

Copies of the draft environmental statement have been sent to various Federal, State, and local agencies as outlined in the Council on Environmental Quality Guidelines.

Comments are invited from the public, from State and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved for which comments have not been requested specifically.

Comments concerning the proposed action and request for additional information should be addressed to Dr. Francis J. Mulhern, Administrator, Animal and Plant Health Inspection Service, United States Department of Agriculture, Room 316–E, Administration Building, 14th and Independence Avenue, SW., Washington, D.C. 20250.

Dated: July 15, 1977.

F. J. MULHERN,
Administrator, Animal and Plant Health Inspection Service.

[FR Doc.77-20932 Filed 7-21-77;8:45 am]

Extension Service

FARMER TO CONSUMER DIRECT MARKETING ACT OF 1976

Policies and Procedures for Administration

CROSS REFERENCE: For a document issued jointly by the Agricultural Marketing Service and the Extension Service, USDA, on the administration of the Farmer to Consumer Direct Marketing Act of 1976, see FR Doc. 77-21116, appearing under the Agricultural Marketing Service in the Notices Section of this FEDERAL REGISTER.

Rural Electrification Administration

DAIRYLAND POWER COOPERATIVE, LACROSSE, WISCONSIN

Draft Environmental Impact Statement

Notice is hereby given that the Rural Electrification Administration intends to prepare a Draft Environmental Impact Statement in accordance with section 102(2)(C) of the National Environmental Policy Act of 1969 in connection with certain Federal approvals required by Dairyland Power Cooperative, LaCrosse, Wisconsin 54601, to construct transmission facilities.

The proposed transmission facilities consists of a 19-mile 161 kV transmission line between the Dairyland Power Cooperative's generating plant near Genoa, Wisconsin, and the Interstate Power Company generating plant near Lansing, Iowa. It is intended that the Environmental Impact Statement will study the effects of the transmission line crossing a wildlife refuge near Lansing, Iowa.

Interested persons are invited to submit comments which may be helpful in preparing the Draft Environmental Impact Statement.

Comments should be forwarded to the Assistant Administrator-Electric, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250, with a copy to the borrower whose address was given above. Additional information may be obtained at the borrower's office during regular business hours.

Dated at Washington, D.C., this 14th day of July 1977.

RICHARD F. RICHTER,
Acting Administrator.

[FR Doc.77-20930 Filed 7-21-77;8:45 am]

UNITED POWER ASSOCIATION, ELK RIVER, MINNESOTA

Proposed Loan Guarantee

Under the authority of Public Law 93-32 (87 Stat. 65) and in conformance with applicable agency policies and procedures as set forth in REA Bulletin 20-22 (Guarantee of Loans for Bulk Power Supply Facilities), notice is hereby given that the Administrator of REA will consider providing a guarantee supported by the full faith and credit of the United States of America for a loan in the approximate amount of $12,178,000 to United Power Association of Elk River, Minnesota. These loan funds will be used to finance generating facilities consisting of three 25 MW combustion turbines to be constructed in Minnesota near the towns of Pine City, Cambridge, and Maple Lake, respectively.

Legally organized lending agencies capable of making, holding, and servicing the loan proposed to be guaranteed may obtain information on the proposed project, including the engineering and economic feasibility studies and the proposed schedule for the advances to the borrower of the guaranteed loan funds from Mr. Philip O. Martin, Manager, United Power Association, Elk River, Minnesota 55330.

In order to be considered, proposals must be submitted on or before August 22, 1977, to Mr. Martin. The right is reserved to give such consideration and make such evaluation or other disposition of all proposals received, as United Power Association and the Rural Electrification Administration deem appropriate. Prospective lenders are advised that guaranteed financing for this project is available from the Federal Financing Bank under a standing agreement with the Rural Electrification Administration.

Copies of REA Bulletin 20-22 are available from the Director, Information Services Division, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250.

Dated at Washington, D.C., this 13th day of July 1977.

DAVID A. HAMIL,
Administrator, Rural Electrification Administration.

[FR Doc.77-20796 Filed 7-21-77;8:45 am]

UNITED POWER ASSOCIATION

Negative Determination

Notice is hereby given that the Rural Electrification Administration (REA) has made a negative determination on the need for an environmental impact statement by REA in connection with a loan commitment from the Rural Electrification Administration for United Power Association of Elk River, Minnesota (UPA), to construct the Bunker Lake 345/230 kV substation adjacent to an existing distribution substation near Andover, Minnesota, in Anoka County.

UPA has prepared an Environmental Report of the proposed action in which REA has had extensive input. The Environmental Report is in compliance with REA's environmental guidelines an numerous commitments have been made by UPA to satisfy Federal, State, and local requiremnts.

Our independent evaluation of the proposed project leads us to conclude that REA's financial assistance for this project does not represent a major Federal action that would significantly affect the quality of the human environment.

Based on REA's independent evaluation, our review of the Environmental Report and REA experience with installations of this type and the subsequent environmental effects, a negative determination was made under Section 5K of REA Bulletin 20-21.

Additional information may be secured on request, submitted to Mr. Richard F. Richter, Assistant Administrator-Electric, Rural Electrification Administra-

tion, U. S. Department of Agriculture, Washington, D.C. 20250.

Final REA action with respect to this matter may be taken after fifteen (15) days, from the date of the FEDERAL REGISTER publication of this notice, but only after REA has reached satisfactory conclusions with respect to its environmental effects and compliance with the National Environmental Policy Act of 1969.

Dated at Washington, D.C., this 15th day of July 1977.

RICHARD F. RICHTER,
Acting Administrator, Rural Electrification Administration.

[FR Doc.77-21066 Filed 7-21-77;8:45 am]

CIVIL AERONAUTICS BOARD

[Docket 31114; Agreement CAB 26142; Order 77-7-46]

ALASKA AIRLINES, INC. AND WIEN AIR ALASKA, INC.

Substitute Service Facilitation Agreement; Order Deferring Action and Requesting Comments

Issued under delegated authority, July 12, 1977.

Pursuant to section 412(a) of the Federal Aviation Act of 1958, as amended (the Act), and Part 261 of the Board's Economic Regulations, Alaska Airlines, Inc. and Wien Air Alaska, Inc. have filed with the Board an agreement (Agreement CAB 26142) providing for certain cooperative working arrangements during periods of strikes and other work stoppages. The pact is referred to as a substitute service facilitation agreement. More specifically, in the event of a strike or other work stoppage resulting in a substantial reduction of one of the carrier's flight operations, the agreement provides, inter alia, that the other carrier (the operating carrier) may request exemption authority from the Board to provide substitute for the period of the strike or work stoppage in any of the struck carrier's markets within or to Alaska which have experienced a substantial reduction in certificated flight operations. Moreover, the agreement provides that upon grant of such exemption authority, the struck carrier will make available for the period of the strike or work stoppage to the operating carrier its facilities and ground equipment at those stations where it provided service and its employes willing to provide assistance at those points.

In a preamble to the agreement, it is noted, inter alia, that Alaska and Wien provide the only transportation services to a number of communities in the State of Alaska, and that the occurrence of a strike or other work stoppage can cause economic loss and harm to those communities as well as to other communities in the state.

Upon consideration of the instant agreement, and the present factual record, it has been concluded that a more thorough evidentiary record is needed in order to determine whether this agreement should be approved. Accordingly, further consideration of the agreement will be deferred temporarily to afford the parties enumerated here, and other interested persons, an opportunity to state their views on the proposal as well as the additional issues set forth herein. Copies of this order will be served on Alaska, Wien, the Airline Pilots Association, the United States Departments of Justice and Transportation, and the State of Alaska. Should these parties, or any other interested persons, elect to comment on the agreement they should address themselves to the questions of whether approval of the agreement would be adverse to the public interst; whether the agreement should be approved subject to certain conditions; whether the agreement is anticompetitive or in restraint of trade; and other matters deemed appropriate. Such comments will be due within 20 days of the date of service of this order.

Therefore, pursuant to authority duly delegated by the Board in its Regulations, 14 CFR 385.3, it is found that action on Agreement CAB 26142 should be deferred and comments requested.

Accordingly, *it is ordered* that:

1. Action on Agreement CAB 26142 is deferred;

2. This order shall be served on Alaska Airlines, Inc., Wien Air Alaska, Inc., the Airline Pilots Association, the United States Departments of Justice and Transportation, and the State of Alaska; and

3. The above-mentioned parties, and other interested persons, are granted 20 days to comment on Agreement CAB 26142 and the matters set forth above.

Persons entitled to petition the Board for review of this order pursuant to the Board's Regulations, 14 CFR 385.50, may file such petitions within 10 days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period unless within such period a petition for review is filed or the Board gives notice that it will review this order on its own motion.

This order shall be published in the FEDERAL REGISTER.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-21122 Filed 7-21-77;8:45 am]

[Order No. 77-7-37; Docket No. 30332; Agreement C.A.B. 26717 R-1 through R-15; Agreement C.A.B. 26720 R-1 through R-12]

IATA

Agreements Relating to General Cargo Rates and Specific Commodity Rates; Order

Issued under delegated authority, July 11, 1977.

Agreements have been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations between various air carriers, foreign air carriers, and other carriers embodied in the resolutions of the Traffic Conferences of the International Air Transport Association (IATA). The agreements were adopted at the Composite Cargo Traffic Conference held in Vancouver in May 1977.

Agreement C.A.B. 26717 and C.A.B. 26720, which pertain to cargo air transportation within TC2 (Europe/Africa/Middle East) and over the South Atlantic, respectively, would increase general cargo rates, minimum charges, and assorted container rates and charges by various amounts; would establish charges for the use of member-owned unit load devices; and would establish adjustment factors for the sales of cargo transportation in order to relate local currency rates more closely with fluctuating foreign exchange values. The agreements would also amend the specific commodity rate structures in their respective areas.

We will approve those portions of the agreements governing rates which are combinable with rates to/from United States points, and thus have indirect application in air transportation as defined by the Act. Jurisdiction will be disclaimed on the remaining portions of the agreements, which involve noncombinable specific commodity rates between foreign points and thus have no application within the meaning of the Act.

Pursuant to authority duly delegated by the Board in the Board's Regulations, 14 CFR 385.14:

1. It is not found that the following resolutions, which have indirect application in air transportation as defined by the Act, are adverse to the public interest or in violation of the Act:

Agreement CAB	IATA No.	Title	Application
26717:			
R-1	001c	Cargo Tie-In Resolution—Europe/Middle East-Africa (new)	
R-2	001j	Two Year Effectiveness Escape—Cargo (readopting)	
R-3	001pp	Special Europe/Middle East-Africa Escape Resolution—Cargo (new)	
R-4	001x	Review of Cargo Rates (Readopting)	
R-5	002	Standard Revalidation Resolution	
R-6	014b	Construction Rule for Cargo Rates (Revalidating and Amending)	
R-7	022aa	TC2 Adjustment Factors for Sales of Cargo Air Transportation (new)	
R-8	115n	Meeting Rates, Charges and Practices from Europe to Africa (new)	
R-9	501	Minimum Charges for Cargo (Revalidating and Amending)	
R-10	515a	Air Ferry Rates for Live Horses and Attendants (Revalidating and Amending).	
R-11	521	Charges for the Use of Unit Load Devices (Revalidating and Amending).	

Agreement CAB	IATA No.	Title	Application
R-12	521c	Shipper Packed Unit Rates (Revalidating and Amending)	2
R-13	522	Charges for the Use of Member Owned Unit Load Devices (new)	2
R-14	552	TC2 General Cargo Rates	2
R-1	001c	Cargo Tie-in Resolution—South Atlantic	1/2
R-2	001j	Two Year Effectiveness Escape—Cargo (Readopting)	1/2
R-3	001x	Review of Cargo Rates (Readopting)	1/2
R-4	001zz	South Atlantic Escape Resolution—Cargo	1/2
R-5	002	Standard Revalidation Resolution	1/2
R-6	022ii	JT12 (South Atlantic) Adjustment Factors for Sales of Cargo Air Transportation (new).	1/2
R-7	501	Minimum Charges for Cargo—South Atlantic (Revalidating and Amending).	1/2
R-8	521	Charges for the Use of Unit Load Devices (Revalidating and Amending).	1/2
R-9	522	Charges for the Use of Member Owned Unit Load Devices (new)	1/2
R-10	534c	Charges for Bulk Unitization—South Atlantic (Revalidating and Amending).	1/2
R-11	554c	South Atlantic General Cargo Rates	1/2

2. It is not found that the following resolutions affect air transportation within the meaning of the Act:

Agreement CAB	IATA No.	Title	Application
26717: R-15	590	Specific Commodity Rates Board (Revalidating and Amending)	2
26720: R-12	590	Specific Commodity Rates Board (Revalidating and Amending)	1/2

Accordingly, *it is ordered*, That: 1. Those portions of Agreements C.A.B. 26717 and C.A.B. 26720 set forth in finding paragraph 1 above are approved; and 2. Jurisdiction is disclaimed with respect to those portions of Agreements C.A.B. 26717 and C.A.B. 26720 set forth in finding paragraph 2 above.

Persons entitled to petition the Board for review of this order, pursuant to the Board's Regulations, 14 CFR 385.50, may file such petitions within ten days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period, unless within such period a petition for review is filed or the Board gives notice that it will review this order on its own motion.

This order will be published in the FEDERAL REGISTER.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-20998 Filed 7-21-77;8:45 am]

[Docket 29123; Agreement C.A.B. 26654; R-1 through R-5; Order No. 77-6-150]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order; Passenger Fare Matters

Correction

In FR Doc. 77-19196, appearing at page 34540 in the issue of Wednesday, July 6, 1977, the Order Number should have been included, as set forth in the headings above.

CIVIL SERVICE COMMISSION

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

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 Equal Employment Opportunity Commission to fill by noncareer executive assignment in the excepted service the position of Executive Director, Office of the Executive Director, Office of the Chairman.

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

[FR Doc.77-20789 Filed 7-21-77;9:45 am]

DEPARTMENT OF COMMERCE

Maritime Administration

[Docket No. S-566]

PARTICIPATION BY VESSELS BUILT WITH CDS IN THE CARRIAGE OF ALASKAN OIL IN THE DOMESTIC TRADE

Applications by Boston VLCC Tankers, Inc. II and Boston VLCC Tankers, Inc. IV

Notice is hereby given that Boston VLCC Tankers, Inc. II and Boston VLCC Tankers, Inc. IV have applied for written permission under section 506 of the Merchant Marine Act, 1936, as amended, for the temporary employment of their respective tankers, the SS *Massachusetts* and the SS *New York*, in the carriage of Alaskan oil in the domestic trade. The vessels are expected to commence making voyages from Alaska to the Panama Canal in August/September 1977 and would engage in this trade for three six-month periods, with intervening periods of six months during which times the vessels would not engage in this trade. The voyages would be made in accordance with the provisions set forth in Part 250 of Chapter II, Title 46, of the Code of Federal Regulations as published in the FEDERAL REGISTER issue of June 29, 1977 (42 FR 33035). The SS *Massachusetts* and SS *New York*, each of about 264,000 dwt, were built with construction-differential subsidy and are under time charter to Petroleo Brasileiro S/A (Petrobras); a subcharter to Sohio Petroleum Company is to be arranged.

Interested parties may inspect the applications in the Office of the Secretary, Maritime Administration, Room 3099-B, Department of Commerce Building, 14th and E Streets NW., Washington, D.C. 20230.

Any person, firm or corporation who is a "competitor," as defined in § 250.2 of the regulations, and desires to protest such applications should submit such protest in writing, in triplicate, to the Secretary, Maritime Administration, Washington, D.C. 20230. Protests must be received by July 29, 1977. If a protest is received, the applicants will be advised of such protest by telephone or telegram and will be allowed three working days to respond in a manner acceptable to the Assistant Secretary for Maritime Affairs. Within five working days after the due date for the applicants' response, the Assistant Secretary will advise the applicants as well as those submitting protests, of the action taken, with a concise written explanation of such action. If no protest is received concerning the applications, the Assistant Secretary will take such action as may be deemed appropriate.

(Catalog of Federal Domestic Assistance Program No. 11.500 Construction-Differential Subsidies (CDS).)

By order of the Assistant Secretary for Maritime Affairs.

Dated: July 18, 1977.

JAMES S. DAWSON, Jr.,
Secretary.

[FR Doc.77-21034 Filed 7-21-77;8:45 am]

National Oceanic and Atmospheric Administration

PRELIMINARY MANAGEMENT PLAN FOR ATLANTIC PELAGIC LONGLINE FISHERY

Availability of Draft Environmental Impact Statement/Preliminary Management Plan and Notice of Public Hearing

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the National Oceanic and Atmospheric Administration, Department of Commerce, has prepared a draft environmental impact statement for the proposed implementation of a Preliminary Management Plan (PMP) for the Atlantic Foreign Pelagic Longline Fishery. In accordance with provisions of the Fishery Conservation and Management Act of 1976 (P.L. 94-265), this plan will remain in effect until such time as the appropriate Regional Fishery Management Councils develop a Fishery Management Plan for approval and implementation by the Secretary of Commerce.

The environmental statement concerns a proposal to adopt and implement a preliminary management plan for the Atlantic Pelagic Longline Fishery pursuant to the Fishery Conservation and Management Act of 1976, which extends U.S. jurisdiction over marine fishery resources to 200 nautical miles and established a program for their management. Upon approval, the plan will serve as the basis for regulation of pelagic fishery

resources in the western Atlantic Ocean, Gulf of Mexico and Caribbean Sea for optimum yield; and for determination of foreign surplus. The plan recommends certain conservation measures designed to prevent overfishing and to maintain an orderly fishery.

Individuals or organizations wishing to comment on the DEIS/PMP may do so at public meetings to be held in conjunction with the Gulf of Mexico or the South Atlantic Fishery Management Councils, which are currently working on the fishery management plan for this fishery. The times and locations are listed below:

AUGUST 9, 1977—FT. WALTON BEACH, FLORIDA

Mariner Room, Ramada Inn, U.S. Highway 98 E., Miracle Strip Parkway, 7 to 11 p.m.

AUGUST 16, 1977—MOREHEAD CITY, NORTH CAROLINA

Pine Knoll Shores, Roosevelt Drive, Route 1, 7:30 to 10 p.m.

AUGUST 18, 1977—CORPUS CHRISTI, TEXAS

Research and Extension Service Auditorium, Texas A&M University, Texas Highway 44, 7 to 11 p.m.

AUGUST 19, 1977—GALVESTON, TEXAS

Jury Assembly Room, Galveston County Courthouse, 722 Moody, 7 to 11 p.m.

AUGUST 23, 1977—MOBILE, ALABAMA

Room 3, Mobile Municipal Auditorium, 401 Auditorium Drive, 7 to 11 p.m.

AUGUST 24, 1977—NEW ORLEANS, LOUISIANA

Council Chamber Room, City Hall, 1300 Perdido, 7 to 11 p.m.

AUGUST 30, 1977—FT. FISHER, NORTH CAROLINA

North Carolina Marine Resources Center, (Wilmington/Carolina Beach area), 7:30 to 10 p.m.

AUGUST 30, 1977—ST. PETERSBURG, FLORIDA

Bahia Room, Bayfront Center Auditorium, 400 First Street, South, 7 to 11 p.m.

AUGUST 31, 1977—DUCK KEY, FLORIDA

Bermuda Hall, Indes Inn, Route 1, 7 to 11 p.m.

Copies of the DEIS/PMPs are available for inspection from the Regional Director, National Marine Fisheries Service, 9450 Gandy Boulevard, St. Petersburg, Fla. 33702, telephone 813-893-3141. Written comments on the DEIS/PMP's from the public may be submitted to the Regional Director not later than September 1, 1977 at the above address.

Dated this 20th day of July 1977, at Washington, D.C.

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

[FR Doc.77-21263 Filed 7-21-77;8:45 am]

WESTERN PACIFIC FISHERY MANAGEMENT COUNCIL

Public Meeting

Notice is hereby given of a meeting of the Western Pacific Fishery Management Council established in accordance with Section 302 of the Fishery Conservation and Management Act of 1976 (P.L. 94-265).

The Western Pacific Fishery Management Council has authority over fisheries within the Fishery Conservation Zone adjacent seaward of Hawaii, American Samoa and Guam. The Council will, among other things, prepare and submit to the Secretary of Commerce fishery management plans with respect to the fisheries within its area of authority, prepare comments on foreign fishing applications, and conduct public hearings.

The meeting of the Council will be held from August 10-14, 1977, at the King Kamehameha Hotel in Kailu, Kona, Hawaii. The meeting will commence at 9 a.m., and will adjourn at approximately 6 p.m., on August 10, 11 and 12, and will be scheduled as other related activities permit on August 13 and 14. The August 11 session will include an informational hearing on a proposed plan for the management of billfishes and related pelagic species, with special attention to receiving testimony from the interested public. The meeting may be extended or shortened depending upon progress of the meeting.

PROPOSED AGENDA

1. Administrative and financial reports.
2. Report of foreign fishing activity.
3. Report of the Third Meeting of the Scientific and Statistical Committee.
4. Consideration of a proposed management plan for billfishes and related pelagic species.
5. Consideration of the requirements for adequate enforcement of fishery management authority in the region.
6. Progress report on the NMFS contract study of the Kona recreational billfish fishery.

This meeting is open to the public, and there will be seating for approximately 50 members of the public on a first-come, first-served basis.

Members of the public having an interest in specific items for discussion are also advised that agenda changes are at times prior to the meeting. To receive information on changes, if any, made to the agenda, interested members of the public should contact, on or about August 1, 1977:

Mr. Wilvan G. Van Campen, Executive Director, Western Pacific Fishery Management Council, 1164 Bishop Street, Room 1506, Honolulu, Hawaii 96813. Telephone 808-523-1368.

Aside from the time set aside on August 11, for an informational hearing, interested members of the public may, at the discretion of the Council, be permitted to speak at times which will allow the orderly conduct of Council business. Interested members of the public who wish to submit written comments should do so by submitting them to Mr. Van Campen at the above address. To receive due consideration and to facilitate inclusion of these comments in the record of the meeting, typewrittn statements should be received within 10 days after the close of the Council meeting.

Dated: July 19, 1977.

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

[FR Doc.77-21093 Filed 7-21-77;8:45 am]

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

CERTAIN MEN'S AND BOYS' SUITS FROM THE REPUBLIC OF KOREA

Adjusting Import Restraint Level

JULY 20, 1977.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Granting an increase for flexibility in part of Category 224 (men's and boys' man-made fiber suits).

(A detailed description of the textile 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 for percentage increases in certain specific category ceilings for flexibility. Pursuant to paragraph 5(b) of the agreement, the import restraint level for part of Category 224 (men's and boys' man-made fiber suits) is being increased for the agreement year which began on October 1, 1976 and extends through September 30, 1977.

EFFECTIVE DATE: July 26, 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 by the Chairman of the Committee for the Implementation of Textile Agreements, in accordance with the bilateral agreement, to increase the twelve-month level of restraint previously established for part

of Category 244 (men's and boys' man-made fiber suits) to 36,474 dozens.

ARTHUR GAREL,
Acting Chairman, Committee for the Implementation of Textile Agreements, U.S. Department of Commerce.

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS,
July 20, 1977

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 designated 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 Textiles done at Geneva on December 20, 1973, pursuant to paragraph 5(b) 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, of March 3, 1972, you are directed to increase, effective on July 26, 1977, the twelve-month level of restraint established in the directive of September 29, 1976 for T.S.U.S.A. Numbers 380.0420 and 380.8143 in Category 224 to 36,474 dozen.[2]

The actions taken with respect to the Government of the Republic of Korea and with respect to imports of 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 the 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,

ARTHUR GAREL,
Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc.77-21378 Filed 7-21-77;9:59 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, specific 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.

[2] The level of restraint has not been adjusted to reflect any imports after September 30, 1976.

HAITI

Increasing Import Levels for Certain Cotton and Man-Made Fiber Apparel

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Increasing consultation levels for cotton and man-made fiber dressing gowns in Categories 55 and 231, produced or manufactured in Haiti and exported to the United States during the year which began on January 1, 1977.

SUMMARY: The Government of Haiti, under the terms of paragraph 7 of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of March 22, 1976, as amended, between the Governments of the United States and Haiti has requested permission to exceed the consultation levels for Categories 55 and 231 during the agreement year which began on January 1, 1977. The two governments have agreed on a new authorized shipment level of 1.7 million square yards equivalent (33,333 dozen) for each category.

EFFECTIVE DATE: July 25, 1977.

FOR FURTHER INFORMATION CONTACT:

Edmond Callahan, International Trade Specialist, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230. (202-377-5423).

SUPPLEMENTARY INFORMATION: On December 30, 1976, a letter of December 27, 1976 was published in the FEDERAL REGISTER (41 FR 56879) from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs which established levels of restraint applicable to certain specified categories of cotton and man-made fiber textile products, produced or manufactured in Haiti and exported to the United States during the twelve-month period which began on January 1, 1977. In the letter published below the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to prohibit entry of cotton and man-made fiber dressing gowns in Categories 55 and 231 in excess of the designated levels of restraint during the agreement year which began on January 1, 1977.

ARTHUR GAREL,
Acting Chairman, Committee for the Implementation of Textile Agreements.

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS,
July 21, 1977.

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C.

DEAR MR. COMMISSIONER: This directive amends, but does not cancel, the directive issued to you on December 27, 1976 by the Chairman, Committee for the Implementation of Textile Agreements, concerning imports into the United States of certain specified categories of cotton and man-made fiber textile products, produced or manufactured in Haiti.

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of March 22, 1976, as amended, between the Governments of the United States and Haiti, and in accordance with the provisions of Executive Order 11651 of March 3, 1972, you are directed to prohibit, effective on July 25, 1977 and for the twelve-month period which began on January 1, 1977 and extends through December 31, 1977, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton and man-made fiber textile products in Categories 55 and 231 in excess of 33,333 dozen in each category.[1]

The actions taken with respect to the Government of Haiti and with respect to imports of cotton and man-made fiber textile products from Haiti 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,

ARTHUR GAREL,
Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc.77-21377 Filed 7-21-77;9:59 am]

[1] These levels have not been adjusted to reflect any imports after December 31, 1976.

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

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: July 22, 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 May 6, 1977 and May 27, 1977 the Committee for Purchase from the Blind and Other Severely Handicapped published notices (42 FR 23187) and (42 FR 27278) 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 7530

Notebook, Stenographer, 7530-00-223-7939, increase in quantity produced from 1,720,800 to 2,100,000 annually.

Class 6630

Tube, bleeding (polypropylene), 6630-01-NIB-0001.

Class 6695

Sampling kit, spectro-metric, oil analysis 6695-NC-609-651P.

E. R. ALLEY, Jr.,
Acting Executive Director.

[FR Doc.77-21075 Filed 7-21-77;8:45 am]

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 services to be provided by workshops for the blind or other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: August 25, 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 services listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodities and services to Procurement List 1977, November 18, 1976 (41 F.R. 50975):

Class 7510

Binder, Looseleaf, 7510-00-984-5787.

Class 7930

Detergent, General Purpose, 7930-00-985-6945, 7930-00-985-6946, 7930-00-530-8067, 7930-00-527-1207, 7930-00-527-1237.

Polish, Furniture, 7930-00-266-7121, 7930-00-205-2876.

SIC 7699

Mattress and box spring, Rehabilitation, GSA Region 8.

SIC 0782

Grounds Maintenance, U.S. Army Reserve Center, Belmont and Manley Streets, Brockton, Massachusetts.

E. R. ALLEY, Jr.,
Acting Executive Director.

[FR Doc.77-21078 Filed 7-21-77;8:45 am]

COUNCIL ON ENVIRONMENTAL QUALITY

LIST OF ENVIRONMENTAL IMPACT STATEMENTS

Availability

The following is a list of environmental impact statements received by the Council on Environmental Quality from July 11 through July 15, 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. (September 5, 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

Draft

Bear Planning Unit, Gifford Pinchot National Forest, Skamania County, Wash., July 14: Proposed action is the implementation of a comprehensive management plan for the 27,490-acre Bear Planning Unit in Gifford Pinchot National Park. The preferred alternative provides for almost every resource use except Wilderness and domestic range. The Wind River Experimental Forest will be continued and 4,370 acres within the Columbia River Gorge would be recommended for classification as a Special Interest Area. Timber Management areas total 13,380 acres. Additional people using the area would cause minor physical and biological impacts. Logging and road construction would cause soil compaction and disturbance and some water quality degradation. (ELR Order No. 70869.)

Final

South Fork Salmon River Unit Plan, Valley County, Idaho, July 12: Proposed is a land use plan for the 348,328-acre South Fork Salmon River Planning Unit. Of this acreage, 246,000 lie within the Krassel Ranger District of Payette National Forest and 102,328 acres are in the Cascade Ranger District of Boise National Forest. The Unit also includes 855 acres of privately owned land, and 3,840 acres of State owned land (remote school sections that have no access). Land allocation areas include recreation, wilderness study and big game winter range. Comments made by: AHP, DOI, EPA, USDA, State and local agencies, and concerned citizens. (ELR Order No. 70856.)

Elk River Unit Plan, St. Joe National Forest, Clearwater and Latah Counties, Idaho, July 12: Proposed is the implementation of a land use plan for the 42,500 acre Elk River Planning Unit, St. Joe National Forest. The plan divides the planning unit into five management units which reflect differences in land capability and sensitivity. Adverse effects relate to timber harvest and access road construction and include decreased land productivity and environmental quality, loss of wildlife and fisheries values, and reduced economic and social benefits. Comments made by: COE, EPA, DOI, State and local agencies, and concerned citizens. (ELR Order No. 70863.)

SOIL CONSERVATION SERVICE

Draft

Tehuacana Creek Watershed, McLennan, Hill, and Limestone Counties, Tex., July 13: Proposed is the completion of a watershed project in McLennan, Hill, and Limestone Counties, Texas. The project contains provisions for needed land treatment measures on the watershed and the installation of 27 floodwater retarding structures, and channel work. Remaining land treatment measures are to be applied on about 11,000 acres of agricultural land and the remaining 23 grade stabilization structures, 3 floodwater retarding structures and 10.1 miles of channel work are to be installed for completion of the project. Destruction of wildlife habitat will occur on the 72 acres used for installation of dams and emergency spillways of structures. (ELR Order No. 70866.)

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 SW., Washington, D.C. 20314, 202-693-6795.

Supplement

Tallahala Creek Dam and Lake, Miss., July 12: The proposed project consists of construction of a 7,829 foot dam for the purpose of impounding waters of Tallahala Creek. The action would provide flood control, additional water supply, water quality control, and recreation including fish and wildlife enhancement. Adverse impacts include loss of 4,845 acres of agricultural and forest land and associated wildlife, loss of a free-flowing stream fishery, and disruption of inhabitants of the project area. (Mobile District.) (ELR Order No. 70864.)

Final

Muskingum River Basin Flood Control System, Holmes and Richland Counties, Ohio, July 11: Proposed is the continuation of the present operation and management of the Muskingum River Flood Control System of 16 lakes and two local flood protection levees located on the Muskingum River and its tributaries, Ohio. The original 14 lakes were constructed in the 1930's, with the two remaining lakes completed in 1960 and 1971. The two levee projects were completed in 1951 and 1960. Continued operation and management of the system will have minimal adverse effects on the hydraulic behavior of the present river system. (Huntington District.) Comments made by: AHP, USDA, DOI, EPA, DOT, USCG, and concerned citizens. (ELR Order No. 70851.)

NOTE.—CEQ erroneously published the following statement as a draft in the FEDERAL REGISTER of July 15, 1977. It should be listed as a final.

Final

West Point Lake, Chattahoochee River, Georgia and Alabama, July 7: Proposed is construction of a multipurpose concrete and earth dam on West Point Lake and Chattahoochee River in Alabama and Georgia. The dam would provide 73,375 kW of hydroelectric power, flood control, general recreational facilities, improved fishery and would aid downstream navigation. The project will result in loss of wildlife and timber resources in the 25,900 acres, relocation of 61 families

and 29 cemeteries, and low oxygen concentrations and increased iron and manganese concentrations during periods of lake stratification. (Savannah District.) Comments made by: EPA, HEW, DOI, FPC, DOT, State and local agencies, and interested parties. (ELR Order No. 70833.)

ENVIRONMENTAL PROTECTION AGENCY

Contact: Ms. Rebecca W. Hamner, Director, Office of Federal Activities, Room WSMW 537, 401 M Street SW., Washington, D.C. 20460, 202-755-0777.

Final

Los Angeles County Joint Outfall System, Los Angeles County, Calif., July 11: This statement covers the environmental impacts of alternative plans for water pollution control for the joint sanitation districts of Los Angeles County, California. This report will affect the future of the sewer and treatment plant network known as the Joint Outfall System. This network processes and disposes of wastewater (sewage from home and business and liquid industrial wastes) for over half of Los Angeles County's residents, more than three and one-half million people. The selected plan is a modification of the "Emphasize Inland Treatment and Water Reuse" alternative. (Region IX.) Comments made by: AHP, FPC, USDA, EPA, COE, DOI, GSA, DOT, DOC, HEW, State and local agencies, and concerned citizens. (ELR Order No. 70854.)

FEDERAL ENERGY ADMINISTRATION

Contact: Mr. Robert Stern, Director, Office of Environmental Programs, Federal Energy Administration, New Post Office Building, Room 7119, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461, 202-566-9760.

Final

Ironton Mine, Strategic Petroleum Reserve, Lawrence County, Ohio, July 15: This project involves the implementation of the Strategic Petroleum Reserve, Title I, Part B, of the Energy Policy and Conservation Act of 1975 (P.L. 94-163). The present action is part of the Early Storage Reserve and proposes to store 21 million barrels of oil in an underground limestone mine located near Ironton, Ohio. The proposed storage of oil at Ironton Mine would be implemented at an abandoned underground limestone mine presently owned by the Alpha-Portland Cement Company. Comments made by: USDA, USA, DOC, HEW, DOT, TREA, EPA, FPC, NPC, State and local agencies, and concerned citizens. (ELR Order No. 70871.)

Supplement

Bryan Mound Salt Dome, Strategic Petroleum Reserve (S-I), Brazoria County, Tex., July 15: This statement supplements a final EIS filed with CEQ in January 1977. The FEIS evaluated the development of the Bryan Mound Salt Dome as a storage site for the Strategic Petroleum Reserve. It has been determined that the original brine disposal and water supply systems proposed would be inadequate for long term requirements for filing and withdrawing oil at the site. This supplement discusses the construction and operation of two types of brine disposal systems and a new water supply system. (ELR Order No. 70872.)

FEDERAL POWER COMMISSION

Contact: Dr. Jack M. Heinemann, Advisor on Environmental Quality, Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, 202-275-4791.

Draft

TAPCO Project, July 11: The action discussed in this statement relates to a proposal by Tenneco Atlantic Pipeline Co. (TAPCO), to import natural gas at the U.S.-Canadian border near Calais, Maine. This gas would be shipped as LNG from Algeria to New Brunswick. After vaporization, the gas would be transported to the U.S.-Canada border near Calais, where it would be purchased by TAPCO. The applications discussed in this EIS would authorize the construction and operation of 495 miles of TAPCO pipeline and related appurtenance required to transport this imported gas from Calais, Maine, to Milford, Pennsylvania. (ELR Order No. 70847.)

DEPARTMENT OF HUD

Contact: Mr. Richard H. Broun, Director, Office of Environmental Quality, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410, 202-755-6308.

Draft

Westlake, Glendale Heights, Du Page County, Ill., July 12: Proposed is the granting of FHA/HUD home mortgage insurance for Westlake, a partially completed planned unit development located in the Villages of Glendale Heights and Bloomingdale, Illinois. This application is for 180 multifamily apartment units that comprise an intermediate stage of the development, which will eventually total 4,035 units. The action will result in increased air pollution, depletion of ground water, and an increased burden on the existing school system. (ELR Order No. 70862.)

Huntington Park Subdivision, Unit 2, Ouachita County, La., July 11: The proposed action is for HUD to accept the 69.5-acre Unit 2 of the Huntington Park Subdivision near Monroe, Louisiana, for home mortgage insurance. The development will provide 191 new houses for moderate-income families in a suburban subdivision setting. The major adverse effect will be the conversion of approximately 70 acres of land now used primarily for agricultural purposes. A portion of the project site is located wholly within the "Discretionary-Normally Unacceptable" noise zone, and 45 percent of the site is located within a 100-year flood zone. (ELR Order No. 70848.)

Riviera East Subdivision, Harris County, Tex., July 11: Proposed is the approval of an application for HUD/FHA home mortgage insurance for the Riviera East Project in Harris County, Texas. The 402.28-acre planned community development will consist of single family homes, multifamily units, and some commercial reserves. Adverse effects include loss of open space and an increased demand for fossil fuels through heavy dependence on the automobile for transportation. (ELR Order No. 70850.)

Shiloh Hills, Spokane County, Wash., July 11: The proposed action is approval of the application of the M&R Development Co. for HUD/FHA mortgage insurance for the Shiloh Hills Development, in Spokane, Washington. The 240-acre development will consist of 750 single family residential lots and will provide suitable housing for 350 to 600 residents a year for the next 6 to 10 years. The population growth will add to the load on utilities, transportation facilities, and governmental services for the area. (EIR Order No. 70845.)

The following are Community Development Block Grant statements prepared and circulated directly by applicants pursuant to section 104(h) of the 1974 Housing and Community Development Act. Copies may be obtained from the office of the appropriate local chief executive. (Copies are not available from HUD.)

Section 104(h)

Draft

Mena, Ark., Water Construction Projects, Polk County, Ark., July 12: Proposed is the completion of an on-going water construction program in the city of Mena, Arkansas. Specifically, the improvements to be constructed consist of approximately 82,250 lineal feet of water lines, a pump station, two pressure reducing stations and approximately 50 fire hydrants. The water lines vary in size from 12- to 6-inch. Adverse impacts include temporary construction phase inconveniences and fire hydrant intrusions. (ELR Order No. 70865.)

DEPARTMENT OF INTERIOR

Contact: Mr. Bruce Blanchard, Director, Environmental Project Review, Room 4256, Interior Bldg., Department of the Interior, Washington, D.C. 20240, 202-343-3891.

BUREAU OF LAND MANAGEMENT

Final

Sierra Pacific Power Co.—230/345 kv Transmission, Idaho, Nevada, July 11: The proposed action is the construction of a 230/345 kv transmission line from Oreana, Nevada to Hunt, Idaho. Depending on the route selected, total distance varies between 286 and 360 miles. The project includes construction of a substation and upgrading of two substations. Among negative impacts will be an increment of damage to soil on from 276 to 843 acres, disruption of land and aquatic wildlife habitat and effects on the visual and recreation resource values of the area. Comments made by: AHP, COE, DOI, DOT and State and local agencies, concerned citizens. (ELR Order No. 70849.)

NATIONAL PARK SERVICE

Final

Wilson's Creek Nat'l Battlefield, Master Plan, Green, Christian, Mo., Counties July 11: Proposed is the adoption of a master plan to guide the development, management, and use of Wilson's Creek National Battlefield. Implementation of the plan will protect and perpetuate the Battlefield and provide the visitor services contemplated by the establishment legislation. Adverse effects of the action are primarily short term and will be minimized. Developments such as interior road will destroy vegetation species with minimal effects upon wildlife and aesthetics and closure of the existing country road across the area will pose a minor inconvenience to a few persons residing immediately adjacent to the Battlefield. Comments made by: USDA, DOI, EPA and State and local agencies, concerned citizens. (ELR Order No. 70846.)

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

Ocean City Airport Expansion, Md., Worcester County, Md., July 12: Proposed is the expansion of the existing aviation airport in Ocean City, Maryland. The project consists of acquisition of 154 acres of land; construction of a new 3,200' x 75' runway, a 1000' x 75' extension to the existing runway, taxiways, and an apron expansion; relocation of a portion of S.R. 611; closing of the existing roadway; and improvement of alternate access to a trailer park. Implementation of the plan will result in the relocation of 4 homes and 50 trailers and the clearing of 124 acres of oak-pine forest. Comments made by: EPA, DOI, DOT, USDA, DOD, DOC, FPC

and concerned citizens. (ELR Order No. 70859.)

Chemung County Airport, Big Flats, Chemung County, N.Y., July 12: Proposed is a project for various improvements at the Chemung County Airport near Elmira, New York. Project plans call for the following: (1) Extension and strengthening of Runway 6-24, (2) extension of parallel taxiway, (3) relocation of NAV-AIDS, (4) acquisition of 161 acres for clear zones, (5) relocation of a creek, (6) installation of new runway and taxiway lighting, and (7) the removal and replacement of approach lighting. Adverse effects include loss of approximately 21 acres of farmland, and the relocation of two families Comments made by: DOT, HUD, EPA, DOI, COE, USDA and State and local agencies, concerned citizens. (ELR Order No. 70861).

FEDERAL HIGHWAY ADMINISTRATION

Draft

Alabama Highway 35, Rainsville, Fort Payne, De Kalb County, Ala., July 13: The proposed project consists of the widening, improving and/or relocating of Alabama Highway No. 35 in De Kalb County, Alabama. The 15.5-mile facility will extend from a point 1 mile east of Rainsville to a point 2.2 miles east of Fort Payne. Plans call for a four-lane divided rural highway except for 3 miles, through urban areas, which will be either an undivided five-lane urban type facility or a four-lane with a raised concrete or grassed median. The project will require the relocation of between 38 and 71 residences. (Region 4.) (ELR Order No. 70867.)

S.R. 18 Improvement near Marion, Grant County, Ill., July 11: This statement proposes a highway improvement which would upgrade State Road 18 near Marion, Illinois. The project would begin at the Norfolk and Western Railroad on 3rd and 4th Streets and extend east approximately 2.0 miles to the completed four-lane rural limited access facility constructed under another project. The action would result in displacement of some residences and businesses, severance of some agricultural land, and reduction in wildlife habitat. (Region 5.) (ELR Order No. 70852.)

Nebraska Highway 12, Niobrara, Knox County, Nebr., July 14: The proposed action consists of improving and relocating Nebraska Highway 12 through the relocated townsite of Niobrara, Nebraska. Project plans call for the construction of a 2.8 mile segment of two-lane highway from just west of the Mormon Canal Bridge in Knox County, Nebraska, to one mile east of Niobrara including widening Mormon Canal Bridge and a replacement bridge across the Niobrara River. Some impact on local wildlife is anticipated and approximately four acres from present Niobrara State Park will be needed to construct the replacement bridge. (ELR Order No. 70870.)

S.R. 153, Hixson Pike Connector to Southern RR, Hamilton County, Tenn., July 12: The proposed action is the construction of Federal Aid Urban (FAU) Route 603 (formerly FA-94 Spur), S.R. 153, in Hamilton County and within the City of Chattanooga, Tennessee. The project begins at the interchange of FAU 603 and the Hixson Pike Connector south of Hamill Road and extends northeastward across existing S.R. 153 to the Southern RR. Negative effects include displacement of residences and businesses, reduction of open space zoned industrial, and increases in air and noise pollution. (Region 4.) (ELR Order No. 70860.)

Final

Williams Interstate Freeway, I-40, Coconino County, Ariz., July 11: The statement concerns a 5.4 mile section of I-40 approximately .5 mile north of the City of Williams, Arizona. The project provides for the construction of two divided 38-foot roadways with an interchange in West Williams at Second Street and three railroad overpasses. The facility will require right-of-way on largely unimproved land. Comments made by: DOI, EPA, DOT, USDA, State and local agencies, and concerned citizens. (ELR Order No. 70855.)

U.S. 27 Flatrock to Greenwood, McCreary County, Ky., July 14: The project consists of the improvement of U.S. 27 from Flatrock to Greenwood, 6 miles in length, to a 2-lane facility with stabilized shoulders the truck passing lanes. Adverse impacts include the displacement of 10 families and one business, a serious threat of excessive erosion and sedimentation, undesirable aesthetic effects, minimal increases in noise and air pollutants. (Region 4.) Comments made by: HEW, EPA, DOI, USDA, State and local agencies, and concerned citizens. (ELR Order No. 70866.)

Relocated S.R. 32 (Patuxent Freeway), Howard, Anne Arundel Counties, Md., July 11: Proposed is construction of a section of Relocated Maryland Route 32 and Relocated Route 32 Spur, in Howard County, Maryland. The 10.4-mile facility will begin at Maryland Route 108 at Clarksville and extend to the Baltimore-Washington Parkway near Fort George G. Meade in Anne Arundel County. A 4(f) statement is included for 2 historical properties affected by this action. The project will result in higher levels of air and noise pollution. (Region 3.) Comments made by: DOI, DOD, USDA, EPA, State and local agencies. (ELR Order No. 70853.)

Final

I-55, Woodrow Wilson Dr. to I-220, Jackson, Hinds, Madison Counties, Miss., July 12: Proposed is the modification and alteration of the existing Interstate No. 55 located largely within the city limits of Jackson, Mississippi. The project is approximately 6 miles in length and extends in a northerly direction from Woodrow Wilson Drive in Jackson to Interstate No. 220. Construction is to take place on existing right of way where feasible; however, approximately 22 acres of additional right of way will be required. Six families and 14 businesses will be forced to relocate. (Region 4.) Comments made by: EPA, DOI, USDA, HUD, State and local agencies, and concerned citizens. (ELR Order No. 70857.)

I-464, Virginia, July 12: Proposed is construction of a 4.715-mile section of I-464 in Chesapeake and Norfolk, Virgnia. The project begins .928 mile north of the intersection of Route 64 in Chesapeake, generally traverses the area in a northerly direction, and terminates .101 mile south of the south end of the Berkeley Bridge in Norfolk. The facility will require relocation of 160 families, 7 businesses, and 7 non-profit organizations; and will increase levels of air and noise pollution. (Region 3.) Comments made by: DOI, HUD, HEW, EPA, COE, DOT, State and local agencies, and concerned citizens. (ELR Order No. 70858.)

I-64 Widening, Hampton, Virginia, July 14: The proposed action involves widening I-64 to a six-lane from a four-lane facility and modifying three interchanges between a point west of LaSalle Avenue and the north end of the Hampton Roads Bridge Tunnel, a distance of 3.4 miles. The project will displace an estimated 42 dwelling units, 0.2 acres of wetlands, 1.7 acres of fringing marshlands, 3.2 acres of non-tidal freshwater marsh, and a limited amount of wildlife habitat. Construction will involve negligible shellfish and finfish losses. The facility's increased traffic will cause some rise in air and noise pollution levels. (Region 3.) Comments made by: EPA, USDA, USA, DOC, HEW, DOT, State and local agencies, and interested parties. (ELR Order No. 70871.)

U.S. COAST GUARD

Contact: Mr. Don Dumlao, Environmental Impact Branch, U.S. Coast Guard, G-WEP-7/73, Washington, D.C. 20590.

Draft

Johns Creek Railway Line, Pike County, Ky., July 15: The proposed action consists of construction of 8.33 miles of new railway line located in the eastern part of Kentucky near the Virginia, West Virginia border. The purpose of the line is to transport coal more efficiently from the John Creek drainage to the Luisa Fork drainage and on to regional markets. Adverse impacts include disturbance of 150 acres of land and construction related effects. (ELR Order No. 70874.)

Final

Highway Bridge Across Wolf River, Fremont, Waupaca County, Wis., July 15: The project entails construction of a four-lane highway bridge to cross the Wolf River as part of the proposed realignment of U.S. 10 through Fremont, Wisconsin. Adverse impacts include acquisition of 0.7 acre of village park land, relocation of 4 families, relocation of a historical marker, slight noise impact upon the northern tip of the park, and short-term siltation and water pollution. Comments made by: DOT, DOI, COE, EPA, State and local agencies, and concerned citizens (ELR Order No. 70873.)

NATIONAL AERONAUTICS AND SPACE ADMIN.

Contact: Mr. Nathaniel Cohen, Director, Office of Policy Analysis, National Aeronautics and Space Administration, 400 Maryland Avenue, Washington, D.C. 20546.

Final

Subsonic Wind Tunnel Mod, Ames Research Center, Santa Clara County, Calif., July 11: Proposed is the modification of the existing 40- x 80-foot subsonic wind tunnel at Ames Research Center, Moffet Field, California, to provide a national facility for testing full-scale aircraft systems under simulated flight conditions. Tunnel construction activities will be divided into two phases: ground clearance and excavation activities, and tunnel erection and fabrication. These construction activities are expected to encompass an approximate 21-month period. Associated adverse effects include decrease in habitat and increases in levels of air pollution emission and noise. Comments made by: EPA, DOI, AHP, DOT, HUD, and interested parties. (ELR Order No. 70844.)

NICHOLAS C. YOST,
Acting General Counsel.

[FR Doc.77-21139 Filed 7-21-77;8:45 am]

DEPARTMENT OF DEFENSE

Department of the Air Force

DRAFT ENVIRONMENTAL IMPACT STATEMENT

Extension of Comment Period

JULY 14, 1977

The comment period for the revised Draft Environmental Impact Statement on the proposed reduction of Loring Air Force Base, Maine, as published in FR 42 29327, June 8, 1977, is extended from July 13, 1977 to August 12, 1977.

Any comments or questions should be directed to the Special Assistant for Environmental Quality (SAF/MIQ), the Pentagon, Room 4C885, Washington, D.C. 20330, Phone: 202-697-9297.

FRANKIE S. ESTEP,
Air Force Federal Register Liaison Directorate of Administration.

[FR Doc.77-21092 Filed 7-21-77;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 1065]

PETITIONS FOR RECONSIDERATION
Actions in Rulemaking Proceedings Filed

JULY 18, 1977.

Docket or RM No.	Rule No.	Subject	Date received
20813	Pts. 2, 13, 81 and 83..	Amendment of pts. 2, 13, 81, and 83 to implement changes in frequencies, operating procedures, technical standards and other criteria relating to the use of radiotelegraphy in the maritime services adopted at the ITU World Maritime Administrative Radio Conference, Geneva, 1974. Filed by Walter H. Morse, attorney for RCA Global Communications, Inc.	July 14, 1977

NOTE.—Oppositions to petitions for reconsideration must be filed on or before Aug. 8, 1977. Replies to an opposition must be filed within 10 days after time for filing oppositions has expired.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.77-21089 Filed 7-21-77;8:45 am]

FEDERAL POWER COMMISSION

[Project No. 1051]

ALASKA POWER AND TELEPHONE CO.
Notice of Land Withdrawal (Additional) Alaska

JULY 12, 1977.

The Alaska Power and Telephone Company filed as parts of an application for new license (minor) map Exhibit K, sheets 1 and 2 (FPC (Nos. 1051-3 and -4), on June 8, 1976; map Exhibit K, sheets 1 and 2 (FPC Nos. 1051-13 and -14), on December 29, 1976; and map Exhibit K, sheet 2 (FPC No. 1051-15), on May 11, 1977, delimiting the project boundary for the Skagway Project, located near the town of Skagway and designated as Project No. 1051.

Therefore, in accordance with the provisions of section 24 of the Act of June 10, 1920, as amended, notice is hereby given that the land hereinafter described, insofar as title thereto remains in the United States, is from the dates of filing of applications on June 8, 1976, December 29, 1976, and May 11, 1977, reserved from entry, location or other disposal under the laws of the United States until otherwise directed by this Commission or by Congress:

All portions of the following described subdivisions lying within the project boundary as shown on map Exhibit K, sheets 1 and 2 (FPC Nos. 1051-13 and -15):

COPPER RIVER MERIDIAN, ALASKA

T. 28 S., R. 59 E., (Unsurveyed)
Sec. 12, E½NE¼, SE¼SW¼, N½SE¼, SW¼SE¼;
Sec. 13, N½NE¼, SE¼NE¼, NW¼, W½SW¼;
Sec. 14, E½SE¼.
T. 28 S., R. 60 E., (Unsurveyed)
Sec. 6, NE¼SW¼, S½SW¼;
Sec. 7, NW¼NW¼;
Sec. 18, S½NW¼, E½SW¼, W½SE¼.

NOTE.—The aforementioned project subdivisions are described in accordance with currently unapproved protraction diagrams for the townships listed above.

The total area of U.S. lands affected by this notice is approximately 215.95 acres. Of these lands, approximately 108 acres were reserved for power purposes by a prior withdrawal on January 6, 1930, for Project No. 1051. The additional U.S. lands are included in the project as a result of three modifications: (1) The expansion of project boundaries at Upper and Lower Dewey Lakes, Icy Lake, the project reservoir, Snyder Creek Diversion Dam, and Reid Falls Dam; (2) The widening of rights-of-way from 100 feet to 200 feet for all project conduits; and (3) The inclusion of an access road from the powerhouse to Lower Dewey Lake and the project reservoir. Approximately 32.40 acres of U.S. lands in the project are located within the Tongass National Forest.

Copies of the aforementioned map exhibits have been transmitted to the Geological Survey, Bureau of Land Management, and Forest Service.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-21104 Filed 7-21-77;8:45 am]

[Project No. 2742—Alaska]

COPPER VALLEY ELECTRIC ASSOCIATION, INC.
Availability of Staff Draft Environmental Impact Statement

Notice is hereby given in the captioned Project, that on or about July 22, 1977, as required by Section 2.81(b) of Commission Order No. 415-C, a draft environmental impact statement prepared by the Staf of the Federal Power Commission was made available for comments. This statement deals with the environmental impact of the proposed Solomon Gulch Project, FPC Project No. 2742. The project would include a rockfill dam located at the site of an existing low dam at the outlet of Solomon Lake, two rockfill dikes, a reservoir (Solomon Lake) with its elevation raised by the dam, a steel penstock, a powerhouse with 12,000 kW of generating capacity, a 138 kV transmission line extending approximately 104 miles to Glennallen, a 25 kV transmission line approximately 5 miles in length, and appurtenant facilities. The project would be located in the Third Judicial Division, State of Alaska, in the vicinity of the city of Valdez.

This statement has been circulated for comments to Federal, State and local agencies, has been placed in the public files of the Commission, and is available for public inspection both in the Commission's Office of Public Information, Room 1000, 825 North Capitol Street NE., Washington, D.C. 20426, and at its San Francisco Regional Office located at 555 Battery Street, San Francisco, California 94111. Copies may be ordered from the Commission's Office of Public Information, Washington, D.C. 20426.

Any person who wishes to do so may file comments on the staff draft statement for the Commission's consideration. All comments must be filed on or before September 6, 1977.

Any person who wishes to present evidence regarding environmental matters in this proceeding must file with the Commission a petition to intervene pursuant to Section 1.8 of the Commission's Rules of Practice and Procedure. Petitioners must also file timely comments on the draft statement in accordance with Section 2.81(c) of Order No. 415-C.

All petitions to intervene must be filed on or before September 6, 1977.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-21105 Filed 7-21-77;8:45 am]

EL PASO NATURAL GAS CO.
Notice Shortening Response Time and Extending Procedural Dates

JULY 15, 1977.

On July 14, 1977, Staff Counsel filed a motion to hold in abeyance the procedural schedule set forth in Commission Order issued June 3, 1977, in the above designated docket. It also request a shortening of the time for filing responses to the petition to reopen the proceeding in this case, which was filed by the People of the State of California and the Public Utilities Commission of the State of California (CPUC). The motion states that counsel for El Paso Natural Gas Company, Pacific Gas and Electric Company and CPUC do not object to the requested change in procedural dates.

In support of its motion, Staff Counsel states that a delay of filing of environmental briefs will allow parties to the proceeding adequate opportunity to respond to the CPUC petition and the Commission to act thereon; concurrently, a shortening of response time will help meet the need for expedition in this proceeding.

Upon consideration, notice is hereby given that the time for filing responses

to the CPUC petition to reopen the proceeding is shortened to July 22, 1977. The procedural schedule set forth in the June 3, 1977, Order is amended as follows:

Initial Briefs to the Administrative Law Judge, August 11, 1977.
Reply Briefs to the Administrative Law Judge, August 16, 1977.
Final Initial Decision, August 26, 1977.
Briefs on Exceptions on all issues, September 15, 1977.
Reply Briefs on all issues, September 26, 1977.
Commission decision, October 12, 1977.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-21100 Filed 7-21-77;8:45 am]

[Project No. 2788]

F.W.E. STAPENHORST, INC.

Application for Minor License for Hydroelectric Project

JULY 15, 1977.

Public notice is hereby given that application for a minor license under the Federal Power Act (U.S.C. 791.–825r) was filed on February 14, 1977, by F.W.E. Stapenhorst, Inc. (Correspondence to: F.W.E. Stapenhorst, Inc., c/o Melvin and Melvin, Attorneys and Counselors at Law, 700 Merchants Bank Building, Syracuse, New York 13202) for renovation of the Colliersville Hydro Plant, formerly FPC Project No. 2455, which is located on the North Branch of the Susquehanna River located in Otsego County, New York. The applicant proposes to acquire the existing dam, the Goodyear Lake reservoir, a generating station and other related project works and proposes to renovate the hydroelectric plant by overhauling the existing works and installing new machinery, equipment and related facilities. The dam, 200 feet long and 36 feet high, is of reinforced concrete construction and of the Ambursen design. The power canal, 50 by 20 feet at the head gates and 100 by 16 feet at the forebay proper, is 550 feet long. The powerhouse is of reinforced-concrete design and is approximately 103 by 33 feet in dimensions. With 30 feet of head, each of the two planned turbine/generator units would have a capacity of 960 horsepower. Applicant states that all power generated would be sold to New York State Electric and Gas Corporation for delivery to its consumers within New York State.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 21, 1977, file with the Federal Power Commission, Washington, D.C. 20462, 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. The application is on file with Commission and is available for public inspection.

Take further notice that, pursuant to the authority contained in and conferred upon the Federal Power Commission by Sections 308 and 309 of the Federal Power Act (16 U.S.C. § 825g, § 825h) and the Commission's Rules of Practice and Procedure, specifically Section 1.32(b) (18 CFR § 1.32(b)), as amended by the Order No. 518, a hearing may be held without further notice before the Commission on this application if no issue of substance is raised by any request to be heard, protest or petition filed subsequent to this notice within the time required herein and if the applicant or initial pleader requests that the shortened procedure of § 1.32(b) be used. If an issue of substance is so raised or applicant or initial pleader fails to request the shortened procedure, further notice of hearing will be given.

Under the shortened procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing before the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-21102 Filed 7-21-77;8:45 am]

[Docket No. E-9566]

DEPARTMENT OF THE INTERIOR; BUREAU OF RECLAMATION

Amendment to Filing

JULY 19, 1977.

Take notice that on July 12, 1977, the Department of the Interior (Interior) on behalf of the Bureau of Reclamation (Bureau), submitted an amended filing requesting Commission confirmation and appropal of proposed rates and charges for the sale of power and energy generated at Amistad and Falcon Dam Projects. The rates and charges are contained in a proposed contract with the Bureau and the South Texas Electric Cooperative and the Medina Electric Cooperative. Under the terms of the proposed contract, the cooperatives have agreed to pay all amortization, operation, maintenance, replacements, and administrative costs of both projects, including the accumulated interest on the Amistad penstocks, during the 50-year period of the proposed contract.

Any person desiring to comment on said application should file written comments with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426. All such comments should be filed by July 25, 1977. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this application are on file with the Commission and are available for public inspection.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-21094 Filed 7-21-77;8:45 am]

[Docket No. E-9599]

MAJOR POWER OUTAGE ON ENTIRE SYSTEM OF CONSOLIDATED EDISON CO. OF N.Y. JULY 13–14, 1977

Order Instituting Formal Investigation

JULY 14, 1977.

The President has directed a prompt and thorough investigation of the blackout which occurred on the evening of July 13, 1977, at about 8:35 p.m., when the electric system of Consolidated Edison Co. of New York (ConEd) was hit by lightning. The lightning caused one 345 kV line from Ladentown to Buchanan to go out of service and at the same time Indian Point No. 3 generator was disconnected from service. In a spreading series of events, another 345 kV line went out of service. Other events followed necessitating severing of all ConEd's connections with other utilities to the North and East and within an hour all ConEd's connections with all other utilities had been severed. Immediately thereafter, the Commission staff undertook preliminary investigation and analysis pursuant to Section 2.11 of the Commission's Regulations under the Federal Power Act.

Massive power blackouts cause severe public health and safety problems and they are intolerable. Since the northeast blackout of November 9, 1965, many steps have been taken by the electric industry to avoid a serious recurrence of that very unfortunate episode.[1] Recent events demonstrate that those preventative measures have been insufficient in ConEd's service area.

Under Section 202(a) of the Federal Power Act, this Commission is charged with "assuring an abundant supply of electric energy". Section 311 of the Act gives us the authority "to conduct investigations regarding the generation, transmission, distribution and sale of electric energy throughout the United States * * * whether or not subject to the jurisdiction of the Commission."

We note that Mayor Beame of New York City has also asked the Commission to investigate the blackout. We are hereby directing our staff to investigate and prepare a formal report of the causes of ConEd's massive blackout, to report to us in 2 weeks, and to prepare recommendations for corrective action to be undertaken. We hereby direct ConEd, all companies interconnected with ConEd and all personnel of the New York Power Pool to fully cooperate with the Commission's staff in its investigation. The Commission's staff will cooperate with the staff of the New York Public Service Commission in the conduct of this agency's investigation. The results of our staff's investigation will be shared fully with the President, the Congress and the consuming public.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-21097 Filed 7-21-77;8:45 am]

[1] On July 19, 1967, the Commission sent to President Johnson a 3-volume report on the Prevention of Power Failures.

[Docket Nos. RP71-16; RP74-29; PGA77-4; DCA77-2]

MIDWESTERN GAS TRANSMISSION CO.

Filing Pursuant to Tariff Rate Adjustment Provisions

JULY 15, 1977.

Take notice that on June 16, 1977, Midwestern Gas Transmission Company (Midwestern) tendered for filing Nineteenth Revised Sheet No. 5 and Second Revised Sheet No. 5A to its FPC Gas Tariff, Third Revised Volume No. 1, to be effective August 1, 1977. Midwestern states that the sole purpose of the revised tariff sheets is to reflect adjustments to its rates pursuant to rate adjustment provisions in Articles XVII, XVIII, and XIX of the General Terms and Conditions of its tariff.

Midwestern states that as to the Southern System, Nineteenth Revised Sheet No. 5 reflects (1) a Current Purchased Cost Rate Adjustment pursuant to Section 2 of Article XVII which is based on rate changes reflected in the filing by Tennessee Gas Pipeline Company, a Division of Tenneco Inc. on May 16, 1977, in Docket Nos. RP73-114, RP74-24, and RP74-73 and (2) a revised Surcharge for Amortizing the Unrecovered Purchased Gas Cost Account for the Southern System of a negative 0.51 cents per Mcf pursuant to Section 3 of Article XVII. According to Midwestern, the revised tariff sheet also reflects a Current Rate Adjustment of 1.75 cents per Mcf to reflect curtailment credits applicable to the Southern System pursuant to Section 9 of Article XIX.

Midwestern states that as to the Northern System, Second Revised Sheet No. 5A reflects a revised Surcharge for Amortizing the Unrecovered Purchased Gas Cost Account for the Northern System of a negative 5.42 cents per Mcf as specified in Section 3 of Article XVIII.

Midwestern states that copies of the filing have been mailed to all of its jurisdictional customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before July 22, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene; provided, however, that any person who has previously filed a petition to intervene in this proceeding is not required to file a further petition. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-21098 Filed 7-21-77;8:45 am]

[Project No. 1394]

SOUTHERN CALIFORNIA EDISON CO.

Land Withdrawal; (Additional) California

JULY 12, 1977.

On January 6, 1977, the Southern California Edison Company filed, as part of an application for amendment of license (major) for Project No. 1394, may Exhibit K, sheets 9 through 11 (S.C.E. Drawing Nos. 5130273, 5149658, and 5152395), which depicted two modifications to the project area. The first modification was the relocation of approximately 4.29 miles of a 55 kV transmission line in secs. 25, 34, and 35, T. 7S., R. 31 E., and secs. 3 and 4, T. 8 S., R. 31 E., Mount Diablo Meridian. The second modification was the inclusion of an existing access road, borrow pit, and leach lines within the project boundary.

Therefore, in accordance with the provisions of section 24 of the Act of June 10, 1920, as amended, notice is hereby given that the land hereinafter described insofar as title thereto remains in the United States is, from the date of said filing, reserved from entry, location or other disposal under the laws of the United States until otherwise directed by this Commission or by Congress:

All portions of the following described subdivisions lying within 25 feet of the centerline of the transmission line as delimited on map Exhibit K, sheets 9 and 10 (S.C.E. Drawing Nos. 5130273 and 5149658):

MOUNT DIABLO MERIDIAN, CALIFORNIA

T. 7 S., R. 31 E.,
Sec. 25, E½NE¼, SW¼NE¼, E½SW¼, SW¼SW¼, NW¼SE¼;
Sec. 34, E½SE¼, SW¼SE¼;
Sec. 35, N½NE¼, SE¼NW¼.
T. 8 S., R. 31 E.,
Sec. 3, lots 2, 4, N½SE¼NW¼;
Sec. 4, E½SE¼.
(Aggregating approximately 3.00 acres).

All portions of the following described subdivision lying within the project boundary as delimited on map Exhibit K, sheet 11 (S.C.E. Drawing No. 5152395):

MOUNT DIABLO MERIDIAN CALIFORNIA

T. 7 S., R. 32 E.,
Sec. 20, N½N½SW¼NW¼.
(Aggregating approximately 0.21 acres).

In addition to the aforementioned U.S. lands, it was found that a portion of a transmission line within the project had not been listed in any of the previous notices of land withdrawal for Project No. 1394. Though this parcel of land is not affected by the current application for amendment of license and has been reserved for the project by a prior withdrawal for Power Site Reserve No. 279, it is included in this notice in order to correct its omission from those U.S. lands reserved for the project.

All portions of the following described subdivision lying within 50 feet of the centerline of the transmission line as delimited on map Exhibit K, sheet 11 (S.C.E. Drawing No. 5152395):

MOUNT DIABLO MERIDIAN, CALIFORNIA

T. 7 S., R. 32 E.,
Sec. 17, SE¼SW¼SE¼.
(Aggregating approximately 0.13 acres).

The total area of U.S. lands included in this notice is approximately 12.34 acres of which approximately 3.00 acres are located within the Inyo National Forest. All of these lands have been variously reserved for power purposes by prior withdrawals for Power Site Reserve No. 279, Power Site Classification No. 71, and FPC Project No. 1394.

The realignment of the 55 kV transmission line is very slight along the affected right-of-way. The land subdivisions cited in identifying the transmission line location are similar to those used in earlier notices of land withdrawal for the project. However, the change in location was substantial enough to include additional U.S. lands in the project area.

Copies of the aforementioned map exhibits have been transmitted to the Geological Survey, Bureau of Land Management and Forest Service.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-21103 Filed 7-21-77;8:45 am]

[Docket Nos. CP70-57; CP70-56]

TENNESSEE GAS PIPELINE CO. AND NATURAL GAS PIPELINE CO. OF AMERICA

Petition To Amend

JULY 15, 1977.

Take notice that on July 1, 1977, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), P.O. Box 2511, Houston, Texas 77001, and Natural Gas Pipeline Company of America (Natural), 122 South Michigan Avenue, Chicago, Illinois 60603 (Petitioners), filed in Docket No. CP70-57 and CP70-56 a petition to amend the Commission's order of December 8, 1969, issued in the instant dockets (42 FPC 1099) pursuant to section 7 of the Natural Gas Act so as to provide for revised exchange service at existing authorized points of exchange, an extension of the term of the exchange agreement, additional points of exchange between (Petitioners), and other minor revisions to certain operational provisions of the exchange agreement, all as more fully set forth in the petition which is on file with the Commission and open to public inspection.

It is indicated that pursuant to the Commission's order issued December 8, 1969, Petitioners were authorized to exchange gas under an exchange agreement dated July 15, 1954, which provides for the delivery of natural gas by Natural to Tennessee at exchange points in Brooks and Wharton Counties, Texas, and for the redelivery of natural gas by Tennessee to Natural at an exchange point in Cameron Parish, Louisiana. It is stated that the exchange agreement is currently filed with the Commission as Tennessee's Rate Schedule X-24 (comprising Sheet Nos. 447 through 461 of Tennessee's FPC Gas Tariff, Sixth Revised Volume No. 2) and Natural's Rate Schedule No. X-22 (comprising Sheet Nos. 138 through 150 of Natural's FPC Gas Tariff, Second Revised Volume No. 2).

By this petition, Petitioners request authorization to render revised exchange service in accordance with the terms of an amendment to the exchange agreement dated October 15, 1976, which amendment revises certain portions of the exchange agreement to conform more closely to the present operating needs of Petitioners, it is said.

It is stated that the exchange agreement contained certain provisions which restricted the operations to be performed at existing exchange points, i.e. limitations with respect to the volumes to be delivered and received, periods of time during which deliveries could be accomplished, and the specific party to deliver and receive volumes at such points. Petitioners states that the amendment provides that either party may deliver or receive gas at the points specified therein upon such conditions as they would mutually agree and as permitted by operating conditions on their respective pipeline systems. Petitioners further state that the term of the exchange agreement is extended by the amendment to terminate on December 31, 1978, or at the end of any successive twelve-month period thereafter at the option of either party.

Petitioners indicate that the amendment provides for additional exchange points between Petitioners, including certain points where either Tennessee or Natural can deliver gas, for the account of the other party, to a third party pursuant to exchange agreements between either Tennessee and/or Natural and said third parties. Such exchange points, and a brief description thereof, are listed below:

EXCHANGE POINTS AND DESCRIPTION

1. Eugene Island 367.—The interconnection in the Eugene Island Area, Offshore Louisiana, between the existing Project 349 facilities jointly owned by Tennessee, Texas Eastern Transmission Corporation (Texas Eastern), and Texas Gas Transmission Company, and the existing Project 367 facilities jointly owned by Tennessee and Natural.

2. West Cameron 639.—At the outlet of measurement facilities located on the producer-owned platform in West Cameron Block 639, Offshore Louisiana, where Natural and Tennessee purchase gas and where Natural receives gas into its capacity entitlement in the Stingray Pipeline System.

3. West Cameron 616.—At the outlet of measurement facilities located on the producer-owned platform in West Cameron Block 616, Offshore Louisiana, where Natural receives gas into its capacity entitlement in the Stingray Pipeline System.

4. Cocodrie.—An existing point of exchange between Tennessee and Columbia Gulf Transmission Company (Columbia Gulf) at the outlet of the Blue Water Project Facilities in Terrebonne Parish, Louisiana.

5. Henry.—At the tailgate of Texaco's Henry Plant near Erath, Louisiana, where Columbia Gulf receives exchange gas into its existing facilities for Tennessee's account.

6. Fontenot.—The interconnection between the existing facilities of Natural and Texas Eastern in Cameron Parish, Louisiana.

7. Bay City East.—At the tailgate of Amoco's Bay City East Plant in Matagorda County, Texas, where Tennessee and Natural receive gas into their respective existing pipeline systems.

8. Egan.—The interconnection near Egan, Acadia Parish, Louisiana, between the Blue Water Project facilities and Tennessee and Columbia Gulf's onshore pipeline system.

It is stated that the amendment also provides for revisions to the exchange agreement with respect to the elimination of imbalances in daily volumes exchanged thereunder and determination of the thermal content of such volumes.

Petitioners maintain that the proposed changes would allow them to receive needed gas supplies without incurring the expense of constructing additional facilities and that such would also give their respective systems added flexibility and greater assurance of continuity of receipt of dedicated gas supplies in the event of producers operating problems or of operating difficulties on either of the Petitioners' systems.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before August 8, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-21099 Filed 7-21-77;8:45 am]

[Docket Nos. CI77-329; CP77-304; CP64-97]

TEXACO INC. AND SABINE PIPE LINE CO.

Order Granting Temporary Stay, Providing for Comments and Granting Joint Motion Subject to Certain Conditions

JULY 14, 1977.

On July 12, 1977, Texaco Inc. and Sabine Pipe Line Company filed a response to this Commission's order of July 7, 1977. The companies' response is in the nature of a joint motion in CI77-329, CP77-304, and CP64-97. The joint motion seeks a resolution of all issues in the above-titled proceedings and an emergency stay of the Commission's July 7, 1977 order.

In issuing our earlier order, it was the Commission's intent and purpose to secure compliance with all requirements of the Natural Gas Act at the earliest practicable time. It was the Commission's purpose to secure for the interstate resale market equivalent volumes of natural gas which were previously utilized by Texaco Inc. and Sabine for refinery operations in Texaco's Port Arthur refinery. The Port Arthur refinery produces substantial quantities of gasoline, lubricants, jet fuel, and home heating oils for the Nation's ultimate consumers. The Commission is mindful of engineering and operating requirements associated with changing refinery operations to prevent damage to equipment, and of potential employment factors associated with refinery disruption. It is mindful of the Nation's consumers' need for refined petroleum products including gasoline, jet fuel, and home heating oils which are produced at the Port Arthur refinery.

In bringing this matter to a conclusion in the manner set forth in the July 7 order, the Commission intended to utilize its legal authorities to achieve a public interest resolution to this matter.

The companies' July 12 joint motion is responsive to the Commission's intent. It does not in all respects meet Commission requirements for an ultimate resolution of this matter on the merits. The Commission's conditions and directives to complete these proceedings are set forth infra.

By reason of the actions taken in these dockets and the remedial measures which will be completed by reason of Commission directives, the Commission has found it unnecessary to refer this matter to the courts for enforcement decrees.

Texaco and Sabine request Commission authorization covering past and future operations on the following terms and conditions:

1. Sabine Pipe Line Company will accept a condition to its certificate authorization in Docket No. CP64-97 prohibiting transportation of natural gas produced in offshore Federal Domain areas for the steam generation requirements at Texaco's Port Arthur Refineries, provided that this certificate condition allows an incentive option for conversion of such steam generation equipment as prescribed in paragraph 4 hereinafter.

2. Sabine Pipe Line Company will accept a condition to its certificate authorization in Docket No. CP64-97 reducing the average daily volumes of Federal Domain gas located in the Lighthouse Point and Tiger Shoal Fields from their current level of 132 MMcf/D to 50 MMcf/D. Unless otherwise authorized by the Commission or any successor, Sabine's monthly transportation volumes from the Federal Domain shall not exceed a quantity determined by multiplying 50 MMcf/D times the number of days in the month. If operational problems result in greater deliveries in any month, Sabine shall balance out the difference in the next succeeding month. If lesser deliveries occur in any month, Sabine shall have the option of making up the difference in the succeeding month.

3. Within six months from the date of the Commission's order on this motion, Texaco shall pay back the volume of gas transported by Sabine from the federal domain areas of the Tiger Shoal and Lighthouse Point Fields to the Port Arthur Refineries prior to July 7, 1977, by entering into a contract or contracts for the interstate sale(s) of natural gas from reservoirs containing proved gas reserves of not less than 200 billion cubic feet. Although nothing in this pay back requirement shall be construed to impair or limit Texaco's right to negotiate the terms and conditions of the interstate sale, Texaco shall file for any appropriate and required federal authorizations within 30 days of the date of its interstate contract(s) for the sale of the gas.

4. If Texaco is willing to convert the steam generation facilities at the Port Arthur Plants from natural gas, Sabine may deliver the following limited quantities of natural gas from the federal domain areas of the Lighthouse Point and Tiger Shoal Fields to the Port Arthur Refineries in addition to the gas au-

thorized in paragraph (2) to facilitate an orderly conversion of the existing steam generation equipment during a three-year period:

October 1, 1977 through December 31, 1978, 60 MMcf/D.
January 1, 1979 through December 31, 1979, 40 MMcf/D.
January 1, 1980 through July 7, 1980, 20 MMcf/D.
July 8, 1980, zero.

5. The conditions and obligations imposed in paragraphs (1), (2), (3), and (4) above shall be effective on the date the Commission issues a final and nonappealable order in these captioned proceedings. Pending the Commission's final and nonappealable order, the Commission will stay the effectiveness of its July 7, 1977, order.

Upon full consideration of the Texaco-Sabine proposal, we have determined that it is an equitable resolution of the issues in this proceeding. In our view, protracted litigation is not in the public interest during these difficult times when the entire nation is experiencing an energy crisis.

Accordingly, the Texaco-Sabine proposal will be approved, subject, however, to the procedures and conditions we impose, as discussed below.

Texaco-Sabine's proposed payback of offshore gas transported to Port Arthur by Sabine, paragraph 3 of the proposal, will be conditioned to require that such payback gas volumes come from sources other than the offshore Federal Domain.

Although Texaco has not requested Commission authorization for the transportation of offshore Federal Domain gas from Lighthouse Point and Tiger Shoals fields to the Henry Plant onshore, it is our view that authorization must exist for such transportation to continue. Accordingly, we will in this order grant authorization to Texaco for this transportation.

The action taken by us herein will become effective as of July 27, 1977, except to the extent we may modify this order prior to that date. In the meantime, we shall stay the provisions of our July 7, 1977 order. In addition, we shall require Texaco to supply additional information on or before 12 a.m., e.d.t., July 19, 1977, and shall provide for a public conference commencing at 10 a.m., e.d.t., on July 20, 1977, concerning such information. Finally, we shall provide for the filing of comments on this order on or before July 21, 1977.

The Commission orders: (A) The Texaco-Sabine Proposal for resolution of the issues in this proceeding, as set forth in Paragraph II of the "Joint Motion of Texaco Inc. and Sabine Pipe Line Company", filed herein July 12, 1977, is accepted and approved, subject however, to the terms and conditions of this order.

(B) The proposed payback of offshore gas transported by Texaco from the Federal Domain and by Sabine to its Port Arthur Refineries, as provided in paragraph 3 of the Proposal, is conditioned to require that such payback gas volumes come from sources other than the offshore Federal Domain.

(C) The certificate of public convenience and necessity issued Sabine in Docket No. CP64-97 is amended to permit Sabine to transport offshore Federal Domain gas from Texaco's Henry Plant to its Port Arthur refinery as provided in the Texaco-Sabine Proposal.

(D) Texaco Inc., is issued a certificate of public convenience and necessity to transport offshore Federal Domain gas from Lighthouse Point and Tiger Shoals, offshore Louisiana, to its Henry Plant, onshore, Louisiana, as provided in the Texaco-Sabine Proposal.

(E) Texaco on or before 12 a.m., e.d.t., July 19, 1977, shall file a full and complete verified response to the information requested in Appendix A attached hereto.

(F) A public conference shall be held commencing at 10 a.m., e.d.t., on July 20, 1977, concerning the response Texaco is required to submit under Ordering Paragraph (E) above in a hearing room of the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426.

(G) Comments on this order shall be filed on or before July 22, 1977.

(H) The Commission's July 7, 1977, order in the above-entitled proceedings is stayed until July 27, 1977.

(I) This order shall become effective as of July 27, 1977, except to the extent we may modify it prior to that date.

(J) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

(K) Texaco and Sabine, over the signature of a responsible officer of each company, shall file with the Commission on or before July 22, 1977, an original and one copy of their acceptance or rejection of the terms and conditions of this order. If this order is modified by the Commission, the acceptance of this order by Texaco and Sabine shall not be binding on them without their express agreement.

By the Commission.

KENNETH F. PLUMB,
Secretary.

APPENDIX A

A. Provide a list which shows for each of Texaco's existing intrastate gas sales contracts, date of execution, the expiration date, the buyer, buyer's location, the buyer's renewal rights, the daily volumes which Texaco is obligated to deliver, whether Texaco's obligation is firm or interruptible, buyer's end-uses, the name and location of the field or fields from which the natural gas is supplied, identification of the transporting pipeline system(s), and pipeline system maps showing general location of facilities, size of pipe and identification of Texaco's natural gas customers.

B. In light of the condition limiting the payback to sources other than offshore federal domain in the order, detail how Texaco plans to repay the 200 Bcf of gas reserves from sources other than offshore federal domain specifying the fields and projected delivery volumes by year.

C. Provide complete operational piping blueprint of all the Mount Point Field facilities from individual wells to the A, B, and C platforms and from the platforms to the Henry Plant and to the Floodway Plant.

D. For the lower 48 states, excluding the OCS area of the Gulf of Mexico and gas dedicated to interstate pipeline companies, provide the following:

(1) List of fields in which Texaco owns, controls or purchases gas, containing 10 Bcf of reserves or more as of 1-1-77.

(2) Reserves and deliverability for each of the above fields as of 1-1-77.

(3) List of fields in which Texaco owns, controls or purchases gas, containing less than 10 Bcf of reserves.

(4) Total reserves and deliverability attributable to fields containing less than 10 Bcf as of 1-1-77.

(5) Report reserves for all fields in items 1-4 above by area, e.g., Southern Louisiana State offshore, South Louisiana onshore, State of Oklahoma, Texas, by TRC districts, etc.

(6) Reserves obtained by purchase from processing plants, pipelines or other such sources.

(7) List by field or source in which Texaco owns, controls or purchases gas, the reserves, deliverability and purchases, for such fields or sources, which were acquired between 1-1-77 and 7-1-77.

(8) Maps showing locations of all fields or facilities in 1 through 7 above.

E. Refer to Joint Motion of Texaco Inc. and Sabine Pipe Line Company, filed July 12, 1977, in Docket Nos. CI77-329, et al.

(1) On page 3, it is stated in footnote No. 1, "A portion of gas used at Port Arthur is refinery generated * * *" Approximately how much gas is generated daily, or, to be more precise, how much refinery generated gas do you project to be generated/barrel?

(2) Please list each boiler which is in operation and furnish the following information:

(a) Lbs of steam per hour and quality of steam (pressure and temperature).

(b) Type of boiler (fire tube or water tube).

(c) Manufacturer and date of manufacture and installation.

(d) Can the boiler presently use a fuel other than gas, and if so, for what period of time can it use a supplemental fuel?

(e) What supplemental fuels can presently be used on each boiler (No. 2, No. 6, propane, etc.)?

(f) What would be involved in converting boilers so that they could use a fuel oil (No. 2 or No. 6) on a regular sustained basis? Give time frame for converting and cost of each unit.

(g) On page 5 it is stated "Almost all of the steam from the boilers is passed through turbo-generators where a small portion of the energy is used for the cogeneration of electric power at very high efficiency."

(*1*) What is meant by cogeneration in the context quoted?

(*2*) Is the generation system as far as the steam is concerned open or closed?

(*3*) Please furnish a schematic flow diagram of the steam showing pressure-enthalpy along the route of the steam flow.

(*4*) Also, please show the route of the steam after it leaves the turbo-generators showing how it is used and the pressure-enthalpy along the path.

(3) On Page 6 you state that converting to oil/diesel would reduce the capacity of the Port Arthur refineries to about 31% of capacity. Would you please detail these computations?

(4) Please furnish schematic diagrams of all trains.

(5) List all gas burning equipment giving the following information: (a) Name of equipment; (b) Purpose; (c) Can it be converted, and if so, what type of fuel would be used?; and (d) Amount of gas utilized per day by each piece of equipment.

The data should be filed under oath and attested to by a responsible company official. The data should be filed with the Secretary with copies hand delivered to the Office of the Chief, Bureau of Natural Gas.

[FR Doc.77-21096 Filed 7-21-77;8:45 am]

[Project No. 710]

WISCONSIN POWER AND LIGHT CO.

Issuance of Annual License(s)

JULY 15, 1977.

On November 8, 1976, Wisconsin Power and Light Company, Licensee for the Shawano Project No. 710, located on the Wolf River in Shawano County, Wisconsin, filed an application for a new license pursuant to the Federal Power Act and Commission Regulations thereunder.

The license for Project No. 710 was issued effective July 20, 1927, for a period ending July 19, 1977. In order to authorize the continued operation and maintenance of the project, pending Commission action on Licensee's application, it is appropriate and in the public interest to issue an annual license to Wisconsin Power and Light Company.

Take notice that an annual license is issued to Wisconsin Power and Light Company for the period July 20, 1977, to July 19, 1978, or until Federal takeover, or until the issuance of a new license for the project, whichever comes first, for the continued operation and maintenance of the Shawano Project No. 710 subject to the terms and conditions of the original license. Take further notice that if Federal takeover or issuance of a new license does not take place on or before July 19, 1978, a new annual license will be issued each year thereafter, effective July 20 of each year, until such time as Federal takeover takes place or a new license is issued, without further notice being given by the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-21101 Filed 7-21-77;8:45 am]

FEDERAL RESERVE SYSTEM

[H.2, 1977 No. 27]

ACTIONS OF THE BOARD

Applications and Reports Received During the Week Ending July 2, 1977

ACTIONS OF THE BOARD

Document entitled "The Burden of Federal Reserve Membership, NOW Accounts, and the Payment of Interest on Reserve Balances," sent to members of the Senate Banking, Housing, and Urban Affairs Committee and to selected members of the House Banking, Finance and Urban Affairs Committee.

Reguest by First Women's Bank, New York, New York, for consent to interlocking relationships under the Board's minority bank exception to Regulation L, Interlocking Bank Relationships Under the Clayton Act.

Amendment to Regulation V, Loan Guarantees for Defense Production, changing the name of the Defense Supply Agency to the Defense Logistics Agency.

Report on bills H.R. 2733, H.R. 3928, and H.R. 6954, bills that involve activities of certain Federal employees and officers, letter to Chairman Nix of the House Committee on Post Office and Civil Service.

First Security Corporation, Salt Lake City, Utah, letter relating to proposed divestiture of interest in First Security Savings and Loan Association, Pocatello, Idaho.

Huntington National Bank of Bellefontaine, Bellefontaine, Ohio, proposed merger with Bellefontaine National Bank, Bellefontaine, Ohio, report to the Comptroller of the Currency on competitive factors.[1]

Huntington National Bank of London, London, Ohio, proposed merger with The Central National Bank of London, London, Ohio, report to the Comptroller of the Currency on competitive factors.[1]

Josey State Bank, Carrollton, Texas, proposed merger with First Bank & Trust, Carrollton, Texas, report to the Federal Deposit Insurance Corporation on competitive factors.[1]

Yarmouth Bank, National Association, Yarmouth, Massachusetts, proposed merger with The First National Bank of Yarmouth, Yarmouth, Massachusetts, report to the Comptroller of the Currency on competitive factors.[1]

Banks of Iowa, Inc., Cedar Rapids, Iowa, extension of time to August 31, 1977, within which to acquire shares of First Trust & Savings Bank, Davenport, Iowa.[1]

First Maywood, Inc., Maywood, Illinois, extension of time to August 11, 1977, within which to become a bank holding company through acquisition of 100 percent of the voting shares (less directors' qualifying shares) of the successor by merger to the First National Bank of Maywood, Maywood, Illinois.[1]

First Okmulgee Corporation, Okmulgee, Oklahoma, extension of time to September 30, 1977, within which to consummate the acquisition of First National Bank & Trust Company, Okmulgee, Oklahoma.[1]

Windsor Bancshares, Inc., Windsor, Missouri, extension of time to August 1, 1977, within which to file its registration statement.[1]

Farmers State Bank of Yuma, Yuma, Colorado, investment in bank premises.[1]

To Establish a Domestic Branch Pursuant to Section 9 of the Federal Reserve Act.

APPROVED

Fidelity Union Trust Company, Newark, New Jersey. Branch to be established in The Rickel's Pathmark Shopping Center at the intersection of Route 22 and Springfield Road, Union Township.[2]

Long Island Trust Company, Garden City, New York. Branch to be established in the Southwest corner of Horseblock Road and County Road 83, Farmingville, Suffolk County.[2]

* * * * *

To Become a Member of the Federal Reserve System Pursuant to Section 9 of the Federal Reserve Act.

APPROVED

Piedmont Bank, Collinsville, Virginia.[2]

* * * * *

To Merge Pursuant to Section 18(c) of the Federal Deposit Insurance Act.

APPROVED

Piedmont Bank, Collinsville, Virginia, for prior approval to merge with Piedmont Trust Bank, Collinsville, Virginia.[2]

* * * * *

[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.

To Organize, or Invest in, a Corporation Doing Foreign Banking and Other Foreign Financing Pursuant to Section 25 or 25(a) of the Federal Reserve Act.

APPROVED

Philadelphia National Bank: To establish an Edge Corporation to be known as "Philadelphia Overseas Banking Corporation", Philadelphia, Pennsylvania.

International Investment 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

Chase Manhattan Bank, National Association: Investment, additional shares in Familienbank, A.G., Dusseldorf, Germany, including a merger of Chase Manhattan Bank, N.A., German Subsidiaries.

Citibank Overseas Investment Corporation: Investment, indirectly acquire additional shares of Citicorp Credit Multiple (CREDIM), Dijon, France.

Bamerical International Financial Corporation: Investment, additional shares of Lisban, S.A., Madrid, Spain.

* * * * *

To Form a Bank Holding Company Pursuant to Section 3(a)(1) of the Bank Holding Company Act of 1956.

WITHDRAWN

The Mattatuck Bancorp, Inc., Waterbury, Connecticut, for approval to acquire 80 percent (less directors' qualifying shares) of the voting shares of The Mattatuck Bank and Trust Company, Waterbury, Connecticut.

APPROVED

Piedmont Bankgroup Incorporated, Martinsville, Virginia, for approval to acquire 100 percent of the voting shares of the successors by merger to Piedmont Trust Bank, Collinsville, Virginia and Bank of Carroll, Hillsville, Virginia.[2]

Norris Bancor Ltd., Cantril, Iowa, for approval to acquire 80 percent or more of the voting shares of State Savings Bank, Cantril, Iowa.[2]

Old Canal Bankshares, Inc., Lockport, Illinois, for approval to acquire 80 percent or more of the voting shares of Heritage First National Bank of Lockport, Lockport, Illinois.[2]

DCB Investment Co., Inc., David City, Nebraska, for approval to acquire 80 percent or more of the voting shares of David City Bank, David City, Nebraska.[2]

Midland Capital Co., Oklahoma City, Oklahoma, for approval to acquire 100 percent of the voting shares (less directors' qualifying shares) of Northwest Bank, Oklahoma City, Oklahoma.

* * * * *

To Expand a Bank Holding Company Pursuant to Section 3(a)(3) of the Bank Holding Company Act of 1956.

APPROVED

Florida Bankshares, Inc., Hollywood, Florida, for approval to acquire an additional 12.5 percent of the voting shares of First National Bank of Sebring, Sebring, Florida.

Valley Bancorporation, Appleton, Wisconsin, for approval to acquire 80 percent or more of the voting shares of Shawano National Bank, Shawano, Wisconsin.

J.R. Montgomery & Co., Lawton, Oklahoma, for approval to retain 3,730 voting shares of The City National Bank and Trust Com-

pany of Lawton, Oklahoma, Lawton, Oklahoma.[3]

* * * * *

To Expand a Bank Holding Company Pursuant to Section 4(c)(8) of the Bank Holding Company Act of 1956.

PERMITTED

Citicorp, New York, New York, notification of intent to relocate de novo activities (making of consumer installment personal loans, purchasing consumer installment sales finance contracts; sale of credit related life/accident and health insurance; and sale by a licensed agent of insurance which protects personal and real property subject to a security agreement with Nationwide Financial Corporation of New Mexico) from 3416 Central Avenue, S.E., Albuquerque, New Mexico to Coronado Shopping Center, corner of Menaul & Louisiana, N.E., Albuquerque, New Mexico, through its subsidiary, Nationwide Financial Corporation of New Mexico (7/1/77).[3]

Barnett Banks of Florida, Inc., Jacksonville, Florida, notification of intent to engage in de novo activities (performing or carrying on any one or more of the functions or activities that may be performed or carried on by a trust company including activities of a fiduciary, agency or custodial nature in the manner authorized by Federal and State law; provided, however, that loans and investments will be made and deposits accepted only in conformity with Regulations of the Board of Governors of the Federal Reserve System) at 11 Fifth Street, Southwest, Winter Haven, Florida, through a subsidiary, Barnett Banks Trust Company, N. A. (6/26/77).[3]

Fulton National Corporation, Atlanta, Georgia, notification of intent to engage in de novo activities (the sale of credit life insurance and credit disability insurance directly related to extensions of credit by The Fulton National Bank of Atlanta, a subsidiary of Applicant) at 55 Marietta Street, N. W., Atlanta, Georgia (6/30/77).[3]

Associated Bank Corporation, Mason City, Iowa, notification of intent to engage in de novo activities (leasing personal property and equipment or acting as agent, broker, or adviser in leasing of such property where at the inception of the initial lease the expectation is that the effect of the transaction and reasonably anticipated future transactions with the same lessee as to the same property will be to 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 and where the lease otherwise conforms with Section 225.4(a)(6)(a) of Regulation Y, as amended, by the Board of Governors of the Federal Reserve System) at 5 West State Street, Mason City, Iowa, through its subsidiary, Leasing, Inc. (6/26/77).[3]

Midland Bancorp, Inc., Chicago, Illinois, notification of intent to engage in de novo activities (the business of making consumer installment loans and consumer finance loans) at Suite 103, 106 Wilmot Road, Deerfield, Illinois, through its subsidiary, SBT Financial Corp. (7/1/77).[3]

County National Bancorporation, St. Louis, Missouri, notification of intent to engage in de novo activities (the business of originating, making acquiring, and servicing of real estate loans and other extensions of credit such as would be made by a real estate mortgage company; and acting as an agent or broker in the sale of credit life insurance and credit health and accident insurance which is directly related to extensions of mortgage loan credit and mortgage loan servicing) at The Clayton Tower, Suite 602, 7751 Carondelet, Clayton, Missouri, through its subsidiary, General Mortgage Company (7/5/77).[3]

County National Ban-Corporation, St. Louis, Missouri, notification of intent to engage in de novo activties (the business of originating, making acquiring, and servicing of real estate loans and other extensions of credit such as would be made by a real estate mortgage company; and acting as an agent or broker in the sale of credit life insurance and credit health and accident insurance which is directly related to extensions of mortgage loan credit and mortgage loan servicing(at 305 Eastgate Building, Columbia, Missouri, through its subsidiary, General Mortgage Company (7/5/77).[3]

County National Bancorporation, St. Louis, Missouri, notification of intent to engage in de novo activities (the business of origination, making, acquiring, and servicing of real estate loans and other extensions of credit such as would be made by a real estate mortgage company) at 10111 Lincoln Trail, Fairview Heights, Illinois, through its subsidiary, General Mortgage Company (7/5/77).[3]

County National Bancorporation, St. Louis, Missouri, notification of intent to engage in de novo activties (the business of originating, making, acquiring, and servicing of real estate loans and other extensions of credit such as would be made by a real estate mortgage company; and acting as an agent or broker in the sale of credit life insurance and credit health and accident insurance which is directly related to extensions of mortgage loan credit and mortgage loan servicing) at The Tower Building, 116 West 47th, Kansas City, Missouri, through its subsidiary, General Mortgage Company (7/5/77).[3]

Mercantile Bancorporation Inc., St. Louis, Missouri, notification of intent to relocate de novo activities (making, acquiring, or servicing loans or other extensions of credit for personal, family or household purposes such as are made by a finance company; and acting as insurance agent or broker in connection with selling to consumer finance borrowers credit life insurance and credit accident and health insurance) from 2796 Lakewood Avenue SW., Atlanta, Georgia to 3375 Roosevelt Highway, Red Oak, Georgia, through its subsidiary, Franklin Finance Company (6/30/77).[3]

BankAmerica Corporation, San Francisco, California, notification of intent to engage in de novo activities (making or acquiring, for its own account loans and other extensions of credit such as would be made or acquired by a finance company and servicing loans and other extensions of credit; such activities will include, but not be limited to, making consumer installment loans, purchasing installment sales finance contracts, making loans and other extensions of credit to small businesses, and making loans secured by real and personal property; acting as agent or broker for the sale of credit related life and credit related accident and disability insurance in connection with extensions of credit made or acquired by FinanceAmerica Consumer Discount Company) at Royal Oaks Shopping Center, Golden Mile Highway, Monroeville, Pennsylvania, through its indirect subsidiary, FinanceAmerica Consumer Discount Company (6/30/77).[3]

BankAmerica Corporation, San Francisco, California, notification of intent to relocate de novo activities (making or acquiring, for their own account extensions of credit such as would be made or acquired by a finance company; FinanceAmerica Corporation will engage in making consumer installment loans, loans and other extensions of credit to small businesses and loans secured by real or personal property; FinanceAmerica Industrial Plan, Inc will engage in purchasing installment sales finance contracts; both corporations will act as agent or broker for the sale of credit related life and credit related accident and disability insurance and credit related property insurance in connection with extensions of credit made or acquired by FinanceAmerica Corporation or FinanceAmerica Industrial Plan, Inc.) from 249 West Orange Avenue, Cocoa Beach, Florida to 715 North Courtenay Parkway, Merritt Island, Florida, through its indirect subsidiaries, FinanceAmerica Corporation (a Florida Corporation) and FinanceAmerica Industrial Plan, Inc. (6/30/77).[3]

APPROVED

Continental Illinois Corporation, Chicago, Illinois, for approval to acquire Great Lakes Life Insurance Company, Phoenix, Arizona.

Midland Capital Co., Oklahoma City, Oklahoma, for approval to acquire 75 per cent of the voting shares of Midland Mortgage Co. and Johnston-Records Co., both in Oklahoma City, Oklahoma.

DENIED

NBC Co., Lincoln, Nebraska, for approval to acquire 100 percent of the voting shares of Fremont State Company, Fremont, Nebraska.

Applications Received

To Establish a Domestic Branch Pursuant to Section 9 of the Federal Reserve Act.

The Southern Ohio Bank, Cincinnati, Ohio. Branch to be established at Cornell Road and Reed Hartman Highway, Blue Ash, Hamilton County.

The Peoples Savings Bank Company, Delta, Ohio. Branch to be established at 110 Airport Highway, Swanton, Fulton County.

The Western Security Bank, Sandusky, Ohio. Branch to be established in the Sandusky Mall, State Route No. 250 and Hull Road, Unit 350, Perkins Township, Erie County.

The Harter Bank and Trust Company, Canton, Ohio. Branch to be established in the immediate vicinity of Locust Street and Towpath Street, Canal, Fulton, Stark County.

The Detroit Bank-Southfield, Southfield, Michigan. Branch to be established at the southeast corner of Southfield and Mt. Vernon Roads, Southfield, Oakland County.

Manufacturers Bank of Livonia, Livonia, Michigan. Branch to be established in the vicinity of the northwest corner of Six Mile Road and Newburgh Road, Livonia, Wayne County.

First Bank and Trust Company of South Bend, South Bend, Indiana. Branch to be established at 3606 E. Cedar St. (within Thrif-T-Mart Supermarket, Inc.) South Bend, St. Joseph County.

* * * * *

To Become a Member of the Federal Reserve System Pursuant to Section 9 of the Federal Reserve Act

40 Main Street Bank, Hempstead, New York.

Utah Independent Bank, Salina, Utah.

Sandy State Bank, Sandy, Utah.

[3] 4(c)(8) and 4(c)(12) notifications processed by Reserve Bank on behalf of the Board of Governors under delegated authority.

To Merge Pursuant to Section 18(c) of the Federal Deposit Insurance Act.

40 Main Street, Hempstead, New York, for prior approval to merge with Hempstead Bank, Hempstead, New York.

* * * * *

To Establish an Overseas Branch of a Member Bank Pursuant to Section 25 of the Federal Reserve Act

Rainier National Bank: Branch—Manila, Philippines.

Security Pacific National Bank: Branch—Makati, Philippines.

* * * * *

To Form a Bank Holding Company Pursuant to Section 3(a)(1) of the Bank Holding Company Act of 1956

Columbus Bancshares, Inc., Columbus, Kansas, for approval to acquire 90.92 percent of the voting shares of The Columbus State Bank, Columbus, Kansas.

Jackson Hole Banking Corporation, Jackson, Wyoming, for approval to acquire 80 percent of the voting shares of The Jackson State Bank, Jackson, Wyoming.

Rose Creek, Inc., Hubbell, Nebraska, for approval to acquire 100 percent (less directors' qualifying shares) of the voting shares of Hubbell Bank, Hubbell, Nebraska.

* * * * *

To Expand a Bank Holding Company Pursuant to Section 3(a)(3) of the Bank Holding Company Act of 1956

Ameribanc, Inc., St. Joseph, Missouri, for approval to acquire 80 percent or more of the voting shares of Morgan County Bank, Versailles, Missouri.

United Banks of Colorado, Inc., Denver, Colorado, for approval to acquire 80 percent or more of the voting shares of United Bank of Arvada National Association, Arvada, Colorado, a proposed new bank.

* * * * *

To Expand a Bank Holding Company Pursuant to Section 4(c)(8) of the Bank Holding Company Act of 1956.

Shawmut Corporation, Boston, Massachusetts and Texas American Bancshares, Inc., Fort Worth, Texas, notification of intent to continue to engage in de novo activities (agricultural commodity financing, servicing such financing and related and incidental activities, and in general, making, servicing or acquiring, for its own account or for the account of others, loans and other extensions of credit to agricultural enterprises or secured by agricultural commodities) in Arizona, California, Idaho, Nevada, Utah, and Wyoming, through a joint venture, American AgCredit Corporation, Guymon, Oklahoma at offices in Guymon, Oklahoma; Amarillo, Texas; and Denver, Colorado (6/29/77).[2]

Chemical New York Corporation, New York, New York, notification of intent to engage in de novo activities (extending direct loan credit, purchasing sales finance contracts, and making such other extensions of credit as would be made or acquired by a consumer finance company operating under the South Carolina Consumer Protection Code; and providing, at the election of debtors of said consumer finance company, group credit life/accident and health insurance directly related to such extensions of credit) at CP&L Building, 2160 Hoffmeyer Road, Florence, South Carolina, through its subsidiary, Sun Finance Company-1203, Inc. (7/1/77).[2]

Chemical New York Corporation, New York, New York, notification of intent to engage in de novo activities (extending direct loan credit, purchasing sales finance contracts and making such other extensions of credit as would be made or acquired by a consumer finance company operating under the Indiana Uniform Consumer Credit Code; and providing, at the election of debtors of said consumer finance company, group credit life and group accident and health insurance directly related to such extensions of credit) at Ayr-Way South Shopping Center, 3788 South East Street, Indianapolis, Indiana, through its subsidiary, SunAmerica Financial Corp. (7/1/77).[2]

Fidelcor, Inc., Rosemont, Pennsylvania, notification of intent to relocate de novo activities (making and acquiring, consumer and mortgage loans to individuals including second mortgages on properties in N.J. where the loans are owned by direct or indirect subsidiaries of Fidelcor; engaging in a general consumer finance business; purchasing installment contracts arising from the sale of personal property or services; and, with respect to all of the above, selling credit life and credit accident and health insurance, mortgage life and disability insurance, accidental death insurance and casualty insurance on the collateral; and through Master Life Insurance Company, an indirect subsidiary of Fidelcor, reinsuring consumer type credit life insurance sold; the location indicated is relevant to the reinsurance only as establishing a location of credit transactions to which the insurance relates) from 92 Roosevelt Avenue, Carteret, New Jersey to 1363 Roosevelt Avenue, Carteret, New Jersey, through its subsidiary, Fidelcor Financial Centers, Inc. (6/24/77.)[2]

Union Trust Bancorp, Baltimore, Maryland, notification of intent to engage in de novo activities (make secondary mortgage loans secured in whole or in part by mortgage, deed of trust, security agreement, or other lien on real estate situated in the State of South Carolina which property may be subject to one or more encumbrances or other leasehold interests; and act as agent in the sale of credit life insurance and credit accident and health insurance in connection with its extension of credit) at 4 Carriage Lane, Charleston, South Carolina, through its subsidiary, Union Home Loan Corporation (6/30/77).[2]

Landmark Banking Corporation of Florida, Fort Lauderdale, Florida, for permission to engage de novo in providing bank management consulting advice which would include advice concerning bank operations, systems and procedures, computer operations and mechanization, cost analysis and site planning.

Financial Services Corporation of the Midwest, Rock Island, Illinois, for approval to acquire the voting shares of Federal Discount Corporation, Dubuque, Iowa (engaged in making consumer installment personal loans, purchasing consumer installment sales finance contracts, and acting as agent for the sale of consumer credit related life and accident and health insurance).

Investment Management, Inc., Bettendorf, Iowa, for permission to retain the shares of Lloyd's Plan, Inc., Davenport, Iowa (engaged in operating a small loan company and industrial loan company under the laws of the State of Iowa and the sale of credit related insurance).

River Cities Investment Co., Bettendorf, Iowa, for permission to retain the shares of Lloyd's Plan, Inc., Davenport, Iowa (engaged in operating a small loan company and industrial loan company under the laws of the State of Iowa and the sale of credit related insurance).

BankAmerica Corporation, San Francisco, California, notification of intent to engage in de novo activities (making and acquiring, for its own account loans and other extensions of credit such as would be made or acquired by a finance company and servicing loans and other extensions of credit; such activities will include, but not be limited to, making loans and other extensions of credit to small businesses and making loans secured by real property; acting as agent or broker for the sale of credit related life insurance in connection with extensions of credit made or acquired by FinanceAmerica Mortgage Services, Inc.) at 762 Wolcott Road, Waterbury, Connecticut, through its indirect subsidiary, FinanceAmerica Mortgage Services, Inc. (6/24/77).[2]

Security Pacific Corporation, Los Angeles, California, 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 including secured and unsecured consumer, commercial and agricultural loans, sale contracts and other forms of receivables and such other types of loans and credit extensions as are customarily made or acquired by a 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) from 1214 Main to 5193 Overland, Boise, Idaho, through its subsidiary, The Bankers Investment Company (6/27/77).[2]

United Bancorp, Roseburg, Oregon, notification of intent to engage in de novo activities (to provide bookkeeping or data processing services for the internal operations of the holding company and its subsidiaries; to store and process other banking, financial or related economic data such as performing payroll, accounts receivable or payable, or billing services) at S.E. Oak and Kane Streets, Roseburg, Oregon, through its subsidiary, United D.P. Co. (6/23/77).[2]

* * * * *

To Expand a Bank Holding Company Pursuant to Section 4(c)(12) of the Bank Holding Company Act of 1956.

American Financial Corporation, Cincinnati, Ohio, and its subsidiaries, notification of intent to acquire from 5 percent to 35 percent of the outstanding voting shares of the following companies: Alpha Portland Industries, Inc., Easton, Pennsylvania; Florida Gas Company, Winter Park, Florida; Integrated Resources, Inc., New York, New York; and Pacific Holding Corporation, Los Angeles, California (6/24/77).[2]

Berkshire Hathaway Inc., New Bedford, Massachusetts, notification of intent to indirectly acquire more than 5 percent of the outstanding voting stock of United Merchants & Manufacturers, Inc., New York, New York, a textile manufacturing and retail clothing chain, through its subsidiary, Blue Chip Stamps (6/29/77).[2]

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REPORTS RECEIVED

None.

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PETITIONS FOR RULEMAKING

None.

[2] 4(c)(8) and 4(c)(12) notifications processed by Reserve Bank on behalf of the Board of Governors under delegated authority.

Board of Governors of the Federal Reserve System, July 15, 1977.

RUTH A. REISTER,
Assistant Secretary of the Board.

[FR Doc.77-21059 Filed 7-21-77;8:45 am]

CENTRAL BANCORPORATION, INC.

Order Approving Acquisition of The Central Security National Bank of Lorain County, Lorain, Ohio

The Central Bancorporation, Inc., Cincinnati, Ohio (Applicant), a bank holding company within the meaning of the Bank Holding Company Act, has applied for approval of the Board of Governors of the Federal Reserve System, under Section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)), to acquire up to 100%, less directors' qualifying shares, of the successor by merger to The Central Security National Bank of Lorain County, Lorain, Ohio (Bank). The bank into which Bank is to be merged has no significance except as a means to facilitate the acquisition of the voting shares of Bank. Accordingly, the proposed acquisition of shares of the successor organization is treated herein as the proposed acquisition of the shares of Bank.

Notice of the application affording opportunity for interested persons to submit comments and views has been given in accordance with Section 3(b) of the Act. The time for filing comments and views has expired and none have been timely received. The Reserve Bank has considered the application in light of the factors set forth in Section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant, the eighth largest banking organization in Ohio, controls nine banks with aggregate deposits of $1,120.5 million or 3.53 percent of total deposits in commercial banks in the State.[1] Upon consummation of the proposal, Applicant's share of total deposits in the State would increase to 3.81 percent, and it would not change its relative position in the State.

Bank, headquartered in Lorain, is the 13th largest of 32 banking organizations competing in the Cleveland banking market and has deposits of $90.1 million, representing approximately 0.97 percent of market deposits.[2] There is no significant existing competition between Bank and Applicant's current or proposed subsidiary banks [3] as none of them operates in the Cleveland banking market. Thirty-five miles and two counties separate the nearest office of any of Applicant's subsidiary banks from an office of Bank. Although Applicant has the size and resources to enter the Lorain County portion of the Cleveland market de novo, such entry does not appear attractive in view of the low population and deposits per banking office in the County relative to State averages. In addition, the acquisition of Bank could be considered a foothold entry into the Cleveland market given that Bank controls less than one percent of total market deposits and there are only two other smaller independent banks in Lorain County. Accordingly, consummation of the proposed transaction would appear to have no adverse effects on existing or potential competition.

The financial and managerial resources and prospects of Applicant, its subsidiary banks, and Bank are consistent with approval. There is no evidence that the banking needs of the Cleveland banking market are not currently being met. However, Applicant plans to assist Bank in providing international banking services and expanding its trust services. Therefore, factors related to convenience and needs of the communities to be served are consistent with approval of the application. It has been determined that consummation of the proposal would be in the public interest and that the application should be approved.

On the basis of the record summarized above, the Federal Reserve Bank of Cleveland approves the application provided that the transaction shall not be consummated (a) before the thirtieth calendar day following the date of this Order or (b) later than three months after the date of this Order, unless such period is extended for good cause by the Board or by this bank pursuant to delegated authority.

By order of the Federal Reserve Bank of Cleveland, acting pursuant to delegated authority for the Board of Governors of the Federal Reserve System effective July 5, 1977.

WILLIS J. WINN,
President.

[FR Doc.77-21054 Filed 7-21-77;8:45 am]

[Docket No. TCR 76-116]

EDUCATORS INVESTMENT COMPANY OF KANSAS, INC.

Prior and Final Certifications Pursuant to the Bank Holding Company Tax Act of 1976

Educators Investment Company of Kansas, Inc., Emporia, Kansas ("Educators"), 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 November 1, 1975, by Flint Hills Manor, Inc., Emporia, Kansas ("Flint Hills"), a wholly-owned subsidiary of Educators, of substantially all of the assets of Flint Hills, was necessary or appropriate to effectuate § 4 of the Bank Holding Company Act (12 U.S.C. § 1843) ("BHC Act"). Educators has also requested a final certification pursuant to § 6158(c)(2) of the Code that Educators has (before the expiration of the period prohibited property is permitted under the BHC Act to be held by a bank holding company) disposed of all the property the disposition of which is necessary or appropriate to effectuate section 4 of the BHC Act.[1]

In connection with this request, the following information is deemed relevant for purposes of issuing the requested certification: [2]

1. Educators is a corporation organized under the laws of the State of Kansas on December 22, 1960. Flint Hills is a corporation organized under the laws of the State of Kansas. Educators acquired 20,000 shares, representing 100 percent of the outstanding shares, of Flint Hills on June 1, 1970.

2. On June 5, 1965, Educators acquired ownership and control of 33,445 shares, representing 55.7 percent of the outstanding voting shares, of Citizens National Bank & Trust Company, Emporia, Kansas ("Bank").

3. Educators became a bank holding company on December 31, 1970, as a result of the enactment 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 September 29, 1971. Educators 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 outstanding voting shares of Bank. On November 1, 1975, Educators owned and controlled 33,445 shares of Bank, representing 55.7 percent of the outstanding voting shares of Bank.

4. On November 1, 1975, Educators held property acquired by it on or before July 7, 1970, the disposition of which would be necessary or appropriate to effectuate § 4 of the BHC Act if Educators were to continue to be a bank holding company beyond December 31, 1980, which property is "prohibited property" within the meaning of §§ 6158(f)(2) and 1103(c) of the Code.

5. On November 1, 1975, Flint Hills sold substantially all of its assets to Robert W. Rieger ("Rieger") for $630,000. Such assets consisted of real property of approximately 5 acres and the improvements thereon known as Flint Hills Manor Nursing Home, situated on the east side of the 1600 block of Wheeler Street, Emporia, Kansas, including plans, specifications and architectural renderings

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[1] Banking data are as of September 30, 1976, unless otherwise indicated.

[2] The Cleveland banking market, which is the relevant banking market, is approximated by all of Cuyahoga, Lake and Geauga Counties, the northwestern quarter of Portage County, the northern third of Summit County, all but the southern most tier of townships in Medina and Lorain Counties, and the City of Vermilion which is located in both Lorain and Erie Counties. Data for individual market shares are as of June 30, 1975.

[3] Applicant also has a pending application before the Board of Governors to acquire the First National Bank of Mercer County, Celina, Ohio.

[1] Pursuant to §§ 2(d)(2) and 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, and the certification described in § 6158(c)(2) shall be treated as made before the close of the calendar year following the calendar year in which the last such sale occurred, if application for such certification was made before the close of December 31, 1976. Educators' application for such certifications was received by the Board on December 28, 1976.

[2] This information derives from Educators' correspondence with the Board concerning its request for certification, Educators' Registration Statement filed with the Board pursuant to the BHC Act, and other records of the Board.

prepared for a 60-bed expansion to the already existing building, together with all the furniture, fixtures, equipment, general and medical supplies and usual inventory as consistent with the normal operation of a nursing home as required by the State Health Department. In exchange for such assets, Rieger paid to Flint Hills $150,000 in cash and assumed three outstanding mortgages on the above-described real property in the aggregate amount of $313,741.85. Under the terms of the installment sales contract, the remainder is to be paid to Flint Hills in monthly payments of $1,500 at 8.5 percent per annum on the unpaid balance, with the remaining unpaid balance due at the end of 5 years, provided that Rieger may pay the remaining unpaid balance to Flint Hills in full at any time without penalty. Flint Hills holds a fourth mortgage on such property.

6. Flint Hills does not engage in any activity, and it remains in existence for the sole purpose of holding Rieger's note and receiving payments from Rieger under the terms of the installment sales contract.

7. Rieger is not an officer, director (including honorary or advisory director), or employee with policymaking functions of Educators or any of its subsidiaries. Rieger does not hold any interest in Educators or any of its subsidiaries. Other than as a result of his acquisition of the assets of Flint Hills, Rieger is not indebted to Educators or any of its subsidiaries.

On the basis of the foregoing information, it is hereby certified that:

(A) at the time of the sale by Flint Hills of substantially all of its assets to Rieger, Educators 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 subsection;

(B) the assets sold by Flint Hills were "prohibited property" within the meaning of §§ 6158(f)(2) and 1103(c) of the Code;

(C) the sale of substantially all the assets of Flint Hills was necessary or appropriate to effectuate § 4 of the BHC Act; and

(D) Educators has (before the expiration of the period prohibited property is permitted under the BHC Act to be held by a bank holding company) disposed of all of the property the disposition of which was necessary or appropriate to effectuate § 4 of the BHC Act.

This certification is based upon the representations made to the Board by Educators 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 Educators, or that Educators 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 July 15, 1977.

RUTH A. REISTER,
Assistant Secretary of the Board.

[FR Doc.77-21055 Filed 7-21-77;8:45 am]

FIRST COMMERCE CORP.

Proposed Acquisition of Downtown Finance Plan, Inc.

First Commerce Corporation, New Orleans, Louisiana, has applied, pursuant to § 4(c)(8) of the Bank Holding Company Act (12 U.S.C. § 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire voting shares of Downtown Finance Plan, Inc., New Orleans, Louisiana. Notice of the application was published on May 4 and 5, 1977, in The Times Picayune and The New Orleans States-Item, newspapers circulated in New Orleans, Louisiana.

Applicant states that the proposed subsidiary would engage in the activities of entering into consumer extensions of credit and acting as agent for the sale of credit life and credit accident and health insurance in connection with extensions of credit. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than August 12, 1977.

Board of Governors of the Federal Reserve System, July 15, 1977.

RUTH A. REISTER,
Assistant Secretary of the Board.

[FR Doc.77-21056 Filed 7-21-77;8:45 am]

KEOKUK COUNTY BANKSHARES, INC.

Formation of Bank Holding Co.

Keokuk County Bankshares, Inc., Sigourney, Iowa, 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 Keokuk County State Bank, Sigourney, Iowa. 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 Reserve Bank, to be received not later than August 9, 1977.

Board of Governors of the Federal Reserve System, July 18, 1977.

RUTH A. REISTER,
Assistant Secretary of the Board.

[FR Doc.77-21057 Filed 7-21-77;8:45 am]

SECURITY STATE BANK HOLDING CO.

Formation of Bank Holding Company

Security State Bank Holding Company, Hannaford, North Dakota, 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 96 percent or more of the voting shares of Security State Bank of Hannaford, Hannaford, North Dakota. 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 Minneapolis. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than August 15, 1977.

Board of Governors of the Federal Reserve System, July 18, 1977.

RUTH A. REISTER,
Assistant Secretary of the Board.

[FR Doc.77-21078 Filed 7-21-77;8:45 am]

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 July 18, 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 August 9, 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, DC 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 "Survey of Manufacturers'

Alternative Energy Capabilities 1977, Form MA–400." The FEA has contracted with the Bureau of the Census to initiate this supplement to the existing Annual Survey of Manufacturers for the year 1976. This supplemental survey will be conducted under the authority of title 13, United States Code, sections 182, 224 and 225 (Census Bureau), and section 13(a) of the Federal Energy Administration Act of 1974 (FEA) (Pub. L. 93–275).

The data received from this survey will provide the information necessary to develop estimates of alternative energy capabilities in manufacturing. The information will be used for energy analysis and policy guidance and have significant application to the needs of the public and industry. The data to be collected are not currently available from nongovernmental or other Government sources. This survey as a supplement to the Annual Survey of Manufacturers will request a measure of substitutable and nonsubstitutable energy capabilities by types of energy. The potential type and magnitude of the substitution capability as well as the time required to implement substitutions will also be measured. Data will be collected from a subsample of the Annual Survey of Manufacturers establishments. The sample will consist of approximately 5250 establishments and accounts for about 70 percent of the purchased energy consumed by manufacturers. Respondent burden is estimated by FEA to average one hour per response.

NORMAN F. HEYL,
Regulatory Reports,
Review Officer.

[FR Doc.77–21073 Filed 7–21–77;8:45 am]

REGULATORY REPORTS REVIEW

Receipt and Approval of a Proposed Report

A request for clearance of a proposed report intended for use in collecting information from the public was received by the Regulatory Reports Review Staff, GAO, on July 13, 1977. See 44 U.S.C. 3512 (c) and (d). The purpose of publishing this notice is to inform the public of such receipt and the action taken by GAO.

FEDERAL ENERGY ADMINISTRATION

The Federal Energy Administration requested emergency clearance of the proposed form FEA–U544–S–O, Office of Consumer Services Grant Application. The Energy Conservation and Production Act (ECPA), Title II, Section 205 (Public Law 94–385) provides for Federal financial assistance for the establishment and/or operation of State Offices of Consumer Services to support consumer representation in proceedings before electric utility regulatory commissions. All 50 States, the District of Columbia, Puerto Rico, the Virgin Islands, Samoa, Guam, the Trust Territory of the Pacific, and the Tennessee Valley Authority are eligible to apply for this financial assistance. A total of $2 million was appropriated for this program in May 1977 and must be obligated by September 30, 1977. Final guidelines for the program were published in the FEDERAL REGISTER on July 8, 1977. The estimated response burden is calculated by FEA at approximately 56 hours per response.

GAO granted clearance of the form FEA–U544–S–O on July 18, 1977, under number B–181254 (RO459) because the application form conformed to GSA Standard Form 424 and the Federal Management Circular 74–7.

NORMAN F. HEYL,
Regulatory Reports
Review Officer.

[FR Doc.77–21074 Filed 7–21–77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[NADA 46–665V]

NATIONAL LABORATORIES CORP.

Oxytocin Injection; Withdrawal of Approval of New Animal Drug Application

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This is a notice of withdrawal of approval of a new animal drug application (NADA) held by National Laboratories Corp. for oxytocin injection. In a document appearing elsewhere in this issue of the FEDERAL REGISTER, that portion of the regulations representing this approval is being deleted.

EFFECTIVE DATE: July 22, 1977.

FOR FURTHER INFORMATION CONTACT:

W. D. Price, Bureau of Veterinary Medicine (HFV–123), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, (301–443–3440).

SUPPLEMENTARY INFORMATION: The application, held by National Laboratories Corp., 1721 Baltimore Ave., Kansas City, MO 64108, was originally approved June 27, 1973, for obstetrical use and milk let-down in dogs, cats, horses, cattle, swine, and sheep. The firm informed the agency that it is no longer interested in marketing the product and requested withdrawal of approval of the application without prejudice.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(e), 82 Stat. 345–347 (21 U.S.C. 360b(e))) and under authority delegated to the Commissioner (21 CFR 5.1), the following notice is issued:

In accordance with § 514.115(d) (21 CFR 514.115(d)), notice is given that approval of NADA 46–665V and all supplements and amendments thereto for oxytocin injection is hereby withdrawn, effective July 22, 1977.

Published elsewhere in this issue of the FEDERAL REGISTER is an amendment to § 522.1680 *Oxytocin injection* (21 CFR 522.1680) to reflect this notice.

Dated: July 13, 1977.

RICHARD P. LEHMANN,
Acting Director,
Bureau of Veterinary Medicine.

[FR Doc.77–20809 Filed 7–21–77;8:45 am]

National Institutes of Health

COMMISSION FOR THE CONTROL OF HUNTINGTON'S DISEASE AND ITS CONSEQUENCES

Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Commission for the Control of Huntington's Disease and Its Consequences, National Institutes of Health, on August 5–7, 1977, in Conference Room 9, Building 31, NIH, Bethesda, Maryland 20014.

The entire meeting will be open to the public from 9 a.m. to 5 p.m., subject to space available. The purpose of the meeting is for the Commission to approve the final report and recommendations.

Dr. Nancy S. Wexler, Executive Director, Commission for the Control of Huntington's Disease and Its Consequences, NIH, Building 31, Room 8A11, Bethesda, Maryland 20014, (301–496–9275), will provide substantive program information.

Mr. Robert Hinkel, Acting Chief, Office of Scientific and Health Reports, NINCDS, Building 31, Room 8A02, Bethesda, Maryland 20014, (301–496–5751, will provide summaries of the meeting and rosters of Commission members.

(Catalog of Federal Domestic Assistance Program No. 13.852, National Institutes of Health)

Dated: July 15, 1977.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc.77–20929 Filed 7–21–77;8:45 am]

EXECUTIVE SUBGROUP OF THE CLEARINGHOUSE ON ENVIRONMENTAL CARCINOGENS

Notice of Cancellation of Meeting

Notice is hereby given of the cancellation of the meeting of the Executive Subgroup of the Clearinghouse on Environmental Carcinogens, National Cancer Institute, National Institutes of Health, August 1, 1977, which was published in the FEDERAL REGISTER on July 8, 1977 (42 FR 35224).

Dated: July 13, 1977.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc.77–20690 Filed 7–21–77;8:45 am]

PRESIDENT'S CANCER PANEL

Amended Notice of Meeting

Notice is hereby given of a change in the meeting date of the President's Cancer Panel, National Cancer Institute, August 9, 1977, which was published in the FEDERAL REGISTER on July 8, 1977 (42 FR 35224).

The meeting was to have convened at 9:30 a.m. on August 9, 1977, but has been changed to 9:30 a.m., August 5, 1977, Building 31C, Conference Room 7, National Institutes of Health, Bethesda,

Maryland. The meeting will be entirely open to the public.

Dated: July 13, 1977.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc.77-20691 Filed 7-21-77;8:45 am]

Office of the Secretary

COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

Comments

Pursuant to Section 406(g)(2)(B), General Education Provisions Act, notice is hereby given as follows:

The National Center for Education Statistics, and The U.S. Office of Education have proposed collections of information and data acquisition activities which will request information from educational agencies or institutions.

The purpose of publishing this notice in the FEDERAL REGISTER is to comply with paragraph (g)(2)(B) of the "Control of Paperwork" amendment which provides that each educational agency or institution subject to a request under the collection of information and data acquisition activity and their representative organizations shall have an opportunity during a 30-day period before the transmittal of the request to the Director of the Office of Management and Budget, to comment to the Administrator of the National Center for Education Statistics on the collection of information and data acquisition activity.

These data acquisition activities are subject to review by the HEW Education Data Acquisition Council and the Office of Management and Budget.

Descriptions of the proposed collections of information and data acquisition activities follow below.

Written comments on the proposed activities are invited. Comments should refer to the specific sponsoring agency and form number and must be received on or before and should be addressed to Administrator, National Center for Education Statistics, ATTN: Manager, Information Acquisition, Planning, and Utilization, Room 3001, 400 Maryland Avenue, SW., Washington, D.C. 20202.

Further information may be obtained from Elizabeth M. Proctor of the National Center for Education Statistics, 202-245-1022.

Dated: July 19, 1977.

MARIE D. ELDRIDGE,
Administrator, National Center for Education Statistics.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. TITLE OF PROPOSED ACTIVITY

Design and implementation of the national vocational education data reporting and accounting system. (Feasibility Study).

2. AGENCY/BUREAU/OFFICE

National Center for Education Statistics.

3. AGENCY FORM NUMBER

NCES 2404, 2404-1, 2404-2, 2404-3, 2404-4.

4. LEGISLATIVE AUTHORITY FOR THIS ACTIVITY

Sec. 161(a)(1) "The Commissioner and the Administrator of the National Center for Education Statistics shall, by September 30, 1977, jointly develop information elements and uniform definitions for a national vocational education data reporting and accounting system. This system shall include information resulting from the evaluations required to be conducted by section 112(b) (as such section will be in effect on October 1, 1978) and other information on vocational—

"(A) students (including information on their race and sex),

"(B) programs,

"(C) program completers and leavers,

"(D) staff,

"(E) facilities, and

"(F) expenditures * * *

(3)(A) After the completion of the development of those information elements and uniform definitions pursuant to paragraph(1), the Administrator shall immediately begin to design, implement, and operate this information system which shall be in full operation for fiscal year beginning October 1, 1978. (Title II, P.L. 94-482 as amended by P.L. 95-40(21 and 22). 20 USC 2391.)

VOLUNTARY/OBLIGATORY NATURE OF RESPONSE

Feasibility study—voluntary.

6. HOW INFORMATION COLLECTED WILL BE USED

All information collected will be used to develop the comprehensive vocational education data reporting and accounting system mandated by the statute cited above, in order for the Federal government to assist the States in operating the best possible programs of vocational education. P.L. 94-482, Sec. 112(a)). Feasibility study data will provide information about the capability of the States to collect federally mandated data which will be used in establishing and administering effective programs of vocational education, and to explore the level of specificity necessary to fully utilize the data for planning and evaluation purposes at the Federal, State and local levels.

7. DATA ACQUISITION PLAN

a. Method of collection: Mail.

b. Time of collection: Aug. 1977-Nov. 1977.

c. Frequency: One time.

8. RESPONDENTS

a. Type: Local Education Agencies (LEA's) and Postsecondary Institutions (PSI's).

b. Number: Sample—56 LEA's and 40 PSI's.

c. Estimated average manhours for respondent: 6 hours.

9. INFORMATION TO BE COLLECTED

Form 2404

Enrollments by instructional program title and sex by: Enrollments during year (unduplicated counts). Race/Ethnic Group (duplicated counts). Program Level (duplicated counts). Special Needs (duplicated counts). Cooperative vocational educational program (duplicated counts). Student termination during the year (unduplicated counts). Duplicated and unduplicated totals.

Enrollment in special and support programs by sex: Enrollment during year (unduplicated counts). Race/ethnic Group (duplicated counts). Program Level (duplicated counts). Special Needs (duplicated counts).

Enrollment by handicapped condition and regular, separate, separate facility or other program.

Form 2404-1

Number of instructional and supplemental staff by program (duplicated and unduplicated).

Number of instructional staff for job skill training 9th grade and higher by program title by: sex, minority, handicap, bilingual, full-time equivalent.

Number of supplemental staff by: sex, minority, handicap, bilingual, full-time equivalent.

Number of instructional staff for job skill training 9th grade and higher by program title by: sex, minority, handicap, bilingual, full time equivalent.

Number of supplemental staff by: sex, minority, handicap, bilingual, full time equivalent.

Number of instructional staff vacancies, or inadequately filled positions by program.

Form 2404-2

Number of classroom/laboratory facilities by program.

Maximum capacity of facility by program.

Number of class sessions per week by program.

Form 2404-3

Expenditures by program by Federal or non-Federal source.

Form 2404-4

This form actually provides data on a sample of students in vocational education programs. LEA's and PSI's will be asked to supply the following information on the student forms.)

Vocational education instructional field studied; State; school identification number, SMSA; labor market area; congressional district; participation in targeted education programs; bilingual (for limited English speaking ability students), disadvantaged, handicapped, cooperative education, work study; student financial aid received (postsecondary only).

Vocational objective; completion status; date left or completed school (month, year).

(NOTE.—The following data will be added to the above by a sample of students.)

Student's full name; student ID number; sex; year of birth; racial/ethnic self-designation; current address; permanent address; address and telephone number of someone likely to always know your location.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. TITLE OF PROPOSED ACTIVITY

Application for Teacher Centers Program and Higher Education Personnel Training Program.

2. AGENCY/BUREAU/OFFICE

U.S. Office of Education, Bureau of Occupational and Adult Education, Division of Educational Systems Development.

3. AGENCY FORM NUMBER

OE Form 335.

4. LEGISLATIVE AUTHORITY FOR THIS ACTIVITY

"Sec. 532. (a)(1) The Commissioner is authorized to make grants to local educational agencies * * *

"Sec. 532. (f) Notwithstanding the provisions of subsection (a)(1) of this section with respect to the requirement that teacher centers be operated by local educational agencies, 10 per centum of the funds expended under this section may be expended directly by the Commissioner to make grants to institutions of higher education to operate teacher centers, subject to the other provisions of this section." (20 U.S.C. 1119a).

"Sec. 533. (a) The Commissioner is authorized to make grants to institutions of higher education to assist such institutions in the training of individuals." (P.L. 94-482, 20 U.S.C. 1119a-1).

5. VOLUNTARY/OBLIGATORY NATURE OF RESPONSE

Required to obtain or maintain benefits.

6. HOW INFORMATION TO BE COLLECTED WILL BE USED

The information will be used to award grants under the Teacher Centers Program and the Higher Education Personnel Training Program.

7. DATA ACQUISITION PLAN

a. Method of collection: Mail.
b. Time of collection: Fall and Winter.
c. Frequency: Annually.

8. RESPONDENTS

a. Type: Colleges and universities.
b. Number: 80.
c. Estimated average man-hours per respondent: 40.
a. Type: Local Education Agencies.
b. Number: 720.
c. Estimated average man-hours per respondent: 40.

9. INFORMATION TO BE COLLECTED

All respondents will be required to provide information requested on the standard non-construction application for Federal Assistance. Special emphasis will be given to including statutory requirements and to addressing the technical review criteria in the program narrative.

DESCRIPTION OF PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. TITLE OF PROPOSED ACTIVITY

Financial Status and Performance Reports for Domestic Mining and Mineral and Mineral Fuel Conservation Fellowships Program.

2. AGENCY/BUREAU/OFFICE

U.S. Office of Education/Bureau of Higher and Continuing Education/Division of Training and Facilities.

3. AGENCY FORM NUMBER

OE 405-1 and OE 405-2.

4. LEGISLATIVE AUTHORITY FOR THIS ACTIVITY

"Sec. 961. (a) It is the purpose of this part to provide fellowships—(1) to assist graduate students of exceptional ability who demonstrate a financial need for advanced study in domestic mining and mineral and mineral fuel conservation including oil, gas, coal, oil shale, and uranium * * *". (P.L. 92-318, as amended, 20 U.S.C. 1134n).

"Sec. 408. (a) Each administrative head of an education agency in order to carry out functions otherwise vested in him by law is * * * (1) to make, promulgate, issue, rescind, and amend rules and regulations governing the manner of operation of the agency * * * (4) * * * to enter into and perform such * * * transactions as may be necessary for the conduct of such agency * * *". (P.L. 93-380, 20 U.S.C. 1221e-3).

5. VOLUNTARY/OBLIGATORY NATURE OF RESPONSE

Required to obtain benefit.

6. HOW INFORMATION COLLECTED WILL BE USED

Financial information collected will be used to determine accountability of each award in terms of expenditure of funds. Performance Report will be used to determine whether goals and objectives are achieved.

7. DATA ACQUISITION PLAN

a. Method of collection: Mail.
b. Time of collection: Fall.
c. Frequency: One a year.

8. RESPONDENTS

a. Type: Institutions of higher education.
b. Number: 52.
c. Estimated average man-hours per respondent: 3 man-hours.

9. INFORMATION TO BE COLLECTED

Number of fellowships awarded, number of fellows who left the program during the academic year, number of fellows who found employment related to their fellowship training.

DESCRIPTION OF A PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. TITLE OF PROPOSED ACTIVITY

Application for Grants for Improving Qualifications of Personnel and Improving Supervisory Services under Sec. 344(a), and for Coordination of Guidance and Counseling Programs under Sec. 344(b), P.L. 94-482.

2. AGENCY/BUREAU/OFFICE

Office of Commissioner/Guidance and Counseling Task Force.

3. AGENCY FORM NUMBER

OE 578-2.

4. LEGISLATIVE AUTHORITY FOR THIS ACTIVITY

(a) "Sec. 344(a) The Commissioner is authorized, on a competitive basis, to enter into contracts and make grants to State and local educational agencies, to institutions of higher education, and to private nonprofit organizations to assist them in conducting institutes, work shops, and seminars designed to improve the profesional guidance qualifications of teachers and counselors in State and local educational agencies and nonpublic elementary and secondary school systems, including opportunities for teachers and guidance counselors in such agencies and systems to obtain experience in business and industry, the professions, and other occupational pursuits, and including, for the purpose of such improvement, such programs, services, or activities which bring individuals with experience in such pursuits into schools as counselors or advisors for students, and which bring students into the workplaces of such pursuits to acquaint students with the nature of the work and to provide training for supervisory and technical personnel in such agencies and systems having responsibilities for guidance and counseling, and to improve supervisory services in the field of guidance and counseling."

(b) "Sec. 344—(b) The Commissioner is authorized to make grants to States to assist them in carrying out programs to coordinate new and existing programs of guidance and counseling in the States." (20 U.S.C. 2534).

5. VOLUNTARY/OBLIGATORY NATURE OF RESPONSE

Voluntary.

6. HOW INFORMATION COLLECTED WILL BE USED

Determining Eligibility to receive grants.

7. DATA ACQUISITION PLAN

a. Method of collection: Mail.
b. Time of collection: Fall, 1977.
c. Frequency: Annually.

8. RESPONDENTS

a. Type: State Education Agencies. b. Number: 57. c. Estimated average man-hours per respondent: 40. a. Type: Local education agencies. b. Number: 500. c. Estimated average man-hours per respondent: 20. a. Type: Nonpublic, nonprofit elementary/secondary schools. b. number: 100. c. Estimated average man-hours per respondent: 20. a. Type: Colleges and universities. b. Number: 300. c. Estimated average man-hours per respondent: 20. a. Type: Nonpublic junior colleges. b. Number: 50. c. Estimated average man-hours per respondent: 20.

a. Type: Public junior colleges. b. Number: 75. c. Estimated average man-hours per respondent: 20. a. Type: Vocational/technical postsecondary institutions. b. Number: 50. c. Estimated average man-hours per respondent: 20. a. Type: Nonprofit organization b. Number: 50 c. Estimated average man-hours per respondent: 20.

9. INFORMATION TO BE COLLECTED

The standard (nonconstruction) application in the Federal Management Circular 74-7 will be used with minor supplementation required by law and regulations.

DESCRIPTION OF PROPOSED COLLECTION OF INFORMATION AND DATA ACQUISITION ACTIVITY

1. TITLE OF PROPOSED ACTIVITY

Certificate of project costs and capitalized interest.

2. AGENCY/BUREAU/OFFICE

U.S. Office of Education/Bureau of Higher and Continuing Education/Division of Training and Facilities.

3. AGENCY FORM NUMBER

OE 1143, 1144.

4. LEGISLATIVE AUTHORITY FOR THIS ACTIVITY

"Sec. 782. (3)(A) The term "development cost," with respect to an academic facility, means the amount found by the Commissioner to be the cost, to the applicant for a grant or loan under this title, of the construction involved and the cost of necessary acquisition of the land on which the facility is located and of necessary site improvements to permit its use for such facility." (P.L. 92-318, 20 U.S.C. 1132e-1).

5. VOLUNTARY/OBLIGATORY NATURE OF

Required to maintain benefits.

6. HOW INFORMATION TO BE COLLECTED WILL BE USED

To determine the amount of eligible costs relating to eligible constructed facilities. This information is required in order to ascertain that matching costs requirements have been met.

7. DATA ACQUISITION PLAN

a. Method of collection: Mail.
b. Time of collection: Throughout the year.
c. Frequency: Annually.

8. RESPONDENTS

a. Type: Institutions of postsecondary education.
b. Number: 100.
c. Estimated average man-hours per respondent: 1.

9. INFORMATION TO BE COLLECTED

a. OE 1143—Costs of facilities, and project description.

b. OE 1144—Interest costs for facilities construction, itemized by lender.

[FR Doc.77-21121 Filed 7-21-77;8:45 am]

NATIONAL COMMISSION FOR THE PROTECTION OF HUMAN SUBJECTS OF BIOMEDICAL AND BEHAVIORAL RESEARCH

Meeting

The National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research will meet on August 12 and 13, 1977, in Conference Room 6, C Wing, Building 31, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland. The meeting will convene at 9 a.m. each day and will be open to the public, subject to the limitations of available space. Topics included in the mandate to the Commission under the National Research Act (Pub. L. 93-348), as amended, including research involving children, research involving the institutionalized mentally infirm, the performance of institutional Review Boards, research not subject to regulation by the Secretary of Health, Education, and Welfare, the application of research guidelines to the delivery of health services by DHEW, and other matters identified in the legislative mandate to the Commission, will be the agenda for this meeting.

Written materials of any length may be submitted to the Commission at any time. Requests for information should be directed to Ms. Betsy Singer, Information Officer (301-496-7776), Room 125, Westwood Building, 5333 Westbard Avenue, Bethesda, Maryland 20016.

Dated: July 18, 1977.

MICHAEL S. YESLEY,
Staff Director, National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research.

[FR Doc.77-21114 Filed 7-21-77;8:45 am]

NATIONAL ADVISORY COUNCIL ON SERVICES AND FACILITIES FOR THE DEVELOPMENTALLY DISABLED

Meeting

The National Advisory Council on Services and Facilities for the Developmentally Disabled was established by Section 133(a)(1) of Public Law 91-517, which was signed October 30, 1970, to advise the Secretary with respect to any regulations promulgated or proposed to be promulgated by him in the implementation of the Act and study and evaluate programs authorized by the Act with a view to determining their effectiveness in carrying out the purposes for which they were established.

Notice is hereby given, pursuant to P.L. 92-463, that the National Advisory Council on Services and Facilities for the Developmentally Disabled will hold a meeting on August 9 and 10, 1977. The meeting will be held in Room 425-A, South Portal Building, Department of Health, Education, and Welfare, 200 Independence Avenue SW., Washington, D.C. from 9 a.m. to 5 p.m. Agenda: Discussion of Developmental Disabilities Definition Study; Special Projects; UAF Satellite Centers; Protection and Advocacy; and the Annual Report to Congress.

This meeting is open for public observation.

Further information on the Council may be obtained from Mr. Francis X. Lynch, Executive Secretary, National Advisory Council on Services and Facilities for the Developmentally Disabled, Room 3070, Mary Switzer Building, 330 "C" Street SW., Washington, D.C. 20201. Telephone 202-245-0335.

FRANCIS X. LYNCH,
Executive Secretary.

JULY 11, 1977.

[FR Doc.77-21060 Filed 7-21-77;8:45 am]

TELECOMMUNICATIONS DEMONSTRATION PROGRAM

Solicitation

Pursuant to Section 392A of the Communications Act of 1934, as amended by Section 8 of the Educational Broadcasting Facilities and Telecommunications Demonstration Act of 1976, the Assistant Secretary for Planning and Evaluation (hereafter the Assistant Secretary) is seeking applications from public and private non-profit agencies, organizations, and institutions for the purpose of carrying out telecommunications demonstrations in non-broadcast technology.

A. APPLICABLE REGULATIONS

The regulations applicable to the Telecommunications Demonstration Program are:

1. The regulations for "Grant Programs Administered by the Office of the Assistant Secretary for Planning and Evaluation" (45 CFR Part 63), which were published in the Code of Federal Regulations on October 1, 1976;

2. Amendments to the above regulations, which will govern the Telecommunications Demonstration Program, and which were published in the FEDERAL REGISTER on July 13, 1977; and,

3. 45 CFR Part 74—Administration of Grants.

The regulations define program objectives, limitations, and criteria for evaluation of proposed demonstration projects.

B. EFFECTIVE DATE AND DURATION

1. This Solicitation is intended for grant applications and awards to be made on or about November 30, 1977. Should this Solicitation remain in effect for any succeeding Fiscal Year or portion thereof, it shall be applied as if issued in said Fiscal Year, subject only to those changes in specification of dates necessary to allow it to be read as applying to such year.

2. This Solicitation shall not be construed as limiting or preventing the issuance of additional solicitations by the Department under these authorities in Fiscal Year 1977, even though such additional solicitations would reduce the amount of funds under this Solicitation or might duplicate in part the substantive scope of this Solicitation.

3. In order to avoid unnecessary delays in the preparation and receipt of applications, this notice is effective immediately. Applications will be accepted no later than 45 days from issuance.

C. STATEMENT OF FUNDS AVAILABILITY

1. The Act authorizes $1,000,000 for the Fiscal Year ending September 30, 1977, for the award of grants. This sum carries forward to Fiscal Year 1978 and is to be awarded as a result of this Solicitation.

2. Since it is desired to explore a variety of innovative and cost effective telecommunications technologies which improve the delivery of health, education, rehabilitation and social services, it is expected that up to twenty projects may be funded, although the proposal review committee will retain flexibility on size and number of grants based on the proposals received. Obviously, this may simultaneously limit the size of individual grants and may generally require that significant support, in addition to this Program, be available to most projects. Such support and its sources should be substantiated in individual applications.

3. Funds will not be available for acquisition or development of programming materials and content, and/or acquisition of studio production equipment, primarily because alternative funding authorities for such support exist in other programs.

4. Applications may be submitted for projects of up to three years duration, but funds awarded under this Solicitation will be awarded for only one year of any project, so as to respond to the greatest possible number of applicants. However, projects which propose three-year demonstrations, and which are accepted for first year awards, will be eligible for second or third year funding on a non-competitive basis, providing funds are available in succeeding years and projects are performing acceptably. To be considered for a three-year period of performance, applications must contain detailed work statements and budgets that reflect reduced levels of funding for succeeding years in order to provide for gradual transition of projects to self-sustaining operation. Since there can be no guarantee of continuous funding, projects should be designed to produce significant results during the first year of performance and applicants should be aware that continued funding will depend, in part, upon renewed legislative authority for the program.

D. APPLICATION PROCESSING

1. Grant applications will be reviewed and awards made by an Interagency Panel of HEW staff with expertise in substantive and technology disciplines. Advice and assistance will be sought, where appropriate, from outside agencies such as the National Aeronautics and Space Administration, the Federal Communications Commission, the public broadcasting community, and outside consultants.

2. Applicants will be judged as to eligibility and, if eligible, as to priority for award, strictly according to the criteria set forth in section 63.6(c) of the Final Regulations. Priority will be given to applicants who, in the judgment of the Assistant Secretary, best meet these criteria.

3. Applications judged to be below an acceptable level on any criterion may be classified as conditionally unacceptable, regardless of overall point standing. Such proposals would require modification and, for practical purposes, would have to be deferred for consideration under Fiscal Year 1978 funding.

4. Applications should begin with a brief, overall description of the project, including a simple, line drawing of the proposed system. This should be followed by a detailed project description and then, a series of brief sections addressing how each of the specific program criteria in the regulations would be met. Supporting material should be annexed at the back of the application.

5. Applications which propose access to specific telecommunications systems in order to carry out a demonstration must show adequate evidence that such access is assured in order to demonstrate the technical feasibility of the project.

6. Nothing in this Solicitation should be construed as committing the Assistant Secretary to dividing available funds among all qualified applicants.

E. APPLICATIONS SENT BY MAIL

An application sent by mail will be considered to be received on time by the Grants Officer if:

1. The application was sent by registered or certified mail not later than 45 days from issuance of this Solicitation as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or,

2. The application is received on or before the closing date by the Department of Health, Education, and Welfare Mail Room in Washington, D.C. In establishing the date of receipt, the Assistant Secretary will rely on the time-date stamp of such Mail Room or other documentary evidence of receipt maintained by the Department of Health, Education and Welfare.

F. HAND-DELIVERED APPLICATIONS

An application to be hand-delivered must be taken to the Grants Officer at the address listed at the end of this Solicitation. Hand-delivered applications will be accepted daily between the hours of 9 a.m. and 5:30 p.m. (Washington, D.C. time), except Saturdays, Sundays, or Federal holidays. Applications will not be accepted after 5:30 p.m. on the closing date.

G. DISPOSITION OF APPLICATIONS

1. *Approval, disapproval, or deferral.* On the basis of the review of an application, the Assistant Secretary will either (a) approve the application in whole or in part, for such amount of funds and subject to such conditions as he deems necessary or desirable for the completion of the approved project, (b) disapprove the application, or (c) defer action on the application for such reasons as lack of funds or a need for further review.

2. *Notification of disposition.* The Assistant Secretary will notify the applicants in writing of the disposition of their applications. A signed notification of grant award will be issued to notify the applicant of an approved project application.

H. APPLICATION INSTRUCTIONS AND FORMS

Questions concerning the preceding information, copies of application forms, and applicable regulations shall be obtained from, or submitted to:

Grants Officer, Office of the Assistant Secretary for Planning and Evaluation, Department of Health, Education, and Welfare, 200 Independence Avenue SW., Room 442-E, HEW South Portal Building, Washington, D.C. 20201.

Dated: July 18, 1977.

HENRY AARON,
Assistant Secretary for Planning and Evaluation.

[FR Doc.77-21051 Filed 7-21-77;8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection

[Docket No. D-77-489]

AMENDMENT TO DELEGATION OF AUTHORITY

AGENCY: Department of Housing and Urban Development.

ACTION: Amendment to Delegation of Authority.

SUMMARY: This Notice amends the delegation of authority from the Secretary to the Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection, dated May 12, 1976.

EFFECTIVE DATE: July 15, 1977.

FOR FURTHER INFORMATION CONTACT:

Michael Esposito, Director, Administrative and Field Support Staff, Office of Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection, Department of Housing and Urban Development, Washington, D.C. 20410, 202-755-6314.

SUPPLEMENTARY INFORMATION: By publication in the Notice section of today's FEDERAL REGISTER the Secretary of the Department of Housing and Urban Development has announced a change of title from the old title of Assistant Secretary for Consumer Affairs and Regulatory Functions to a new title of Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection. This announcement is made to give public notice of an amendment to the original delegation of authority to what is now the Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection.

By publication in the FEDERAL REGISTER on March 16, 1971, at 36 FR 5005, the Secretary of Housing and Urban Development delegated to the Assistant Secretary for Housing Management and the Deputy Assistant Secretary for Housing Management the authority to exercise the Secretary's power and authority under sections 101(e) and 106(a) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701w and 1701x (a)) and section 237(e) of the National Housing Act (12 U.S.C. 1715z-2(e)), with respect to the provision of information, advice, and technical assistance, including but not limited to counseling on household management, self-help, budgeting, money management, child care, and related counseling services. By publication in the FEDERAL REGISTER at 36 F.R. 12918, on July 9, 1971, the Assistant Secretary for Housing Management redelegated to the Director, Office of Counseling and Community Services, most of the authority which the Secretary had delegated to the Assistant Secretary for Housing Management at 36 F.R. 5005, supra.

The title of the Office of Counseling and Community Services has subsequently been changed to Housing Consumer Programs Division. The responsibilities of the Housing Consumer Programs Division have remained the same as they were when its title was the Office of Counseling and Community Services. In addition, the Housing Consumer Programs Division continued to function under the auspices of the Assistant Secretary for Housing Management until June 14, 1976.

On June 18, 1976, by publication in the FEDERAL REGISTER at 41 FR 24755, the Secretary of Housing and Urban Development announced, effective June 14, 1976, the abolition of the former positions of Assistant Secretary for Housing Production and Mortgage Credit—Federal Housing Commissioner and Assistant Secretary for Housing Management and the establishment of a new position of Assistant Secretary for Housing, Federal Housing Commissioner. All of the authority and functions which had been exercised by the Assistant Secretary for Housing Production and Mortgage Credit, Federal Housing Commissioner and the Assistant Secretary for Housing Management were delegated and assigned to the new Office of the Assistant Secretary for Housing, Federal Housing Commissioner. The June 18, 1976 notice of the establishment of the position of Assistant Secretary for Housing, Federal Housing Commissioner also announced the continuation in effect of all delegations of authority by the Deputy Assistant Secretary for Housing Management and all redelegations of authority by the Assistant Secretary for Housing Management that were in effect as of June 18, 1976. Therefore, the supervision of the Housing Consumer Pro-

grams Division was transferred, effective June 14, 1976, from the old Assistant Secretary for Housing Management to the new Assistant Secretary for Housing, Federal Housing Commissioner.

The Department has decided to transfer the functions of the Housing Consumer Programs Division from the Assistant Secretary for Housing, Federal Housing Commissioner to the Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection.

Accordingly, the delegation of authority to the Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection published at 41 FR 19365 on May 12, 1976, is amended as follows:

(1) By redesignating Sections C, D, and E as Sections D, E, and F respectively and adding a new Section C to read as follows:

Section C. Additional Authority Delegated. The Secretary delegates to the Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection the power and authority of the Secretary of Housing and Urban Development under sections 101(e) and 106(a) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701w and 1701x(a)) and section 237(e) of the National Housing Act (12 U.S.C. 1715z-2(e)), with respect to the provision of counseling and advice to tenants and homeowners in reference to property maintenance, financial management, and such other matters as may be appropriate to assist them in improving their housing conditions and meeting the responsibilities of tenancy or homeownership.

(2) By amending new Section E to read as follows:

Section E. Authority to Redelegate. The Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection is authorized to redelegate to employees of the Department and to agents of the Department any of the power and authority delegated under Section A, B, and C of this delegation except the power and authority to issue rules and regulations.

(3) By amending new Section F to read as follows:

Section F. Delegation revoked and Superseded. This delegation revokes paragraph 2 of Section A of the delegation of authority fom the Secretary to the Assistant Secretary for Housing Management at 36 FR 5005, March 16, 1971, as amended; the redelegation of authority from the Assistant Secretary for Housing Management to the Director and the Deputy Director, Office of Counseling and Community Services, at 36 FR 12918, July 9, 1971; the redelegation of authority from the Assistant Secretary for Housing Management to Regional Administrator et al. at 37 FR 9132, May 5, 1972; the delegation of authority to the Interstate Land Sales Full Disclosure Act, published at 37 FR 5701, March 9, 1972; and the delegation of authority to the Assistant Secretary for Housing Production and Mortgage Credit, Federal Housing Administration Commissioner with respect to the National Mobile Home Construction and Safety Standards Act of 1974, published at 40 FR 26578, June 24, 1975; and this delegation supersedes the delegation of authority to the Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection with respect to the Real Estate Settlement Procedures Act of 1974, published at 41 FR 12917, March 29, 1976, except that all regulations issued and actions taken under these delegations remain valid as if issued or taken under this delegation. Sec. 7(d), Department of HUD Act; 42 U.S.C 3535(d).

Issued at Washington, D.C., July 15, 1977.

PATRICIA ROBERTS HARRIS,
Secretary of Housing and Urban Development.

[FR Doc.77-21112 Filed 7-21-77;8:45 am]

Office of the Secretary

[Docket No. N-77-781]

PRIVACY ACT OF 1974

Proposed New Notice of System of Records

AGENCY: Department of Housing and Urban Development.

ACTION: Proposed new Notice of System of Records.

SUMMARY: The Department hereby publishes for comment the description of a new system of records containing personal information that will be maintained by the Department.

DATE: Comments due August 22, 1977.

ADDRESS: Rules Docket Clerk, Office of the Secretary, Room 5218, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410, telephone 202-755-6703.

FOR FURTHER INFORMATION CONTACT:

Mr. Harold Rosenthal, Departmental Privacy Act Officer, telephone 202-755-5192.

SUPPLEMENTARY INFORMATION: The proposed new system will result from tracking individual consumer complaint actions on automatic data processing equipment. Any person interested in commenting on the routine use portion of the system of records contained in this notice may do so by submitting comments in writing to the address set forth above.

A new system report was filed with the Speaker of the House, the President of the Senate, the Privacy Protection Study Commission, and the Office of Management and Budget on March 29, 1977.

A Finding of Inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD Handbook 1390.1. A copy of this Finding of Inapplicability will be available for public inspection during regular business hours at the Office of the Rules Docket Clerk, Office of the Secretary, Room 5218, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

It is fully certified that the economic and inflationary impacts of this proposed notice of system of records have been carefully evaluated in accordance with OMB Circular A-107.

HUD/DEPT-53

System name:

Consumer Complaint Handling System.

System location:

Headquarters.

Categories of individuals covered by the system:

Any member of the public who writes a letter of complaint to HUD, including but not limited to: Community Development Block Grant (CDBG) recipients or individuals who use facilities or services supported by CDBG money; mortgagors/mortgagees having or seeking FHA-insured mortgages; tenants in FHA-insured projects; tenants in HUD-supported Low Rent Housing Projects; employees on HUD-assisted or insured construction projects and their unions; and public interest groups. Excluded are complaints from HUD employees arising out of the administration of internal HUD policies or procedures.

Categories of records in the system:

Complaints expressing dissatisfaction with a Departmental program, policy, or service. Name of complainant and action dates.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

See Routine Uses paragraphs in prefatory statement. Other routine uses: the following may receive individual records to assist in the resolution of a complaint—State and local officials; public and private counseling agencies; building associations; developers; financial institutions holding HUD-insured mortgages; Federal, State, and local Consumer Affairs offices; Consumer Protection agencies; State and local real estate and planning Commissions.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the System:

Storage:

In file folders, cassettes, computerized tape, disc, and drum.

Retrievability:

Control number, date of receipt, name of writer, date of letter, HUD program category, assigned due date, date of interim reply, date of last update on the System, and HUD Office to which complaint was referred for action.

Safeguards:

Access to the automated System is accomplished by passwords and code identification codes limited in use to authorized personnel. Cassettes and computer/data files will be stored in computer facilities which are secured and accessible only to authorized personnel. File folders of pending and closed cases to be stored in lockable file cabinets.

Retention and disposal:

Correspondence file is closed upon final response, and purged after six months. Correspondence pending response will remain open and active until final response is sent. Obsolete records will be disposed of in accordance with HUD Handbook.

System manager and address:

Director, Office of Organization and Management Information, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

Notification procedure:

For inquiry about existence of records, contact the Privacy Act Officer at the Headquarters location, in accordance with procedures in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Record access procedures:

The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Contesting record procedures:

The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Record source categories:

Letters of complaint from individuals, and consumer oriented agencies on behalf of individuals.

AUTHORITY: 5 U.S.C. 552a, 88 Stat. 1896; sec. 7(d) Department of HUD Act (42 U.S.C. 3535 (d)).

Issued at Washington, D.C., July 15, 1977.

PATRICIA ROBERTS HARRIS,
Secretary of Housing and Urban Development.

[FR Doc.77-21113 Filed 7-21-77;8:45 am]

Office of the Secretary

[Docket No. N-77-780]

PROCEDURES FOR PROTECTION AND ENHANCEMENT OF THE ENVIRONMENT

Further Extension of Time

AGENCY: Department of Housing and Urban Development.

ACTION: Notice of further extension of time.

SUMMARY: This Notice extends for an additional six months the effectiveness of certain special procedures for the first segment of large-scale subdivisions requiring an Environmental Impact Statement.

EFFECTIVE DATE: June 11, 1977.

COMMENT DUE DATE: August 22, 1977.

FOR FURTHER INFORMATION CONTACT:

Donna Letwin, Office of Environmental Quality, Room 7262, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTAL INFORMATION: On June 11, 1976, the Secretary amended Handbook 1390.1 (38 FR 19182), July 18, 1973) and provided, among other things, for certain special procedures for the first segment of large-scale subdivisions requiring an Environmental Impact Statement (41 FR 23878, 23879). These special procedures were limited under the terms of the amendment to a period of one year from the date the amendment was published, or until June 11, 1977. Paragraph 5.a. (10)(c), Handbook 1390.1, as amended.

The Secretary now finds that the effectiveness of these special procedures shall be continued for an additional six months or until December 11, 1977.

This extension of time is continuous with that previously granted and governs applications from June 11, 1977, until December 11, 1977, in order to permit the first phase of large scale development to begin under certain conditions during environmental review. However, the Secretary is considering the adoption of these special procedures for an indefinite period, and is interested in a public response to continuation of the procedures on a regular basis. Interested persons are invited to file comments, views and suggestions with the Rules Docket Clerk, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410. Comments should refer by name to the Special Environmental Procedures. All submittals received before the comment closing date will be considered by the Secretary before deciding on adoption of the procedures on a regular and continuing basis. Copies of all submittals received will be available for inspection and copying in the Office of the Rules Docket Clerk during normal business hours.

A finding has been made that this amendment does not significantly affect the quality of the human environment and a copy of that finding has been prepared and is available for copying and inspection in the Office of the Rules Docket Clerk.

The requirements of OMB Circular A-107 and Executive Order 11923 have been complied with.

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

Issued at Washington, D.C., July 13, 1977.

PATRICIA ROBERTS HARRIS,
Secretary, Department of Housing and Urban Development.

[FR Doc.77-21087 Filed 7-21-77;8:45 am]

DEPARTMENT OF LABOR

Employment and Training Administration

EMPLOYMENT TRANSFER AND BUSINESS COMPETITION DETERMINATIONS UNDER THE RURAL DEVELOPMENT ACT

Notice of Applications

The organizations listed in the attachment have applied to the Secretary of Agriculture for financial assistance in the form of grants, loans, or loan guarantees in order to establish or improve facilities at the locations listed for the purposes given in the attached list. The financial assistance would be authorized by the Consolidated Farm and Rural Development Act, as amended, 7 U.S.C. 1924(b), 1932, or 1942(b).

The Act requires the Secretary of Labor to determine whether such Federal Assistance is calculated to or is likely to result in the transfer from one area to another of any employment or business activity provided by operations of the applicant. It is permissible to assist the establishment of a new branch, affiliate or subsidiary, only if this will not result in increased unemployment in the place of present operations and there is no reason to believe the new facility is being established with the intention of closing down an operating facility.

The Act also prohibits such assistance if the Secretary of Labor determines that it is calculated to or is likely to result in an increase in the production of goods, materials, or commodities, or the availability of services or facilities in the area, when there is not sufficient demand for such goods, materials, commodities, services, or facilities to employ the efficient capacity of existing competitive commercial or industrial enterprises, unless such financial or other assistance will not have an adverse effect upon existing competitive enterprises in the area.

The Secretary of Labor's review and certification procedures are set forth at 29 CFR Part 75. In determining whether the applications should be approved or denied, the Secretary will take into consideration the following factors:

1. The overall employment and unemployment situation in the local area in which the proposed facility will be located.

2. Employment trends in the same industry in the local area.

3. The potential effect of the new facility upon the local labor market, with particular emphasis upon its potential impact upon competitive enterprises in the same area.

4. The competitive effect upon other facilities in the same industry located in other areas (where such competition is a factor).

5. In the case of applications involving the establishment of branch plants or facilities, the potential effect of such new facilities on other existing plants or facilities operated by the applicant.

All persons wishing to bring to the attention of the Secretary of Labor any information pertinent to the determinations which must be made regarding these applications are invited to submit such information in writing within two weeks of publication of this notice to: Deputy Assistant Secretary for Employment and Training, 601 D St., NW., Washington, D.C. 20213.

Signed at Washington, D.C. this 18th day of July, 1977.

ERNEST G. GREEN,
Assistant Secretary for Employment and Training.

Applications received during the week ending July 15, 1977

Name of applicant	Location of enterprise	Principal product or activity
Stature Electric, Inc. (tenant of Jefferson County Industrial Park).	Watertown, N.Y.	Manufacture of universal electric motor parts.
Hunterdon Tennis Center II	Flemington, N.J.	Indoor tennis and racket ball center.
Remco of Alabama, Inc.	Pine Hill, Ala.	Manufacture of heavy machinery and equipment.
The Strawberry Bowl	Plant City, Fla.	Bowling and family recreation center.
Whitakers Gin Co., Inc.	Whitakers, N.C.	Cotton ginning.
Southland Motel	New Albany, Miss.	Motel and restaurant services.
Tenn-Flake Fabricators, Inc.	Morristown, Tenn.	Manufacture of laminated products.
Advance Transformer Co. (tenant of City of Platteville).	Platteville, Wis.	Coil winding for fluorescent ballasts.
Wrighteo Products, Inc.	Monticello, Minn.	Manufacture and distributing of egg products and distributing bakery products.
Menard Inc.	Chester, Minn.	Retail lumber and home center sales, agri-building sales and erection, retail food sales.
Long Prairie Packing Co., Inc.	Long Prairie, Minn.	Slaughtering and processing of beef and hogs.
Ten-Flake Fabricators, Inc.	Morristown, Tenn.	Processing and cutting of particleboard, medium density fiberboard, and hardwood plywood.
Western Fibers, Inc. (tenant of Hollis Development Trust).	Hollis, Okla.	Manufacture of cellulose insulation.
Lincoln & Richardson Enterprises, Inc.	Charleston, Mo.	Nursing home.
Colorado Beef Packers, Inc.	Lamar, Colo.	Beef packing plant.
Wheatland Tire Co.	Scobey, Mont.	Retail and wholesale tire sales and service.
Jim's Water Service of Colorado, Inc.	Brighton, Colo.	Service oil field drilling operations.
H. & U., Inc.	Avondale, Ariz.	Manufacture of women's blouses.
Richard A. Shaw, Inc.	Watsonville, Calif.	Freezing of vegetables for the retail and institutional markets.

[FR Doc.77-21086 Filed 7-21-77;8:45 am]

FEDERAL-STATE EXTENDED BENEFITS

National "off" Indicator for Extended Benefits

This notice announces the National "off" indicator for Extended Benefit Periods in the States, effective on July 23, 1977.

BACKGROUND

The Federal-State Extended Unemployment Compensation Act of 1970 (title II of Public Law 91-373), as implemented in State unemployment compensation laws, created the Extended Benefits Program as a permanent feature of the Federal-State Unemployment Compensation Program. Extended Benefits are payable under State laws for up to 13 weeks to individuals who have exhausted their rights to regular benefits under the State laws or under permanent Federal unemployment compensation laws administered by the States. Extended Benefits are payable only during an Extended Benefit Period, which may be triggered "on" in a State by either a State or National indicator, when insured unemployment in the State or in the Nation reaches the high rates set in the Act. Similarly, an Extended Benefit Period will end in a State or in all States when insured unemployment drops below the high rates set in the Act.

There was a National "on" indicator for the week ending on February 8, 1975, and an Extended Benefit Period therefore commenced with the week beginning on February 23, 1975, in all States in which an Extended Benefit Period was not already in effect. Extended Benefit Periods have remained in effect in all States since that date by reason of the National "on" indicator. Now that there has been a National "off" indicator for the week ending on July 2, 1977, the Extended Benefits Program will no longer remain in effect in most States after the week which ends on July 23, 1977. There are some States, however, where Extended Benefit Periods will continue in effect after July 23, 1977, because State indicators will remain "on" in those States. A notice will be published soon, announcing those States in which Extended Benefit Periods will continue in effect.

DETERMINATION OF "OFF" INDICATOR

I have determined in accordance with the Act, as amended by section 311(a) of the Unemployment Compensation Amendments of 1976 (Public Law 94-566, approved October 20, 1976; 90 Stat. 2667, 2678), 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 National "off" indicator for Extended Benefits for the week ending on July 2, 1977, and that Extended Benefit Periods terminate with the week ending on July 23, 1977, in all States with respect to which there was also a State "off" indicator for the week ending on July 2, 1977.

INFORMATION FOR CLAIMANTS

Individuals currently filing claims for Extended Benefits in States in which Extended Benefit Periods will end on July 23, 1977, will receive written notices from the employment security agency of their State, advising them of the end of the Extended Benefit Period with respect to that State and the termination of further payments of Extended Benefits.

Even in those States where the Extended Benefit Period terminates, some may continue to qualify for Federal Supplemental Benefits because of the different "off" indicator in effect for these benefits. In those States, therefore, Federal Supplemental Benefits will continue to be payable so long as that program remains in effect in each State.

Persons who wish information about their rights to Extended Benefits or Federal Supplemental Benefits in any State should contact the nearest employment office or unemployment compensation claims office in their locality.

Signed at Washington, D.C., on July 20, 1977.

ERNEST G. GREEN,
Assistant Secretary for Employment and Training.

[FR Doc.77-21313 Filed 7-21-77;8:45 am]

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

RECORDS AND REPORTS; NEW RACE/ETHNIC CATEGORIES

Employer Information (EEO-1); Apprenticeship Information (EEO-2); Local Union (EEO-3)

In a memorandum from the Office of Management and Budget dated October 13, 1976, the Equal Employment Opportunity Commission was advised that OMB had changed the government-wide standard race/ethnic categories. This revision requires EEOC to change its race/ethnic categories. These definitions do not revise the underlying regulations. Accordingly, the following changes are being made in the EEO-1, EEO-2, and EEO-3 survey definitions:

1. *White, not of Hispanic Origin.*—Persons having origins in any of the original peoples of Europe, North Africa, or the Middle East.
Change: Indian Subcontinent deleted.

2. American Indian or Alaskan Native.—Persons having origins in any of the original peoples of North America, *and who maintain cultural identification through tribal affiliation or community recognition.*
Change: Italicized wording added.

3. Asian or Pacific Islander.—Persons having origins in any of the original peoples of the Far East, Southeast Asia, *the Indian Subcontinent,* or the Pacific Islands. This area includes, for example, China, Japan, Korea, the Philippine Islands, and Samoa.
Change: Indian Subcontinent added.

With this notice, employers, joint labor-management apprenticeship committees, and local unions should have no difficulty implementing the changes, and will have ample time to change their internal records to reflect the changes.

The Equal Employment Opportunity Commission hereby gives notice that the Employer Information Report (EEO-1) as required by 29 CFR 1602.7 for 1978 and for subsequent years will reflect five (5) revised race/ethnic categories. The same race/ethnic categories will also be reflected on the Apprenticeship Information Report (EEO-2), 29 CFR 1602.15, and the Local Union Report (EEO-3), 29 CFR 1602.22 for 1977 and subsequent years. The five race/ethnic categories are defined as follows:

White, not of Hispanic Origin.—Persons having origins in any of the original peoples of Europe, North Africa, or the Middle East.

Black, not of Hispanic Origin.—Persons having origins in any of the Black racial groups of Africa.

Hispanic.—Persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish Culture or origin, regardless of race.

American Indian or Alaskan Native.—Persons having origins in any of the original peoples of North America, and

who maintain cultural identification through tribal affiliation or community recognition.

Asian or Pacific Islander.—Persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands. This area includes, for example, China, Japan, Korea, the Philippine Islands, and Samoa.

Signed at Washington, D.C., this 14th day of July 1977.

ELEANOR HOLMES NORTON,
Chair, Equal Employment Opportunity Commission.

[FR Doc.77-21115 Filed 7-21-77; 8:45 am]

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

ADVISORY COMMITTEE ON CONSTRUCTION SAFETY AND HEALTH

Meeting

Notice is hereby given that the Advisory Committee on Construction Safety and Health, established under section 107(e)(1) of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333) and section 7(b) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 656) will meet on Tuesday August 9, 1977, starting at 9 a.m., in the Departmental Auditorium, Conference Room B, between 12th and 14th Streets on Constitution Avenue NW., Washington, D.C. The meeting is open to the public.

The purpose of this meeting is to continue discussion of the OSHA standard on scaffolds, consider and recommend a priority schedule for review of Part 1926—Construction Standards—on a subpart basis, and evaluate research projects related to construction standards.

Written data, views, or arguments may be submitted, preferably with 20 copies, to the Division of Consumer Affairs. Any such submissions received prior to the meeting will be provided to the members of the Committee and will be included in the record of the meeting.

Anyone wishing to make an oral presentation should notify the Division of Consumer Affairs before the meeting. The request should state the amount of time desired, the capacity in which the person will appear, and a brief outline of the content of the presentation. Oral presentations will be scheduled at the discretion of the Chairman, depending on the extent to which time permits.

Communications may be mailed to:

Ken Hunt, Office of Public and Consumer Affairs, Department of Labor, Occupational Safety and Health Administration, Third Street and Constitution Avenue NW., Room N-3635, Washington, D.C. 20210, phone: 202-523-8024.

Materials provided to members of the Committee are available for inspection and copying at the above address.

Signed at Washington, D.C., this 15th day of July 1977.

EULA BINGHAM,
Assistant Secretary of Labor, Occupational Safety and Health.

[FR Doc.77-21118 Filed 7-21-77; 8:45 am]

ALASKA

Approval of Plan Supplement; Revised Plan

AGENCY: Occupational Safety and Health Administration.

ACTION: Notice of Approval of Alaska's Revised Developmental plan.

SUMMARY: This document gives notice of the approval of Alaska's revised developmental plan. The revisions are editorial in nature: clarifying and updating the original plan and eliminating duplications, conflicting time frames, and extraneous information.

FOR FURTHER INFORMATION CONTACT:

Veronica Allen, Project Officer, Office of State Programs, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210, 202-523-8031.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Part 1953 of Title 29, Code of Federal Regulations, prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) (hereinafter referred to as the Act) for the review of changes and progress in States which have been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On August 10, 1973, notice was published in the FEDERAL REGISTER (38 FR 21628), of the approval of the Alaska plan and the adoption of Subpart R to Part 1952 containing the decision and a description of the plan. On February 26, 1976, and March 30, 1976, the State of Alaska submitted a supplement to the plan involving a State-initiated change to the Seattle Regional Office of the Occupational Safety and Health Administration. Following regional review, the supplement was forwarded to the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter referred to as the Assistant Secretary) for her determination as to whether it should be approved. The supplement is described below.

DESCRIPTION OF THE SUPPLEMENT

Pursuant to 29 CFR Part 1953, Subpart E, the State submitted a State-initiated change thoroughly revising the Alaska State plan. The revisions are editorial in nature which clarify and update the original plan that was submitted December 8, 1972. Sections of the plan are updated where legislation has been adopted to conform with corresponding Federal occupational safety and health regulations. The revisions eliminate duplications in the original narrative, conflicting time frames, and extraneous information. The various pledges which are scattered through the original plan are consolidated in a new Appendix G. Some of the original appendixes have been eliminated as they did not relate to the developmental goals or to the occupational safety and health program as it has evolved since December 8, 1972. The revisions also reflect the status of Alaska's developmental plan and relate to the progress made to meet the stated goals. All developmental steps mentioned in the original plan are identified in the revised plan as well.

LOCATION OF THE PLAN AND ITS SUPPLEMENT FOR INSPECTION AND COPYING

A copy of the State's plan and its suplement may be inspected and copied during normal business hours at the following locations: Office of State Programs, Occupational Safety and Health Administration, U.S. Department of Labor, Room N-3112, 200 Constitution Avenue NW., Washington, D.C. 20210; Office of the Regional Administrator, Occupational Safety and Health Administration, Room 6048, Federal Office Building, Seattle, Washington, 98184; and the Alaska Department of Labor, Juneau, Alaska 99801.

PUBLIC PARTICIPATION

Under § 1953.2 of this chapter, the Assistant Secretary may prescribe alternative procedures to expedite the review process or for any good cause which may be consistent with applicable law. The change incorporates elements of the plan which have either already been approved by the Assistant Secretary or are editorial in nature and do not impact upon the effectiveness of the plan. Accordingly, it is found that public comment is not necessary.

DECISION

After careful consideration, the Alaska plan supplement described above is hereby approved under Subpart E of Part 1953 of this chapter. This decision incorporates the requirements of the Act and implementing regulations applicable to State plans generally.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667).)

Signed at Washington, D.C., this 14th day of July 1977.

EULA BINGHAM,
Assistant Secretary of Labor.

[FR Doc.77-21038 Filed 7-21-77; 8:45 am]

NATIONAL COMMISSION ON THE OBSERVANCE OF INTERNATIONAL WOMEN'S YEAR

STATE MEETING ELECTION CHALLENGES

Closing Date for Receipt of Documentation

Notice is hereby given that pursuant to the authority contained in sections 4 and 5 of Public Law 94-167, the National Commission on the Observance of International Women's Year will receive any documentation that purports to show that the election of delegates to the National Women's Conference at the State Meeting for Women, held pursuant to section 6(a) of Pub. L. 94-167, did not comply adequately with Pub. L. 94-167 or with the regulations established by the Commission (45 CFR 1901 through 1904).

In order to assure full consideration of any challenges, to provide for their timely disposition, and to prevent the raising of stale claims which might cloud the certification of any elected delegate,

any challange and all documentation in support of such a challenge must be received by the National Commission on or before August 8, 1977.

All challanges and supporting documentation sent by mail will be considered to be received on time by the Commission if they are sent by registered or certified mail not later than August 5, 1977 as evidenced by the U.S. Postal Service postmark or on the original receipt from the U.S. Postal Service or if the materials are received in the Commission's offices on or before August 8, 1977.

All materials submitted should be addressed to:

National Commission on the Observance of International Women's Year, D/IWY, U.S. Department of State, Washington, D.C. 20520. (1) Attention: General Counsel.

Dated: July 20, 1977.

LINDA COLVARD DORIAN,
General Counsel, National Commission on the Observance of International Women's Year.

[FR Doc.77-21371 Filed 7-21-77;8:45 am]

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts

MUSIC ADVISORY PANEL

Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), notice is hereby given that a meeting of the Music Advisory Panel (Opera Section) to the National Council on the Arts will be held on August 8, 1977, from 2 p.m. to 5:45 p.m., August 9-10, from 9:15 a.m. to 5:45 p.m. and August 11, from 9:15 a.m. to 12:45 p.m., in the Santa Fe Hilton Inn, 100 Sandoval Street, Santa Fe, New Mexico 87501.

A portion of this meeting will be open to the public on August 10, from 2 p.m. to 5:45 p.m. and August 11, from 9:15 a.m. to 11:15 a.m. on a space available basis. Accommodations are limited. The agenda for this session will include a discussion of guidelines, policy and question and answer session.

The remaining sessions of this meeting on August 8, from 2 p.m. to 5:45 p.m., August 10, from 9:15 a.m. to 2 p.m. and August 11, from 11:15 a.m. to 12:45 p.m. 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.

Dated: July 19, 1977.

ROBERT M. SIMS,
Administrative Officer, National Endowment for the Arts, National Foundation on the Arts and the Humanities.

[FR Doc.77-21091 Filed 7-21-77;8:45 am]

NATIONAL SCIENCE FOUNDATION

INTERNATIONAL DECADE OF OCEAN EXPLORATION PROPOSAL REVIEW PANEL

Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: International Decade of Ocean Exploration Proposal Review Panel.
Date: August 9-12, 1977.
Time: 8:30 a.m. to 5 p.m. each day.
Place: National Science Foundation, 1800 G St. NW., Washington, D.C. 20550. Room 628 (August 9 and 10). Room 643 (August 11 and 12).
Type of meeting: Closed.
Contact person: Mr. Feenan D. Jennings, Head, Office for the International Decade of Ocean Exploration, Room 605, National Science Foundation, Washington, D.C. 20550. Telephone 202-632-7356.
Purpose of panel: To provide advice and recommendations concerning support of research by programs of the Office for the International Decade of Ocean Exploration.
Agenda: Review and evaluate research proposals.
Reason for closing: The proposals being reviewed included information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.
Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92-643. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

M. REBECCA WINKLER,
Acting Committee Management Officer.

JULY 18, 1977.

[FR Doc.77-21038 Filed 7-21-77;8:45 am]

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-333]

POWER AUTHORITY OF THE STATE OF NEW YORK

Notice of Proposed Issuance of Amendment to Facility Operating License

The Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR-59 issued to the Power Authority of the State of New York (the licensee), for operation of the James A. FitzPatrick Nuclear Power Plant (the facility), located in Oswego County, New York.

In accordance with the licensee's request dated July 7, 1977, the amendment would consider a reevaluation of Emergency Core Cooling System (ECCS) cooling performance submitted in accordance with the Commission's Order for Modification of License dated March 11, 1977. This reevaluation not only corrected the errors noted in the March 11, 1977 Order but also included the effect of certain other recently approved model changes in the ECCS evaluation models. These changes would permit an increase in authorized Maximum Average Planar Linear Heat Generation Rates, and are the aspects of the amendment covered by this notice.

The Commission will act upon the amendment upon: (1) the completion of a Safety Evaluation by the Office of Nuclear Reactor Regulation; and (2) completion of the findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations.

By August 22, 1977, the licensee may file a request for a hearing and any person whose interest may be affected by this proceeding may file a request for a hearing in the form of a petition for leave to intervene with respect to the issuance of the amendment to the subject facility operating license. Petitions for leave to intervene must be filed under oath or affirmation in accordance with the provisions of Section 2.714 of 10 CFR Part 2 of the Commission's regulations. A petition for leave to intervene must set forth the interest of the petitioner in the proceeding, how that interest may be affected by the results of the proceeding, and the petitioner's contentions with respect to the proposed licensing action. Such petitions must be filed in accordance with the provisions of this FEDERAL REGISTER notice and Section 2.714, and must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, by the above date. A copy of the petition and/or request for a hearing should be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Lex Larson, Esquire, LeBoeuf, Lamb, Leiby & MacRae, 1757 N Street NW., Washington, D.C. 20036, the attorney for the licensee.

A petition for leave to intervene must be accompanied by a supporting affidavit which identifies the specific aspect or aspects of the proceeding as to which intervention is desired and specifies with particularly the facts on which the petitioner relies as to both his interest and his contentions with regard to each aspect on which intervention is requested. Petitions stating contentions relating only to matters outside the Commission's jurisdiction will be denied.

All petitions will be acted upon by the Commission or licensing board, designated by the Commission or by the

Chairman of the Atomic Safety and Licensing Board Panel. Timely petitions will be considered to determine whether a hearing should be noticed or another appropriate order issued regarding the disposition of the petitions.

In the event that a hearing is held and a person is permitted to intervene, he becomes a party to the proceeding and has a right to participate fully in the conduct of the hearing. For example, he may present evidence and examine and cross-examine witnesses.

For further details with respect to this action, see the licensee's request dated July 7, 1977, and General Electric's submittal dated June 29, 1977, which are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Oswego County Office Building, 46 E. Bridge Street, Oswego, New York.

Dated at Bethesda, Maryland, this 20th day of July 1977.

For the Nuclear Regulatory Commission.

ROBERT W. REID,
Chief, Operating Reactors Branch No. 4, Division of Operating Reactors.

[FR Doc.77-21380 Filed 7-21-77;10:26 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 July 14, 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(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the clearance office, office of management and budget, Washington, D.C. 20503 (202-395-4529), or from the reviewer listed.

NEW FORMS

UNITED STATES INTERNATIONAL TRADE COMMISSION

Producers' and Importers' Questionnaire—Bolts, Nuts, and Large Screws of Iron or Steel, single-time, producers and importers of nuts, bolts and large screws, Evinger, S. K., 395-3710.

GENERAL SERVICES ADMINISTRATION

Report on Procurement by Executive Agencies, (Supplement to Report on Procurement by Civ. Exec. Agencies), SF-37-A, semi-annually, U.S. Government, Office of Federal Procurement Policy, 395-3436.

U.S. COMMISSION ON CIVIL RIGHTS

Survey Questionnaire on Undocumented Workers, single-time, individuals, Kathy Wallman, 395-6140.

GENERAL SERVICES ADMINISTRATION

Product Improvement Idea Collection Form, on occasion, industry/manufacturers, Warren Topelius, 395-5872.

NATIONAL SCIENCE FOUNDATION

Visiting Women Scientists Program Application Form, single-time, Women Scientists, Warren Topelius, 395-5872.

VETERANS ADMINISTRATION

Evaluation of the Chaplain Service (Patients), single-time, patients in hospitals, housing, veterans and labor division, Raynsford, R., 395-3532.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration, Student's Statement Regarding Continuance of School Attendance, SSA-1388B, annually, student beneficiaries or their representative payees, Warren Topelius, 395-5872.

Center for Disease Control, National Immunization Survey-Current Population Survey Supplement, CPS-1, single-time, 41,000 interviewed households in September. CPS sample, Richard Eisinger, 395-6140.

EXTENSIONS

NATIONAL CREDIT UNION ADMINISTRATION

Monthly sample (Federal) Monthly Sample (State), NCUA 5301, NCUA 5303, monthly, Federal and State credit unions, C. Louis Kincannon, 395-3211.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Application for Exclusive Patent License, NASA1496, on occasion, applicants for exclusive license, Marsha Traynham, 395-4529.

Application for Nonexclusive Patent License, NASA1495, on occasion, applicants for nonexclusive license, Marsha Traynham, 395-4529.

TENNESSEE VALLEY AUTHORITY

Tennessee Valley Commercial Fisherman Survey, TVA 5595, quarterly, Commercial Fishermen in Tennessee Valley, Marsha Traynham, 395-4529.

DEPARTMENT OF TRANSPORTATION

Coast Guard: Application for Coast Guard Port Security Card, CG-2685, on occasion, civilian worker using vessel for waterfront installations, Warren Topelius, 395-5872.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.77-21076 Filed 7-21-77;8:45 am]

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on July 15, 1977 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503 (202-395-4529), or from the reviewer listed.

NEW FORMS

ENVIRONMENTAL PROTECTION AGENCY

Economic Impact Analysis Questionnaire, June 23, 1976, Oil Spill—St. Lawrence River, single time, recreation/tourism related establishments, Ellett, C. A., 395-5867.

REVISIONS

ENVIRONMENTAL PROTECTION AGENCY

National Pollutant Discharge System: Monitoring Report, EPA-3320-1, on occasion, NPDES permittees discharging pollutants in U.S. waters, Natural Resources Division, Ellett, C. A., 395-6827.

EXTENSIONS

ENVIRONMENTAL PROTECTION AGENCY

Estimate of Municipal Wastewater Treatment Facility requirements, EPA-1, on occasion, contractors, Natural Resources Division, Ellett, C. A., 395-6827.

DEPARTMENT OF COMMERCE

Bureau of Census:

Selected Heating and Cooking Equipment, MA-34-N, annually, manufacturing establishments, C. Louis Kincannon, 395-3211.

Motors and Generators, MA-36H, annually, manufacturing establishments, C. Louis Kincannon, 395-3211.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.77-21077 Filed 7-21-77;8:45 am]

TREASURY DEPARTMENT

Office of Foreign Assets Control

IMPORTATION FROM CANADA OF FERRO CHROMIUM AND CHROMIUM-BEARING STEEL PRODUCTS UNDER THE RHODESIAN SANCTIONS REGULATIONS

Issuance by the Government of Canada of Special Certificates Verifying Non-Rhodesian Origin of Chromium Content

Special Certificates of Origin issued by the Department of Industry, Trade and Commerce of the Government of Canada are now available for imports of ferrochromium and specialty steel products from Canada. These certifi-

cates are issued pursuant to a formal certification procedure agreed upon by an exchange of letters between the Department of Industry, Trade and Commerce and the Office of Foreign Assets Control, Department of the Treasury. They will serve to establish that Canadian materials exported to the United States do not contain any chromium of Rhodesian origin. This arrangement replaces the arrangement which has been in effect since May 3, 1977, to permit importation of specialty steel products from Canada. After July 18, 1977, only materials certified under this arrangement may be imported under Section 530.503 of the Rhodesian Sanctions Regulations. (31 CFR 530.503)

Dated: July 15, 1977.

STANLEY L. SOMMERFIELD,
Acting Director.

Approved:

BETTE B. ANDERSON,
Under Secretary.

[FR Doc.77-21082 Filed 7-20-77;8:45 am]

IMPORTATION FROM THE EUROPEAN COMMUNITIES OF FERROCHROMIUM AND CHROMIUM-BEARING STEEL PRODUCTS UNDER THE RHODESIAN SANCTIONS REGULATIONS

Issuance of Special Certificates Verifying Non-Rhodesian Origin of Chromium Content

A formal certification agreement has been concluded between the United States and the Commission of the European Communities. Special certificates of origin for imports of ferrochromium and specialty steel mill products from the European Community will be issued under this agreement. They will serve to establish that ferrochromium and chromium-bearing steel mill products exported from the Member States of the European Community to the United States do not contain any chromium of Rhodesian origin.

The Commission of the European Communities and the Governments of the Member States have full responsibility for administration of the detailed control measures provided for in the certification agreement. The Member States will authorize producers within their States of ferrochromium and specialty steel products to state on the commercial invoice covering products being exported to the United States that the goods have been produced under the agreed certification procedures. This special certification will be presented to Customs at the time of importation. The certificate will state that it is issued pursuant to special certification procedures agreed upon between the Commission of the European Communities and the Government of the United States. These special certificates will become available on varying dates between July 18 and September 18, 1977, as each Member State is able to put into effect all of the control measures called for by the certification agreement.

In view of this fact, the following procedures will govern imports of ferrochromium and specialty steel products from the European Community:

(1) Imports from Member States issuing special certificates as of July 18, 1977. Such imports may be made under customery import procedures, provided the goods are accompanied by special certificates as required. An announcement will be published in the FEDERAL REGISTER of the availability of the special certificate as soon as the Treasury is informed by the European Communities of this fact.

(2) Imports from a Member State which commences to issue special certificates after July 18, 1977, and before September 18, 1977. Such imports may be made under interim certificates until an announcement is published in the FEDERAL REGISTER of the availability of special certificates from that country. However, the entry will not be liquidated until the importer subsequently presents a special certificate for the imported goods under the agreed procedures. Such certificates must be obtained from the producer and filed by the importer with Customs on or before September 18, 1977, to complete liquidation. In the event of failure to file the special certificate by September 18, 1977, the goods will be subject to redelivery into Customs custody.

(3) Imports from Member States after September 18, 1977, may only be made when accompanied by special certificates.

Dated: July 15, 1977.

STANLEY L. SOMMERFIELD,
Acting Director.

Approved: BETTE B. ANDERSON,
Under Secretary.

[FR Doc.77-21081 Filed 7-20-77;8:45 am]

IMPORTATION FROM NORWAY OF FERROCHROMIUM AND CHROMIUM-BEARING STEEL PRODUCTS, RHODESIAN SANCTIONS REGULATIONS

Issuance by the Government of Norway of Special Certificates Verifying Non-Rhodesian Origin of Chromium Content

Special certificates of origin issued by the Norwegian Customs Service of the Government of Norway are now available from Norway. These certificates are issued pursuant to a formal certification agreement between the Government of Norway and the Government of the United States. They will serve to establish that Norwegian materials exported to the United States do not contain any chromium of Rhodesian origin. The agreement replaces the interim arrangements which have been in effect since March 18, 1977, to permit importation of specialty steel products from Norway. After July 18, 1977, only materials certified under this agreement may be imported under Section 530.503 of the Rhodesian Sanctions Regulations (31 CFR 530.503).

Dated: July 15, 1977.

STANLEY L. SOMMERFIELD,
Acting Director.

Approved:

BETTE B. ANDERSON,
Under Secretary.

[FR Doc.77-21080 Filed 7-20-77;8:45 am]

IMPORTATION FROM SPAIN OF FERROCHROMIUM AND CHROMIUM-BEARING STEEL PRODUCTS RHODESIAN SANCTIONS REGULATIONS

Issuance by the Government of Spain of Special Certificates Verifying Non-Rhodesian Origin of Chromium Content

Special certificates of origin issued by the "SOIVRE" (Servicio Oficial de Investigacion y Vigilancia y Regularizacion de Exportacion) of the Ministry of Commerce of the Government of Spain are now available for import of ferrochromium and specialty steel products from Spain. These certificates are issued pursuant to a formal certification agreement between the Government of Spain and the Government of the United States. They will serve to establish that Spanish materials exported to the United States do not contain any chromium of Rhodesian origin. The agreement replaces the interim arrangements which have been in effect since March 18, 1977, to permit importation of specialty steel products from Spain. After July 18, 1977, only materials certified under this agreement may be imported under Section 530.503 of the Rhodesian Sanctions Regulations (31 CFR 530.503).

Dated: July 15, 1977.

STANLEY L. SOMMERFIELD,
Acting Director.

Approved:

BETTE B. ANDERSON,
Under Secretary.

[FR Doc.77-21083 Filed 7-20-77;8:45 am]

Office of the Secretary

VISCOSE RAYON STAPLE FIBER FROM BELGIUM

Antidumping Proceeding Notice

AGENCY: Treasury Department.

ACTION: Initiation of antidumping investigation.

SUMMARY: This notice is to advise the public that a petition in proper form has been received and an antidumping investigation is being initiated for the purpose of determining whether or not imports of viscose rayon staple fiber from Belgium are being, or are likely to be, sold at less than fair value within the meaning of the Antidumping Act of 1921, as amended. Sales at less than fair value generally occur when the prices of the merchandise sold for exportation to the United States are less than the prices in the home market.

EFFECTIVE DATE: This investigation will begin on July 22, 1977.

FOR FURTHER INFORMATION CONTACT:

Barbara Victor, Duty Assessment Division, United States Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229, telephone (202-566-5492).

SUPPLEMENTARY INFORMATION: On June 17, 1977, information was received in proper form pursuant to sections 153.26 and 153.27, Customs Regulations (19 CFR 153.26, 153.27), from counsel acting on behalf of Avtex Fibers, Inc.,

Valley Forge, Pennsylvania, a domestic producer of the subject merchandise, indicating a possibility that viscose rayon staple fiber from Belgium is being, or is likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.S. 160 et seq.).

For purposes of this notice, the term "viscose rayon staple fiber" refers to viscose rayon staple fiber in noncontinuous form, not carded, not combed and not otherwise processed, wholly of filaments (except laminated filaments and plexiform filaments).

There is evidence on record concerning injury to, or likelihood of injury to, or prevention of establishment of an industry in the United States. This evidence indicates that imports of viscose rayon staple fiber from Belgium commenced during the later part of 1976, and significantly expanded their portion of the U.S. market during the first quarter of 1977. Further, there is information indicating that the margin by which domestic producers are being undersold by Belgian imports would be virtually eliminated were the price differential between prices in the Austrian home market and for export to the United States eliminated.

Having conducted a summary investigation as required by § 153.29 of the Customs Regulations (19 CFR 153.29) and having determined that there are grounds for doing so, the United States Customs Service is instituting an inquiry to verify the information submitted and to obtain the facts necessary to enable the Secretary of the Treasury to reach a determination as to the fact or likelihood of sales at less than fair value.

A summary of information received from all sources is as follows:

The information received tends to indicate that the prices of the merchandise sold for exportation to the United States are less than the prices for home consumption.

This notice is published pursuant to § 153.30 of the Customs Regulations (19 CFR 153.30).

HENRY C. STOCKELL, Jr.,
Acting General Counsel of the Treasury.

JULY 18, 1977.

[FR Doc.77-21025 Filed 7-21-77;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 441]

ASSIGNMENT OF HEARINGS

JULY 19, 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 98864 Sub-No. 2 Edward Sitar Trucking Co., Inc. now assigned October 26, 1977 at Chicago, Illinois, will be held in Room 1319 Everett McKinley Dirksen Building, 219 South Dearborn Street.

No. 36277, Increased Absorption of Switching Charges at Mobile, Ala., now assigned July 19, 1977, at Washington, D.C., is cancelled. The proceeding is discontinued.

No. 36597, Increased Fares, Asbury Park New York Transit Corporation, May 1977, now assigned July 25, 1977, at New York, New York, is postponed to August 29, 1977, in Court-Room A, Room 238, Court of Claims, 26 Federal Plaza, New York, New York. Cost studies and any other studies will be due on or before July 25, 1977.

MC 138141 Sub-No. 4 Louis Sanitora, Jr., d.b.a., AAA United Limousine Service now being assigned October 11, 1977 (4 days) at Piscataway, New Jersey, will be held in Sheraton Regal Motel Kingsbridge Road.

MC 129480 Sub-No. 26 Tri-Line Expressways Ltd., now being assigned October 12, 1977 (8 days) for hearing in Denver, Colorado, in a hearing room to be later designated.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-21124 Filed 7-21-77;8:45 am]

[AB 18 (Sub-No. 6); Finance Docket No. 2412]

CHESAPEAKE AND OHIO RAILWAY CO. AND ANN ARBOR RAILROAD CO.

Abandonment of Railroad Services

JULY 13, 1977.

In the matter of Chesapeake and Ohio Railway Company, abandonment between Coleman and Union, Isabella County, Michigan.

Finance Docket No. 27412, Chesapeake and Ohio Railway Company, trackage rights, a line of railroad of the Ann Arbor Railroad Company between Mt. Pleasant and Clare, in Isabella County, Michigan.

The Interstate Commerce Commission hereby gives notice that comments received in response to the environmental threshold assessment survey (TAS) in the above-entitled proceedings has not caused the Commission's Section of Energy and Environment to modify its previous conclusion that these proceedings do not represent a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, 42 U.S.C. §§ 4321, et seq.

Said comments have been responded to in an addendum to the TAS which is available upon request to the Office of Proceedings, Interstate Commerce Commission, Washington, D.C. 20423, telephone 202-275-7011.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-21125 Filed 7-21-77;8:45 am]

FOURTH SECTION APPLICATION FOR RELIEF

JULY 19, 1977.

An application, as summarized below, has been filed requesting relief from the requirements of Section 4 of the Interstate Commerce Act to permit common carriers named or described in the application to maintain higher rates and charges at intermediate points than those sought to be established at more distant points.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the General Rules of Practice (49 CFR 1100.40) and filed on or before August 8, 1977.

FSA No. 43399—Joint Water-Rail Container Rates—A. P. Moller-Maersk Line. Filed by A. P. Moller-Maersk Line, (No. 6), for itself and interested rail carriers. Rates on general commodities, from Mediterranean ports, to rail terminals on the U.S. Pacific Coast.

Grounds for relief—Water competition.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-21123 Filed 7-21-77;8:45 am]

[Ex Parte No. MC-106]

INVESTIGATION TO CONSIDER MODIFICATION OF ADMINISTRATIVE RULING NO. 84

AGENCY: Interstate Commerce Commission.

ACTION: Notice of the Institution of Investigation to Consider Modification of Administrative Ruling No. 84.

SUMMARY: The Commission deems it to be in the public interest to now examine whether present economic, regulatory, and service conditions affecting the regular-route motor freight industry on a national scale require the modification of Part (b) of Administrative Ruling No. 84 to allow motor common carriers of property authorized to serve all intermediate points on a designated route or a defined route segment the right to serve points within 5 airline miles on both sides of said authorized route or route segment. This proposed modification would expand the so-called off-route point territory authorized in Administrative Ruling No. 84 from 1 to 5 airline miles. The decision to institute this investigation is based on this Commission's review and consideration of recommendation No. 33 of the so-called Blue Ribbon Study Panel.

DATES: Comments on or before September 20, 1977.

ADDRESSES: Send comments to: The Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT:

Michael Erenberg, Assistant Deputy Director, Section of Operating Rights, Interestate Commerce Commission, 12th and Constitution Avenue NW., Washington, D.C. 20423 (202-275-7292).

SUPPLEMENTARY INFORMATION: On April 23, 1940 in response to inquiries by the public, the Bureau of Motor Car-

riers (now the Bureau of Operations) of the Interstate Commerce Commission issued Administrative Ruling No. 84 which pertains to regular-route motor common carriers of property holding authority to serve all intermediate points on a designated route or a definite portion or segment thereof and which reads as follows:

Authority to serve all intermediate points on a designated route or a definite portion or segment thereof includes the right to serve—

(a) All places within the corporate limits of those incorporated boroughs, cities, towns (other than those of the New England type), or villages, all integral parts of unincorporated communities and villages, and all separate places located on the highway or highways composing such route, portion or segment thereof; and

(b) All municipalities, communities, and villages of the types mentioned in paragraph (a) of this item and all separate places that lie and are situated wholly within one mile of the highway or highways composing such route, portion or segment thereof.

If the authority is to serve certain named intermediate points, excluding others, the provisions of paragraph (a) of this ruling apply to the intermediate points so authorized.

The language "wholly within one mile of the highway or highways" as used in Administrative Ruling No. 84 permits carriers which come under its provisions to serve any place, that is any place of business, home, building, etc., which lies within one airline mile of the highway; *Provided*, That if it located within a municipality, community, or village of the type described in the ruling, the entire municipality, community, or village must be within one mile of the highway. See *Lavigne v. J. E. Faltin Motor Transp., Inc.*, 54 M.C.C. 503 (1952).

Recommendation No. 33 of the Commission's Blue Ribbon Panel would amend the above-noted portion of part (b) of Administrative Ruling No. 84 "to allow regular-route carriers to serve all points within 5 air miles of the highway, maintaining the other limitations of the present policy." See Interstate Commerce Commission press release No. 187–75, dated July 7, 1975. After careful consideration the Commission has instituted this proceeding in order to determine whether economic, demographic, environmental and service conditions require implementation of this recommendation.

Consideration of the proposed modification will include a determination whether the so-called 1-mile off-route point authority provisions of Administrative Ruling No. 84 should be modified to allow the regular-route carrier to serve not only all points within 1 airline mile, or some other fixed distance, of the authorized regular route, but also to allow service at all portions of any municipality, community, or village which, while partly within the designated service corridor, extends beyond it. Compare Property Motor Carrier Superhighway Rules, 117 M.C.C. 119, 150–151, footnote 12 (1972).

The Commission will also consider whether the rights to be conferred should be permissive or obligatory. At present the rights conferred by part (b) of Administrative Ruling No. 84 are permissive in nature and do not require the carrier to provide the involved service.

The Commission will also consider whether the 5-mile expansion proposed by the Blue Ribbon Panel represents the appropriate scope of the regular-route motor carriers' service corridor, or whether adoption of regulations establishing some other greater or lesser distance from the authorized regular route would better serve the public interest.

No oral hearing is contemplated at this time, but anyone wishing to present views and evidence, either in support of, or in opposition to the action proposed in the Commission's order may do so by submission of written evidence or views. Likewise, any person desiring to comment upon the environmental issues raised by this proceeding is hereby invited to do so by the submission of written evidence or views. An original and 15 copies (wherever possible) of such evidence or views shall be filed with this Commission within 60 days of the publication of this notice in the FEDERAL REGISTER. Written submissions will be available for public inspection during regular business hours at the offices of the Interstate Commerce Commission, 12th and Constitution Avenue NW., Washington, D.C.

Notice to the general public of the matter herein under consideration will be given by depositing a copy of this notice in the Office of the Secretary of the Commission for public inspection and by filing a copy thereof with the Director, Office of the Federal Register.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-21128 Filed 7-21-77;8:45 am]

[No. 36591]

LOUISIANA

Intrastate Freight Rates and Charges, 1977

In the matter of petition for investigation of intrastate freight rates and charges, within the State of Louisiana.

By joint petition authorized under section 13(3) of the Interstate Commerce Act, filed May 22, 1977, petitioners, class I common carriers by railroad [1] subject to Part I of the Interstate Commerce Act, and also operating in intrastate commerce in the State of Louisiana request that this Commission institute an investigation of Louisiana intrastate freight rates and charges, under section 13 and 15a of the Interstate Commerce Act, wherein they will seek an order authorizing them to increase such rates and charges in the same amounts approved for interstate application by this Commission in Ex Parte No. 330, Increase Freight Rates—West and Interterritorial—1976, and Ex Parte No. 336, Increase Freight Rates and Charges—1977.

By applications filed October 5, 1976, and January 7, 1977, respectively, with the Louisiana Public Service Commission, petitioners sought to make the increases granted in Ex Parte Nos. 330 and 336, supra, applicable on Louisiana intrastate traffic. Hearings were held on February 15, 1977 and May 11, 1977, but the Commission has failed to act finally on the applications within 120 days.

Petitioners contend that present interstate freight rates from, to, and within Louisiana are just and reasonable and that the proposed intrastate rates will not exceed a just and reasonable level; that transportation conditions for intrastate traffic in Louisiana are not more favorable than for interstate traffic; that traffic moving under present Louisiana intrastate rail freight rates and charges fails to provide its fair share of earnings; that the present Louisiana intrastate rail freight rates and charges create undue and unreasonable advantage, preference, and prejudice between persons and localities in intrastate commerce within Louisiana and interstate and foreign commerce, and result in undue, unreasonable, and unjust discrimination against and an undue burden on interstate commerce in violation of section 13 and 15a of the Interstate Commerce Act, among others, to the extent that they do not include the increases authorized in Ex Parte No. 330 and 336, supra; and that the State Commission has failed to act on the change in intrastate rates within 120 days of the date of filing such change as required by section 13(5) of the Interstate Commerce Act.

Under section 13(4) and 13(5) of the Interstate Commerce Act, this Commission is directed to institute an investigation, into the lawfulness of intrastate rail freight rates and charges, upon filing of a petition by the railroads pursuant to section 13(3) of the Act, after the appropriate State agency has reached a final decision or has failed to act within 120 days after a carrier by railroad has filed with such appropriate state body a change in an intrastate rate, fare, or charge for the purpose of adjusting such rates, fare, or charge to the rate charged on similar traffic moving in interstate or foreign commerce. This Commission may act notwithstanding the laws or constitution of any State, or the pendency of any proceeding before any State court or other State authority. We note the failure of the Public Service Commission of the State of Louisiana to act finally within 120 days after filing by petitioners for an appropriate change in intrastate rates, vesting our jurisdiction.

Wherefore, and good cause appearing therefore:

[1] The Alabama Great Southern Railroad Company, The Arkansas & Louisiana Missouri Railway Company, Chicago Rock Island and Pacific Railroad Company, The Atchison, Topeka and Sante Fe Railway Company, Illinois Central Gulf Railroad Company, The Kansas City Southern Railway Company, Louisiana & Arkansas Railway Company, Louisiana Southern Railway Company, Louisville & Nashville Railroad Company, Missouri Pacific Railroad Company, New Orleans & Lower Coast Railroad Company, New Orleans Terminal Company, St. Louis Southwestern Railway Company, Southern Pacific Transportation Company, and Tremont & Gulf Railway Company.

It is ordered, That the petition be, and is, hereby granted; and that an investigation, under section 13 and 15a of the Interstate Commerce Act, be, and it is, hereby instituted to determine whether the Louisiana intrastate rail freight rates in any respect cause any unjust discrimination against or any undue burden on interstate or foreign commerce, or cause undue or unreasonable advantage, preference, or prejudice as between interstate or foreign commerce, or are otherwise unlawful, by reason of the failure of such rates and charges to include the full increases authorized for interstate application by this Commission in Ex. Parte Nos. 330 and 336, supra; and to determine if any rates or charges, or maximum or minimum charges, or both, shall be prescribed to remove any unlawful advantage, preference, discrimination, undue burden, or other violation of law, found to exist.

It is further ordered, That all common carriers by railroad operating in the State of Louisiana subject to the jurisdiction of this Commission, be, and they are hereby made respondents in this proceeding.

It is further ordered, That all persons who wish to actively participate in this proceeding and to file and receive copies of pleadings shall make known that fact by notifying the Office of Proceedings, Room 5342, Interstate Commerce Commission, Washington, D.C. 20423, on or before August 8, 1977. Although individual participation is not precluded, to conserve time and to avoid unnecessary expense, persons having common interests should endeavor to consolidate their presentations to the greatest extent possible. The Commission desires participation of only those who intend to take an active part in the proceeding.

It is further ordered, That as soon as practicable after the date of indicating a desire to participate in the proceeding has passed, the Commission will serve a list of names and addresses of all persons upon whom service of all pleadings must be made and that thereafter this proceeding will be assigned for oral hearing or handling under modified procedure.

And it is further ordered, That a copy of this order be served upon each of the petitioners and respondents herein; that the State of Louisian be notified of the proceeding by sending copies of this order of the instant petition by certified mail to the Governor of the State of Louisiana and the Louisiana Public Service Commission; and that further notice of this proceeding be given to the public by depositing a copy of this order in the Office of the Secretary of the Interstate Commerce Commission, at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register, for publication in the FEDERAL REGISTER.

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.

Dated at Washington, D.C., this 30th day of June 1977.

By the Commission, Commissioner Hardin.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-21127 Filed 7-21-77;8:45 am]

[Finance Docket No. 28334]

OCTORARO RAILWAY, INC.

Operation Over Southeastern Pennsylvania Transportation Authority at Wawa, Delaware and Chester Counties, Pennsylvania, and Colora, Cecil County, Maryland; Correction

JUNE 30, 1977.

By notice dated June 30, 1977 (42 FR 36342, July 14, 1977), the Commission made public the conclusion by its Section of Energy and Environment that the above-entitled proceeding does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA) and that preparation of a detailed environmental impact statement will not be required under NEPA.

The last paragraph of said notice erroneously referred to discontinuance instead of reinstitution of service over the involved line. Consequently, in the center column, page 36342, the first sentence of the last paragraph of the notice should be corrected to read as follows:

It should be emphasized that the environmental threshold assessment survey represents an evaluation of the environmental issues in the proceeding and does not purport to resolve the issue of whether the present or future public convenience and necessity permit operations over the involved line.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-21126 Filed 7-21-77;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

FEDERAL POWER COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 42 FR 36911, July 18, 1977.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: July 20, 1977, 10 a.m.

CHANGE IN THE MEETING: The following items have been added:

Item No., Docket No., and Company

P-13.—ER76-303, Wisconsin Electric Power Company; ER76-399, Wisconsin Michigan Power Company.
P-14.—E-8121, Gulf States Utilities Company.
P-15.—ES77-43, Iowa Public Service Company.
P-16.—ES77-45, Pacific Power & Light Company.
G-23.—RP71-29, et al. (Phase III), RP75-69 and RP75-71, United Gas Pipe Line Company.
G-24.—CP-315, Tarpon Transmission Company.
G-25.—CP77-394, Tennessee Gas Pipeline Company, a Division of Tenneco Inc.
G-26.—CP77-419, Tennessee Gas Pipeline Company; CP77-431, Tennessee Gas Pipeline Company; CP77-433, East Tennessee Natural Gas Company; CP77-444, Consolidated Gas Supply Corporation.
G-27.—CP77-359, Mountain Fuel Supply Company; CP77-379, Northwest Pipeline Corporation.

LOIS D. CASHELL,
Acting Secretary.

[S-942-77 Filed 7-19-77;2:18 pm]

2

INDIAN CLAIMS COMMISSION.

TIME AND DATE: 10:15 a.m., July 27, 1977.

PLACE: Room 600, 1730 K Street NW., Washington, D.C.

STATUS: Open to the Public.

Docket 144, *Pillager Bands of Chippewa Indians in the State of Minnesota.*
Docket 196, *Hopi Tribe.*
FY 1978 Reporting Contract.

FOR MORE INFORMATION:

David H. Bigelow, Executive Director, Room 640, 1730 K Street NW., Washington, D.C. 20006, telephone 202-653-6184.

[S-943-77 Filed 7-19-77;2:51 pm]

3

UNITED STATES INTERNATIONAL TRADE COMMISSION.

TIME AND DATE: 9:30 a.m., July 28, 1977.

PLACE: Room 177, 701 E Street NW., Washington, D.C. 20436.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions open to the public:

1. Reorganization.
2. Agenda.
3. Minutes.
4. Certain headwear (Inv. TA-201-23)—vote.
5. Any items left over from previous agenda.

Portions closed to the public:

1. Reorganization (portions respecting the selection of personnel).

CONTACT PERSON FOR MORE INFORMATION:

Kenneth R. Mason, Secretary, 202-523-0161.

[S-944-77 Filed 7-19-77;3:53 pm]

4

FEDERAL POWER COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 42 F.R. 36911, 7/18/77.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: July 20, 1977, 10 a.m.

CHANGE IN THE MEETING: The Regular Commission Meeting scheduled for Wednesday, July 20, 1977, at 10 a.m., has been changed to 2 p.m.

LOIS D. CASHELL,
Acting Secretary.

[S-945-77 Filed 7-19-77;4:03 pm]

5

FEDERAL HOME LOAN BANK BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. 42, No. 137, page 36910, Monday, July 18, 1977.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m., July 19, 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 Proposed Restriction on Use of Definitive Form of Federal Home Loan Bank Securities.

No. 51, July 19, 1977.

[S-946-77 Filed 7-19-77;4:24 pm]

6

SECURITIES AND EXCHANGE COMMISSION.

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 July 25, 1977, in Room 825, 500 North Capitol Street, Washington, D.C.

A closed meeting will be held on Tuesday, July 26, 1977, at 3:45 p.m., unless scheduled Congressional testimony is postponed, in which case, certain items on the closed meeting agenda will be discussed at a 10 a.m. closed meeting on Tuesday. Open meetings will be held on Tuesday, July 26, 1977 at 2:30 p.m. and on Wednesday, July 27, 1977, at 2:30 p.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 Pollack and Evans voted to hold the aforesaid meetings in closed session.

The subject matter of the closed meeting scheduled for Tuesday, July 26, 1977 will be:

Formal orders of investigation; institution of injunctive actions; settlement of injunctive actions; institution of administrative proceedings; settlement of administrative proceedings; simultaneous institution and settlement of injunctive action and/or administrative proceedings; referral of investigative files to Federal, State, or self regulatory authorities; amendment of advisory report; amendment of administrative proceeding; appointment of receiver; bankruptcy proceeding; and post-oral argument discussion.

The subject matter of the open meeting scheduled for Tuesday, July 26, 1977 at 2:30 p.m. will be:

1. Oral argument regarding an appeal from an Initial Decision by the Administrative Law Judge in the matter of Glen Woo.

The subject matter of the open meeting scheduled for Wednesday, July 27, 1977 at 2:30 p.m. will be:

1. Consideration of an extension of time for the Special Review Committee of E. T. Barwick Industries, Inc., to prepare and submit its Report to the Board of Directors, as required by the Final Judgement of Permanent Injunction entered against the company.

2. Consideration of the re-entry application of John W. Bendall, Jr. which would allow him to be employed by a registered broker-dealer, as a registered representative, in a non-supervisory, non-proprietary capacity, with adequate supervision.

3. Consideration of the adoption of certain temporary provisions of the net capital rule, Rule 15c3-1, and the extension of temporary amendments of the rule which deal with certain receivables relating to municipal securities underwritings, undue concentration haircuts on positions in municipal securities and the treatment of municipal securities for which there is no ready market.

4. Consideration of approval of the public representatives elected to the Municipal Securities Rulemaking Board.

5. Consideration of an application by Arthur Andersen and Company for an order under Section 3(a)(2) of the Securities Act, which would exempt interests in its Profit Sharing Plan and Profit Sharing Trust from certain registration requirements.

6. Consideration of an application by the Putnam Fund and Putnam Fund Distributors for an order permitting the offer of fund shares at net asset value plus a fixed, reduced sales load to certain qualified groups.

7. Consideration of an application by Merrill Lynch Municipal Bond Fund, Inc., for an order which would conditionally exempt from the provisions of Section 10(f) of the Investment Company Act of 1940 certain proposed purchases of municipal securities from affiliated underwriting syndicates.

8. Consideration of an amendment to the Commission's Statement of Policy governing mutual fund sales literature that would allow the use of certain additional charts and tables reflecting investment results on a total return basis. Consideration will also be given to the adoption of a new interpretive letter procedure whereby the staff would be able to express its opinion on the use of charts and tables not included in the Statement of Policy.

FOR FURTHER INFORMATION CONTACT:

Susan E. Auerbach at 202-376-8097 or Sam Knight at 202-376-8068.

JULY 19, 1977.

[S-947-77 Filed 7-20-77;9:03 p.m.]

7

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.

TIME AND DATE: 10:00 a.m., Wednesday, July 27, 1977.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED: (1) Personnel assignments within the Board's staff, and (2) Any agenda items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board: 202-452-3204.

Dated: July 20, 1977.

THEODORE E. ALLISON,
Secretary of the Board.

[S-948 Filed 7-20-77;9:47 am]

8

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: S-909-77, 42 FR 36910, July 18, 1977, S-924-77 and S-941-77.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 2 p.m., July 20, 1977.

STATUS: Parts of the meeting will be open to the public. The rest of the meeting will be closed to the public.

CHANGE IN THE MEETING: This meeting has been rescheduled to start at 1 p.m. at which time the open meeting will start, to be followed by a closed meeting.

A majority of the entire membership of the Commission has determined by recorded vote that the business of the Commission requires this change and that no earlier announcement was possible.

The vote was as follows—In favor of change: Eleanor Holmes Norton, Chair, 7-20-77, Ethel Bent Walsh, Vice Chair, 7-20-77, Daniel E. Leach, Commissioner, 7-20-77; Opposed: None.

CONTACT PERSON FOR MORE INFORMATION:

Marie D. Wilson, Executive Officer, Executive Secretariat at 202-634-6748.

This Notice Issued July 20, 1977.

[S-949-77 Filed 7-20-77;11:16 am]

federal register

FRIDAY, JULY 22, 1977

PART II

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

■

PROGESTATIONAL DRUG PRODUCTS FOR HUMAN USE

Requirements for Labeling Directed to the Patient

Title 21—Food and Drugs

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

SUBCHAPTER D—DRUGS FOR HUMAN USE

[Docket No. 76N-0384]

PART 310—NEW DRUGS

Requirement for Labeling Directed to the Patient

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The agency is issuing final regulations to require patient labeling for all prescription estrogenic drug products for general use. The new regulation specifies the kind of information to be contained in the patient labeling and how it is to be made available to the patient. The regulation does not apply to estrogen-progestagen oral contraceptives and oral diethylstilbestrol (DES) products intended for postcoital contraception.

EFFECTIVE DATE: September 20, 1977.

FOR FURTHER INFORMATION CONTACT:

Philip L. Paquin, Bureau of Drugs (HFD-30), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857 (301-443-5220).

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of September 29, 1976 (41 FR 43108) the Commissioner of Food and Drugs proposed new requirements for patient labeling for estrogens for general use. Interested persons were invited to submit comments on the proposal by November 29, 1976. More than 300 comments were received. Comments came from drug establishments, drug trade associations, professional societies, consumer groups, and individual citizens. A summary of the comments and the Commissioner's response are set forth below:

1. *Statutory authority.* Several comments contend that the Food and Drug Administration (FDA) lacks the requisite legal authority to require patient labeling. The comments note that the proposal to add new § 310.515 (21 CFR 310.515) cites sections 502, 505 and 701(a) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 352, 355, 371(a)) as authority for requiring patient labeling for estrogens, and none of these sections provides such authority. The comments also refer to congressional intent expressed at the time of enactment of section 503(b) of the act, together with previous FDA statements on the subject, to urge that the patient labeling proposal is without statutory basis. Specifically, they argue that the enactment of section 503(b)(2) of the act in 1951 reflected a clear understanding by Congress that prescription drugs need not bear labeling containing directions for patient use and that this section exempts prescription drugs at the time the drug is dispensed by the pharmacist from any requirement that the labeling bear adequate directions for use and warnings under section 502(f) of the act. They also point to two bills introduced but not enacted in the last session of Congress that would have permitted patient labeling under varying circumstances.

The comments contend that sections 505 and 701(a) of the act contain no language authorizing promulgation of a patient labeling regulation. It is claimed that section 505 of the act contains nothing suggesting or pertaining to authority to require patient labeling for new drugs while section 701(a) of the act provides FDA with only general rule making authority, and allows for promulgation of regulations only on subjects that are specifically covered by some other section of the act.

The Commissioner disagrees with these contentions. The Food and Drug Administration's legal authority for requiring patient labeling was explained in detail in paragraph 4 of the preamble to the proposed new format for prescription drug labeling published in the FEDERAL REGISTER of April 7, 1975 (40 FR 15392). The Commissioner affirms that explanation. Section 505 of the act provides that a new drug application (NDA) may be approved only if a new drug is shown to be safe and effective in use under the conditions set out in its labeling, and section 201(p) of the act (21 U.S.C. 321(p)) similarly provides an exemption from the requirement of an NDA only if the drug is generally recognized as safe and effective under the conditions of use set out in its labeling. Moreover, both sections 502(a) of the act and section 505(d) of the act prohibit prescription drug labeling that is false or misleading in any particular, and section 201(n) of the act explicitly provides that the failure to reveal material facts can be misleading. Accordingly, the act requires the Commissioner to make a determination that the information contained in the labeling for a prescription drug is sufficient to assure the safe and effective use of that drug by consumers. The Commissioner concludes that such determination may well require specific information to be provided to consumers about the drug, as has already been required for the oral contraceptives in § 310.501 (21 CFR 310.501).

The primary purpose of the provision in section 503(b)(2) of the act exempting a prescription drug from adequate directions for use and warnings is to avoid self-diagnosis and self-administration of drugs that require professional supervision for safe use. Requiring a prescription drug product to contain printed patient information does not contradict this purpose. For estrogens, such information will inform the patient of the advantages and risks associated with the use of these drugs and will ensure safe and effective use of the drug after it has been prescribed by the physician. Nothing in the legislative history of section 503(b) or in any other section of the act suggests that Congress intended to preclude a requirement of labeling directed to the patient that promotes safe and effective use of the drug.

The introduction of two bills in the last session of Congress to provide for patient labeling is not an indication that Congress believes that FDA lacks statutory authority to require patient labeling for prescription drugs absent such legislation. The Commissioner believes that these bills have resulted from the recognition by certain members of Congress that arguments such as have been raised by the comments have been and will continue to be made. Legislation specifically providing for patient labeling would resolve questions about the agency's authority once and for all.

The Commissioner also disagrees with the contention that section 701(a) of the act allows only for the promulgation of substantive regulations on subjects that are specifically authorized by some other section of the act. Rather, section 701(a) of the act empowers the Commissioner to promulgate substantive rules to facilitate enforcement of the act. *United States* v. *Nova Scotia*, 417 F. Supp. 1364 (E.D. NY., August 17, 1976); *National Nutritional Foods Association* v. *Weinberger*, 512 F. 2d 688 (2d Cir. 1975); *Weinberger* v. *Hynson, Wescott and Dunning, Inc.*, 412 U.S. 609 (1973); *Ciba Corp.* v. *Weinberger*, 412 U.S. 645 (1973). Accordingly, the Commissioner concludes that a regulation issued pursuant to section 701(a) of the act may lawfully establish a requirement for patient labeling for a prescription drug product.

2. *Consistency of procedures employed by FDA with section 505 of the act.* Several comments allege that the procedure followed by FDA is inconsistent with section 505 of the act. They note that the products to which the proposal would apply are subject to approved NDA's and argue that under section 505(d)(6) of the act, the agency's approval of those applications was based in part on a determination that labeling submitted with them, including physician labeling, was not "false or misleading in any particular." They insist that section 505(e) of the act provides the only procedure by which FDA may withdraw approval for an NDA and that withdrawal must be based upon a determination that labeling contained in the NDA is false or misleading in light of "new information." The comments argue that FDA cannot circumvent this procedure by issuing a notice of its intent to treat as misbranded drugs those whose labeling is in full compliance with NDA's that have been approved by the agency.

The Commissioner disagrees. Although section 505(e) of the act provides that FDA may withdraw approval of an NDA if new information demonstrates that the approved labeling is false or misleading, section 505 of the act is not the exclusive method for regulating new drugs. All drug products, including those subject to section 505, are subject to the adulteration and misbranding provisions of sections 501 and 502 of the act. If a new drug product is misbranded under section 502(a) of the act, the Commissioner has the option to proceed with enforcement action under either section 502 or section 505 or both. Proceeding

under section 502 is in no way inconsistent with section 505.

3. *Infringement upon the practice of medicine.* Several comments alleged that the proposed regulation would result in a direct and substantial Federal involvement in the patient/physician relationship and would be an infringement upon the practice of medicine. The comments argued that under the traditional patient/physician relationship, the physician provides such information to the patient concerning drug therapy as the physician considers appropriate. The language of section 503(b) of the act, it was suggested, reflects this relationship. The comments argued further that intrusion into the practice of medicine is compounded by statements in the patient labeling (see the FEDERAL REGISTER of October 29, 1976 (41 FR 47576)) that encourage the patient to ask the doctor or pharmacist for the package insert (physician labeling), which by definition is directed to trained professionals. This, it is argued, will unduly increase a patient's concern about the drug and the therapy unless the patient is fully conversant with complicated medical and scientific terminology.

The Commissioner believes that the findings linking postmenopausal estrogen use to endometrial cancer, the reports of an association between intrauterine exposure to estrogens and congenital anomalies, and the findings of an increased risk of vaginal cancer in adolescent daughters exposed in utero to an estrogen (DES) must not only be carefully considered by physicians who prescribe these drugs, but also by patients who take them. The advantages and risks associated with the use of these products are of a type that can and should be assessed by patients.

The Commissioner does not agree that the requirement for patient labeling interferes with the physician/patient relationship or infringes on the practice of medicine. Indeed, by directing the patient to consult with her physician the labeling requirement explicitly recognizes the primary responsibility of the prescribing physician to convey to the patient, information regarding prescribed drugs. This regulation, therefore, is not intended to preempt the physician's responsibility, nor will it have that effect. Rather, in situations where physicians are conscientious in describing the relative benefits and risks of these drugs with their patients, the patient labeling will simply reinforce what the physician has explained to the patient and serve as a written reminder that can be referred to by the patient during the course of therapy.

At the same time, the Commissioner recognizes that information regarding the benefits and risks of estrogen drug products is sometimes not fully provided by physicians. Even when it is, it is likely to be given verbally and may thus be misinterpreted or forgotten by patients. For these reasons it is additionally necessary that these drugs contain patient labeling. But under no circumstances is the presence of the labeling intended to supersede the role of the physician in informing the patient or to interfere in any way with communications between the physician and his or her patients.

The statement in the patient labeling that refers to the physician insert is intended primarily to advise the patient that such an insert exists and that it is available to the patient if the patient is interested in reading it. The Commissioner believes that it is necessary and proper to inform patients that they may obtain additional information on the use of these drugs if they so desire. The existence and availability of such inserts is already known to many patients and the Commissioner believes the information should be available equally to those patients who are less informed. Moreover, as the Commissioner has made patient labeling selective in scope—it does not attempt to describe all the information that is included in physician labeling—he would view as inappropriate the failure to advise patients that the patient labeling insert does not contain all the known information on the drug. Therefore, the Commissioner concludes that the reference to the physician labeling should be retained in patient labeling.

4. *Product liability consequences.* Several comments contend that patient labeling could have a substantial adverse effect on the liability of manufacturers by imposing a standard of "absolute" liability. The comments explain that in recent years there has been a trend among the courts to adopt the concept of "strict liability" as expressed in the "Restatement (Second) of Torts" (a highly regarded but unofficial legal treatise). The comments argue that under 402(A) of the Restatement, a manufacturer may be held strictly liable for personal injury to a consumer without regard to negligence on the part of the manufacturer if injury follows the normal and reasonable use of the product. The comments claim that when applied to prescription drugs, owing to the inherent nature of such products, the doctrine will result in the application on manufacturers of an "absolute liability" standard.

The Commissioner does not agree that the imposition of a requirement for patient labeling will necessarily affect adversely the standard of civil tort liability that is imposed on drug manufacturers. Whether or not a manufacturer is to be held liable in a given situation will depend upon the facts surrounding the manufacture, sale, and use of the drug product. It will also depend on the nature of the injury and the applicable civil law. Moreover, the Commissioner believes that giving patients information on the hazards associated with estrogen drug products will as likely result in reduced potential manufacturer liability, owing to improved patient compliance and a corresponding decrease in drug-induced injury. In any event, however, whether particular labeling may alter a manufacturer's liability in a given instance cannot be considered as a dispositive factor by the Commissioner in reaching a decision on the proposal. The Commissioner concludes that to assure the safe and effective use of estrogen products it is necessary that the patient be provided with certain specific information in the form of patient labeling, in addition to the instructions normally received from the prescribing physician. The Commissioner believes it proper that a regulation requiring such labeling be promulgated, notwithstanding the possibility that it may have an effect on a manufacturer's liability in isolated instances.

5. *Consistency with previously announced FDA policy.* Several comments contend that the finalization of this proposal would be inconsistent with announced FDA policy. They point to the statement in the FEDERAL REGISTER of November 7, 1975 (40 FR 52075) in which FDA announced its intent to consider the patient labeling concept in depth, prior to implementation. Because of this statement and other activities in this area undertaken by FDA, such as public seminars and FDA contracts with outside groups to study the feasibility of such labeling, the comments state that they have been assuming that the agency was carefully studying the concept of patient labeling and the problems inherent with it, and point to the November 7, 1975 FDA notice, which requested comments as to methods of drafting such labeling, as supporting that assumption. They argue that there is no medical or legal need to abandon this "reasonable" approach, particularly since the controversy in recent months over the appropriateness of estrogen therapy has served to highlight to physicians the complex medical problems of such therapy. Moreover, such a course of action may, they argue, constrict the agency in overall implementation of patient labeling requirements, such as proper modes of distribution, language and educational considerations and consideration of cost, if legal authority for patient labeling, which they argue does not currently exist, is obtained.

The Commissioner does not view the proposed requirement for patient labeling for estrogen drug products as conflicting with previously announced FDA policy. The November 7, 1975 notice clearly stated that the concept of patient package inserts is not an entirely new one to the agency. The notice also explained that FDA, in consultation with advisory committees and professional, trade, and consumer groups, was evaluating the usefulness of patient package inserts in order to establish an overall policy on patient labeling. The Commissioner did not, however, intend to imply that FDA would defer the adoption of requirements for patient labeling for specific drugs when the need for such labeling was clearly demonstrated. The Commissioner believes that such a need has been demonstrated for estrogen drug products. The advantages and risks associated with the use of these products are a type that can and should be assessed by patients, particularly the findings linking postmenopausal estrogen use to endometrial cancer, the reports of an association between intrauterine exposure to estrogens and congenital

anomalies, and the finding of an increased risk of vaginal cancer in adolescent daughters exposed in utero to an estrogen (DES). Therefore, the Commissioner views the requirement for patient labeling for these drugs as not conflicting with previously announced FDA policy.

The Commissioner acknowledges at the same time, that there is still a proposal outstanding for a comprehensive plan for the development, issuance, and distribution of patient labeling for prescription drugs which, when issued in final form, may lead to modification of the patient labeling for oral contraceptives, estrogens, and other products for which earlier regulations were adopted.

6. *Inflationary aspects of the proposal.* Several comments questioned the statement in the preamble to the proposal that the Commissioner found that it would cause no major inflation impact. These comments argued that the requirement that bulk packages of estrogen products contain adequate numbers of patient package labeling would cause a substantial increase in cost for estrogen drug products. The comments argue that this requirement will necessitate in many instances that the outer carton be redesigned to provide sufficient space to accommodate the patient package labeling material. Because almost all packages will have to be redesigned, this will result in a one-time increase in cost. They argue further that the proposed regulation will also necessitate the redesign of machines used for machine packaging estrogen drug products. In many instances, it will make obsolete the manufacturers ability to use machines for final packaging, forcing the use of hand labor with a resultant increase in labor cost. Thus, depending on whether the machines can be adapted, or whether hand packaging will be required as an ongoing activity, the regulation will either cause a significant one-time cost increase or cost increases that will continue during the lifetime of the product. There will also be an increase in costs for pharmacists in terms of requirements for increased shelf space and for time to respond to patients' questions.

The comments also anticipate that many questions will be generated by the patient labeling and that the vast majority of these questions will be directed, appropriately, to the prescribing physician. Again, if the questions raised by the patient labeling become a burden upon the time available to the prescribing physician, he will have no other recourse than to charge the patient for the extra time needed to answer the patient's questions.

The Commissioner notes that neither the direct cost nor the indirect cost of the proposed requirements has been fully quantified. But the direct cost of printing package inserts and distributing them with the drug to the wholesaler and retailer and the cost of storage of these inserts appear to be very small. The Commissioner believes that the approximately 2.4 million dollars per year figure included in the agency's inflation impact assessment is a fairly accurate representation of the direct cost based on present rates of use. The Commissioner acknowledges that this approximate figure does not take into account the possibility that equipment used for machine packaging of estrogen drug products may have to be redesigned, or that in some instances the product may have to be hand packaged. In preparing the inflation impact assessment, however, the Commissioner did consider the slight increase in costs that result from the necessity of increased shelf space in the pharmacy. This is included in the 2.4 million dollar per year figure.

As estrogen patient labeling will be a new experience for patients, prescribers, dispensers, drug manufacturers and regulators, accurate predictions of the extent to which patient labeling will effect professional time demands are not possible. The past experience with oral contraceptive patient labeling, however, suggests that demands for professional time are not significantly increased by patient labeling. A conscientious physician presumably already advises each patient about the drugs that he prescribes—providing information on directions for use, cautioning against misuse, and giving warnings about possible adverse reactions. The patient labeling will simply reiterate this information and serve as a reminder for what the patient might forget. As experience is gained, physicians will be able to anticipate questions that might be stimulated by the patient labeling, and will be able to provide answers to these questions as part of the routine instructions provided to the patient. Thus, the Commissioner concludes that it is unlikely that the questions raised by the patient labeling will measurably lengthen the time of the patient's visit, except possibly in the case of a physician who is not accustomed to advising the patient about the drugs that are prescribed. The Commissioner notes, as well, that it is unlikely that the patient labeling will significantly burden pharmacists with an increase in questions regarding the drugs because the patient labeling specifically suggests that patients direct their questions to the prescribing physician.

7. *Availability of patient information on estrogens.* One comment contends that although patient labeling dispensed by pharmacists will help patients to some extent, the decision whether or not to prescribe the drug occurs in the doctor's office rather than in the pharmacy, and it is there that the patient most needs the information for discussing drug therapy. Moreover, the comment argues that if the patient has this information in hand while the decision is being made, the doctor has a strong incentive to be familiar with the contents of the various labels, and with the use of the drug in general. Once the patient has left the doctor's office, however, her opportunity to participate in the decision is gone, as is her opportunity to be sure the doctor is knowledgeable and careful about drug prescribing. Another comment recommends that the physician be required to provide the patient with the patient labeling at the time of prescribing, because the distribution of the patient labeling pieces to physicians by manufacturer representatives or by mail is less disruptive of the normal packaging procedures and may be less inflationary in the long run. The comment suggests that the storage and distribution of patient labeling pieces can be more easily managed in the doctor's office than in the pharmacy.

In response to this comment, the Commissioner notes that when the physician dispenses, or as in the case with injectables, administers the drug, he becomes the dispensor and under the regulation bears the responsibility for providing the patient with the patient labeling. In such cases the patient will be able to review the patient labeling at the time of administration, as recommended by the comment.

In other cases, however, which constitute the overwhelming majority, the patient labeling will be dispensed by the pharmacist along with the drug. The Commissioner views this result as the correct one.

The Commissioner agrees that the decision whether or not to prescribe a drug is usually made in the doctor's office. But this decision is made following examination and diagnosis. The physician would have to make a diagnosis, dispense the patient labeling, give the patient the opportunity to read the patient labeling and then discuss the advantages and disadvantages of estrogen therapy with the patient. Although the Commissioner would not object to this process, it is his opinion that the proper role of the patient labeling is to reinforce and augment oral information given by the physician. Furthermore, it is not reasonable to assume that physicians would have the available time and facilities commonly to engage in this process. Physicians have the primary responsibility to advise patients about drugs and provide such information as directions for use, cautions against misuse, and warnings about possible adverse reactions. Patient labeling should serve primarily as an adjunct to this discussion. Even when physicians elect to rely mainly on written communication of drug information to their patients, and where patient labeling will serve as a primary informational source to patients, that labeling still suggests that the patient make decisions regarding the use of the drug in consultation with her physician. The Commissioner concludes, therefore, that distribution by physicians would offer little advantage to the patient over obtaining the labeling from the pharmacist when the drug is dispensed.

The Commissioner disagrees with comments contending that for economic reasons physicians should distribute labeling. The Commissioner believes that labeling should be related to the distribution of the product. Such distribution provides for better control of the labeling in the channels of distribution in that the labeling can be tied into the

product's lot-numbering system. This permits recall of labeling, if required, and assures that revised and updated labeling can be dispensed with those products packaged after the occurrence of a revision or an updating of the patient labeling. On the other hand, if labeling were provided only by physicians, it would be virtually impossible to update or recall obsolete labeling. It would also be necessary to send copies of revised labeling to every physician in the country. This would require excessive copies to be printed at additional cost and result in unnecessary distribution costs. Moreover, the Commissioner believes that pharamacies are more likely than doctor's offices to have the kinds of storage, access, and filing systems necessary for the efficient and reliable distribution of patient package inserts.

Finally, the Commissioner is of the opinion that the pertient sections of the act do not appear to authorize regulation of the prescribing function of physicians to the extent contemplated by the comment. The Commissioner does, however, strongly encourage the voluntary distribution of patient labeling by prescribing physicians. He urges manufacturers in their promotional campaigns to supply prescribing physicians with the patient labeling pieces and other supplies necessary to carry out the voluntary distribution program. As discussed above, when the physician dispenses, or (as in the case with injectables) administers the drug, he becomes the dispensor and under the regulation bears the responsibility for providing the patient with the patient labeling.

8. *Ongoing distribution of patient labeling.* One manufacturer suggested that § 310.515(d)(2), which requires each bulk package to include a sufficient number of patient-labeling pieces to assure that each patient package contain an insert, imposes unnecessary burdens and is inefficient. The comment suggests, for example, that pharmacists might remove the drug bottle from the carton or other enclosure for the patient-labeling pieces and inadevertently discard the carton with the patient labeling. The comment recommends that § 310.515(d)(2) be amended to permit the use of alternative methods of patient-labeling distribution. In particular, the comment urges that the use of a "pad system" be permitted. In this system the manufacturer or labeler would supply pads of patient labeling to the pharmacist for particular drug products along with instructions on how to order additional labeling. This system, it is argued, would be more efficient and effective in assuring that pharmacies have patient-labeling pieces available for inclusion with prescriptions.

The Commissioner believes that it is not desirable to separate the distribution of patient labeling from the shipment in bulk of estrogen drug products to the dispensor. Such a distribution system would increase the likelihood that the labeling would not be successfully tied into and connected with the drug product either in shipment or at the point of dispensing. The use of such a system, moreover, could result in the pharmacist (or physician, when he or she dispenses or administers the drug) either failing to dispense any patient labeling or in dispensing the wrong labeling. Finally, the Commissioner notes that traditionally, labeling has been included in bulk shipments of drug products and wholesale distributors and retail pharmacies have developed satisfactory procedures to ensure the proper distribution of the labeling. He is confident that manufacturers can devise packaging that will militate against pharmacists inadvertently disposing of enclosed labeling

To prevent ambiguity, nonetheless, the Commissioner is amending § 310.515(d)(2) to indicate more clearly that in bulk packages intended for multiple dispensing, a sufficient number of patient labeling pieces must physically accompany the drug product, i.e., be included in or with each bulk package. The labeling pieces may be in individual or in "pad" form.

As a result of certain questions arising from activities of the agency, the Commissioner is further amending proposed § 310.515(d)(1) and (2) to make it clear that drug products dispensed or administered by physicians (e.g., injectables, etc.) are subject to these requirements, and that multiple-dose vials, like bulk packages intended for multiple dispensing, must also include in or with each package a sufficient number of patient-labeling pieces to assure that one piece can be given to every patient administered the drug.

The Commissioner expects that manufacturers and labelers will employ a reliable statistical method to determine the sufficiency of the number of patient-labeling pieces to be included in or with each bulk package and multiple-dose vial. He recognizes, however, that in some cases additional patient-labeling pieces may for a variety of reasons be required. The Commissioner is adding a sentence in § 310.515(d)(2) to indicate that the manufacturer or labeler may also employ a supplementary system to supply additional patient labeling to the dispensor. That system may not, however, act as a substitute for the requirement that patient labeling must be supplied in or with the bulk package.

9. *Patient labeling and self-medication.* One comment contends that a total patient package insert program that includes detailed information on indications for the use of drugs will result in the trading or exchanging of prescription medications by patients. A consumer may not understand that a specific drug has been prescribed for the sole purpose of treating that individual's illness. In some instances the results of such substitutions could be extremely harmful to the individual.

The Commissioner recognizes that this is a potential problem and that patients should be warned of the possible hazards of such a practice. The Commissioner agrees with this comment and is adding § 310.515(b)(8) accordingly.

10. *Effect of patient labeling on patient compliance and suggestion-induced adverse reactions.* Several comments expressed the opinion that patient labeling will greatly diminish patient compliance with dosage regimen. Consumers who learn of possible side effects, indications, and contraindications for a given medication may decide to discontinue or alter therapy without the benefit of medical advice. Alternatively, the comments suggest that patients may develop the suspected symptoms by suggestion.

The Commissioner believes that it is ultimately the patient's decision whether she wishes to take estrogens. Estrogen patient labeling should help patients make decisions about drug therapy on the basis of accurate and complete information. The factors behind patient adherence to agreed medication regimens are complex. With the present state of knowledge it is impossible to predict accurately the influence that patient labeling will have on adherence to agreed medication regimens.

Experience with oral contraceptive patient labeling suggests, however, that patient experience with drug therapy, rather than written information, primarily determines discontinuation of drug therapy. Furthermore, in the case of estrogens, the Commissioner firmly believes patients should take these drugs for as brief a period as possible and that women should be appraised of the reasons why this is the case. In the suggested wording of the patient labeling, patients are consistently referred to their physician so that decisions can be made in the context of appropriate medical advice.

If a patient decides to follow the instruction of her physician, the Commissioner does not believe that patient labeling will significantly increase the incidence of suggestion-induced side effects. Suggestion effects, moreover, seem to play a minimal role in determining serious adverse reactions. It is, in any event, possible to hypothesize beneficial as well as negative effects of suggestion. Clear expectations about the effects of drug therapy, reinforced by patient labeling, may make patients more sensitive and aware of certain physical or psychological reactions. Effects which might otherwise go unnoticed may be identified as drug related. Although this may have the effect of nominally increasing the reported incidence of less serious adverse reactions it also may have beneficial results. Patients may be more sensitive to "warning signals" of serious adverse effects. Accurate expectations may help reduce uncertainty and anxiety about possible effects of treatment. The patient may also be better able to interpret and identify more accurately the cause of drug-induced reactions, and treatment decisions will accordingly be based on more precise information. It is the Commissioner's opinion that the possible positive effects of supplying accurate side-effect information outweigh the possible negative effects.

At the same time, the Commissioner recognizes that there may be some drugs for which patient labeling is required and the physician concludes that the labeling should not be given to the patient—for

example, where the patient would be adversely affected by some of the information in the patient labeling. The Commissioner does not, however, believe that estrogens fall into this category, and such option is not provided in this regulation.

11. *Flexibility in providing patient labeling in hospital settings.* A comment stated that hospitals and other health care institutions would require some flexibility in meeting the proposed requirements. It noted that the proposal is unequivocal; the "dispensor" must give labeling to the patient when an estrogen drug product is dispensed, or the drug will be deemed misbranded. The comment noted that in institutional health care, pharmacists, physicians, and nurses closely monitor a therapeutic course, and in that situation the patient can rely on personal contact and professional expertise for drug information to assure safe and effective therapy. The comment argued that hospital pharmacists be permitted to use professional discretion in determining the method of transmitting information, depending upon the seriousness of adverse affects, the condition of the patient, and the frequency with which the drug will be administered. The comment further argued that it would be impractical for a hospital using a unit-dose drug distribution system to provide patient labeling whenever a drug is dispensed, because the drug is dispensed one dose at a time. The comment recommended, therefore, that the regulation permit acute care hospitals to provide patient labeling to inpatients on estrogen therapy before administration of the first dose of estrogen, and in long-term care facilities, before the first administration and every 30 days thereafter. The comment also urged that if clinical services substantially furnish the information called for, misbranding should not be deemed to occur if the actual labeling were not provided.

The Commissioner agrees that hospitals and other health care institutions should have some flexibility in meeting the requirements of this regulation. He concludes that it would be impractical and unnecessary to require patient labeling to be made available to the hospitalized patient every time a drug is administered. Therefore, the final regulation is revised by adding a new sentence to § 310.515(d)(1) that states that the requirements of § 310.515 are met in the case of estrogen drug products prescribed in an acute care hospital or in long-term facilities if the patient labeling is provided to the patient before administration of the first dose of estrogen and every 30 days thereafter as long as the therapy continues.

However, the Commissioner does not agree that clinical services should be permitted to merely "substantially" convey the information called for in this proposal. He advises that the requirement for patient labeling for this drug product cannot be satisfied by oral communication of the information by either the pharmacist or physician. The written patient labeling is intended to be a supplement to any oral communication of this information, or in the absence of any oral communication, to at least furnish the patient with basic information necessary for the patient's safe and effective use of the product.

12. *Type size in patient labeling.* Comments were received objecting to the proposed requirement that 9-point (noncondensed) type be used in patient labeling. One comment contended that the requirement for 9-point type is not a valid method of specifying type height or legibility. The comment argued that an 8-point type face may in some cases be significantly more legible and easier to read than some 9-point faces. The comment further pointed out that the 9-point type is not a standard size (the standards for type size are 6, 8, 10, and 12 point) and, therefore, is not available in many different type faces and styles. Mandating a 9-point size requirement will, therefore, complicate machine finishing and will not permit many of the procedures that are currently being followed by manufacturers to be applied to patient labeling. It could, for example, make it necessary to redesign bulk package outer cartons, result in larger cartons, and increase the amount of shelf space needed to store the drug product in the pharmacy. The comment recommends that the regulation not specify a minimum type size, but instead contain language requiring that the patient labeling be legible.

The Commissioner has given further consideration to the question of type size and legibility of patient labeling and has concluded that language requiring only that the labeling be "legible" would be unduly vague. A more objective standard that can be uniformly applied to all patient labeling is necessary. Therefore, a minimum type size must be established. The Commissioner is, however, persuaded that specifying a particular point type size is not, by itself, a valid method of specifying type height or legibility. Accordingly, the final regulation is revised to specify that the minimum type size shall be at least $\frac{1}{16}$ inch in height. The height pertains to lower case letters, and it is the lower case "o" or its equivalent that shall meet the minimum standard. The body copy shall be 1-point leading and noncondensed type, and shall not contain any light face type or small capital letters. It is the opinion of the Commissioner that this requirement will result in a type size that will ensure legibility without imposing a significant burden on the manufacturer.

13. *Effective date provisions.* Comments were received objecting to the provision in the proposed regulation that would allow estrogen drug products in the possession of a wholesaler or retailer before the effective date to be shipped or sold if adequate numbers of copies of the patient labeling are furnished to the wholesaler or retailer to permit any retail purchaser after the effective date to obtain such labeling with the product. The comments suggested that this section be deleted and that the effective date be predicated upon the date on which the estrogen drug products are packaged. They argued that distribution of the patient labeling separate from the product is inappropriate since control of labeling is lost. An opportunity also exists that one manufacturer's package labeling may inadvertently be given to a patient when in fact another manufacturer's product was dispensed. The proposed process would also provide no means of revising the labeling or alerting the retailer that the patient labeling has been revised or otherwise updated.

The Commissioner does not believe that it would be in the best interest of the patient to establish as the effective date of the regulation the date on which the products are packaged. That choice would afford manufacturers the opportunity to stockpile supplies of the drug not containing patient labeling, and could result in significant delays in providing the patient with the labeling. It could also result in a wide variation regarding the time when the products of various manufacturers would begin to be furnished to patients with patient labeling. The intent of the effective date provision as proposed is to prevent any further distribution of the subject drug without patient labeling on or after the effective date, without requiring the recall of stock in possession of persons who are not responsible for the content of the labeling, i.e., wholesalers or retailers. The distribution of patient labeling separate from the product on an interim basis will assure the prompt availability of the patient labeling as of the effective date of the final regulation, thus avoiding the necessity of a recall. Although a physician who dispenses or administers the drug is considered to be a retailer under the regulations, the Commissioner has concluded that it would be impractical to require the forwarding of separate patient labeling, within the specified time frame, to such physicians for those products in their possession before the effective date. Accordingly, the requirement that any estrogen drug product be dispensed with patient labeling, as applied to physicians who dispense or administer the drug, will not be effective for supplies in their possession on the effective date, but will apply only to supplies received thereafter.

14. *Applicability of the proposed regulation.* One comment expressed the concern that the proposal, although obviously intended to apply only to estrogen drug products that are restricted to prescription distribution, did not clearly state that the proposal is not applicable to over-the-counter drugs or cosmetics. The comment requested that the Commissioner expressly state that proposed § 310.515 is only applicable to prescription drugs.

The comment is correct in stating that the proposal only applies to estrogen drug products that are restricted to prescription distribution. The final regulation is revised in § 310.515(a) to include a specific statement to that effect.

The Commissioner advises that he is not aware of any over-the-counter estro-

gen drug product intended for internal use. There are, however, several over-the-counter estrogen-containing drug products intended for topical use. These preparations, currently being reviewed by the OTC Advisory Review Panel for Miscellaneous External Products, will not be affected in any way by this regulation.

15. *Content of patient labeling: § 310.515(b) of the proposed rule.* Section 310.515(b) of the proposal prescribes certain specific points of information that shall be included in the patient labeling. Several comments were received on those points of information. The most significant comments and the Commissioner's response to those comments follow.

a. One comment recommended that endorsement of estrogen for short-term use for moderate vasomotor symptoms of menopause be deleted from § 310.515(b)(3). In the opinion of the comment, the patient information should not recommend estrogens for anything but the most severe and incapacitating vasomotor symptoms—otherwise known as "hot flashes." The comment argued that for estrogen use to be suggested merely because the patient is going through menopause is unacceptable, considering the unequivocal animal and human evidence that estrogens cause cancer.

The Commissioner responds that, although the labeling allows for the use of estrogens for moderate vasomotor symptoms, the labeling is not intended to suggest that estrogen use is appropriate merely because the patient is going through menopause. While "moderate" and "severe" are subjective terms, and may have different meanings to physicians and patients, the Commissioner believes the labeling clearly indicates that a significant symptom is necessary to justify use. For the type of vasomotor symptoms (hot flashes) for which estrogens are indicated there is no alternative therapy, and such therapy is intended for short-term use only. With these considerations in mind the Commissioner concludes that to limit the use to severe vasomotor symptoms would be unnecessarily restrictive, and that the regulation should not be revised in this respect.

b. A comment objected to the statement in proposed § 310.515(b)(3) that estrogens are not indicated for the treatment of nervousness. The comment contends that a number of investigators have studied the effects of estrogen on emotional symptoms associated with the menopause and generally have found estrogens beneficial in alleviating such conditions. Such studies have included several double-blind studies, e.g., those by Douglas (Medical Annals of the District of Columbia, 38:437, 1969), Sheffrey (Medical Annals of the District of Columbia, 38:433, (1969), and Lozman, et al. (Southern Medical Journal, 46: 1079, 1972). In addition, it is argued, studies by Klaibern, et al. (American Journal of Psychiatry, 128:1492; and Conference on Biorhythm and Human Reproduction, New York, October, 1972) have shown that conjugated estrogens are effective in alleviating depression in women, probably because of restoration in initially depressed patients of more normal levels of essential adrenergic functioning. The comment concludes that there is sufficient evidence that estrogens are effective in alleviating certain nervous symptoms or depression that may occur during the menopause, and that a statement to the contrary is inappropriate.

The Commissioner is familiar with the references cited by the comment, but does not agree that the studies offer substantial evidence that estrogens are effective for the treatment of nervousness. Estrogens have been shown to be effective in treating moderate to severe vasomotor symptoms. In the presence of such symptoms many women also exhibit signs of nervousness or depression. It is the Commissioner's view that it is the successful treatment of the vasomotor symptoms that removes the cause of the nervousness and depression; hence, these symptoms are alleviated. He notes, moreover, that there is no evidence that estrogens are effective in alleviating nervous symptoms or depression that are not caused by conditions for which estrogens have been shown to be effective.

c. A comment was received in regard to the terminology "cancer of the uterus" used in § 310.515(b)(4)(i). The comment contends that the correct term is "endometrial carcinoma," and not "cancer of the uterus," which includes cervical as well as other types of cancer.

The Commissioner agrees with this comment and § 310.515(b)(4)(i) is revised accordingly.

d. A number of comments expressed concern regarding the risk of endometrial carcinoma (cancer of the uterus) for women who have had hysterectomies. They suggested that neither the proposed rule nor the labeling text adequately addressed this issue.

To allay any unnecessary concerns, the final rule is revised to require a statement in the patient labeling that indicates that women who have had total hysterectomies have no risk of endometrial carcinoma.

e. One comment contended that the patient labeling should mention "liver tumors" and not "benign liver tumors" as proposed by § 310.515(b)(6). The comment argues that although the majority of tumors associated with estrogen use as reported in the published literature have been classified as "benign," some tumors have been classified as malignant. Moreover, it is argued, those tumors classified as "benign" have malignant potential if not surgically excised. The comment suggests that use of the term "benign" when there is malignant potential, and where malignant liver tumors have also occurred in oral contraceptive users, is deceptively soothing to the ordinary consumer.

The Commissioner agrees that although the majority of tumors associated with estrogen use as reported in the published literature have been classified as benign, some tumors associated with the use of estrogen containing oral contraceptives have been classified as malignant. The Commissioner believes that deleting the word "benign" would be more accurate under the circumstances. The regulation is revised accordingly.

DATE OF MOST RECENT REVISION

The Commissioner is revising § 310.515(b)(8) to provide that the date, identified as such, of the most recent revision of the labeling be prominently placed immediately after the last section of the labeling. This conforms to the present practice of many manufacturers and should, therefore, not be disruptive of labeling processes.

STATUS OF PATIENT LABELING TEXT: REVISIONS OF OCTOBER GUIDELINE

Section 310.515(f) requires that FDA make available and publish in the FEDERAL REGISTER patient labeling for estrogens that is responsive to all items specified in § 310.515(b). The suggested text of patient labeling that met the requirements of the proposed rule was published in the FEDERAL REGISTER of September 29, 1976 (41 FR 43117) and revised in the FEDERAL REGISTER of October 29, 1976 (41 FR 47573). In this final regulation, as a result of comments received on proposed § 310.515(b), the Commissioner is making a number of rule changes and determines that corresponding changes in the patient labeling text are necessary.

Published elsewhere in this issue of the FEDERAL REGISTER is the precise language of the revised patient labeling text that will be considered to meet the requirements of the final rule. The Commissioner advises that the text of the patient labeling is intended as a guideline (21 CFR 10.90) which if followed will enable any person to comply with the requirements of § 310.515(b).

Those manufacturers and suppliers who have deferred preparing patient labeling until the publication of the final rule have until September 20, 1977, to implement the revised labeling requirement. For those manufacturers and suppliers who put into use the October 29, 1976 patient labeling text prior to the issuance of the final order, the October labeling will continue to be considered by the Commissioner as meeting the requirements of § 310.515(b) until November 21, 1977. After November 21, 1977, the labeling text published on October 29, 1976 can no longer be relied upon as meeting the requirements of § 310.515(b).

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 701(a), 52 Stat. 1050–1053 as amended, 1055 (21 U.S.C. 352, 355, 371(a))) and under authority delegated to the Commissioner (21 CFR 5.1), Part 310 is amended by adding new § 310.515 to Subpart E, to read as follows:

§ 310.515 Estrogens; labeling directed to the patient.

(a) The Commissioner of Food and Drugs concludes that the safe and effective use of drug products containing estrogens requires that patients be fully informed of the benefits and risks involved in the use of these drugs. Accordingly, except as provided in paragraph

(e) of this section, each estrogen drug product restricted to prescription distribution, including products containing estrogens in fixed combination with other drugs, e.g., estrogen-tranquilizer combinations, that is the subject of a new drug application approved either before or after the Drug Amendments of 1962 and any identical, related, or similar drug product, whether or not it is the subject of an approved new drug application, shall be dispensed to patients with labeling in lay language containing information concerning effectiveness, contraindications, warnings, precautions, and adverse reactions. The patient labeling shall be provided as a separate printed leaflet independent of any additional materials.

(b) The patient labeling shall specifically include the following:

(1) Name of the drug.

(2) Name and place of business of the manufacturer, packer, or distributor.

(3) A statement regarding the proper use of estrogens, particularly short-term use in moderate to severe vasomotor symptoms of the menopause and prevention of breast engorgement. It is to be stated that estrogens are not indicated for certain conditions, i.e., nervousness, preservation of supple skin, or maintenance of a youthful feeling. The limited usefulness in preventing breast engorgement is also to be noted.

(4) A warning regarding the most serious dangers of estrogens and the relative risk in users versus nonusers, where known, including:

(i) Endometrial carcinoma. The importance of minimizing dose and duration of use is to be stressed, as is the importance of using estrogens only when necessary. A statement indicating that women who have had total hysterectomies have no risk of endometrial carcinoma.

(ii) Other possible cancer. The importance of annual examinations is to be stressed. Special attention to women with breast nodules, adnormal mammograms, or a family history of breast cancer is to be mentioned.

(iii) Gall bladder disease.

(iv) Abnormal blood clotting.

(v) Damage to exposed fetus.

(5) A statement of contraindications.

(6) A discussion of other side effects of estrogens, including oral contraceptives, such as nausea and vomiting, breast tenderness, growth of fibroids, liver tumors, jaundice, mental depression, fluid retention, and darkening of the skin.

(7) A discussion of the danger signs of which the patient must be aware, including abnormal vaginal bleeding, symptoms suggesting thrombophlebitis, pulmonary embolus, stroke or heart attack, breast lumps, jaundice, and depression.

(8) A statement cautioning the consumer that this drug has been prescribed for the sole purpose of treating the individual's illness and that the drug must not be given to others.

(9) The date, identified as such, of the most recent revision of the labeling prominently placed immediately after the last section of such labeling.

(c) The patient labeling shall be printed in accordance with the following specifications:

(1) The minimum letter size (lowercase letter "o" or its equivalent) shall be not less than $\frac{1}{16}$ inch in height.

(2) The body copy shall contain 1-point leading and noncondensed type, and shall not contain any light face type or small capital letters.

(d) (1) Patient labeling for each estrogen drug product shall be provided in or with each package of the drug product intended to be dispensed or administered to the patient. However, patient labeling for drug products dispensed in acute care hospitals or long-term-care facilities will be considered to have been provided in accordance with this section if provided to the patient prior to administration of the first dose of estrogen and every 30 days thereafter, as long as the therapy continues.

(2) In the case of estrogen drug products in bulk packages intended for multiple dispensing, and in the case of injectables in multiple-dose vials, a sufficient number of patient labeling pieces shall be included in or with each package to assure that one piece can be included with each package or dose dispensed or administered to every patient. Each bulk package shall be labeled with instructions to the dispensor to include one patient labeling piece with each package dispensed or, in the case of injectables, with each dose administered to the patient. This section does not preclude the manufacturer or labeler from distributing additional patient labeling pieces to the dispensor.

(3) Any estrogen drug product restricted to prescription distribution, except as noted in paragraph (e) of this section, that is not labeled as required by this section and that is either introduced or delivered for introduction into interstate commerce, or held for sale after shipment in interstate commerce is misbranded pursuant to section 502 of the act. However, an estrogen drug product in the possession of a wholesaler or retailer before the effective date of this section is not misbranded if adequate numbers of copies of the patient labeling are furnished to the wholesaler or retailer to permit any retail purchaser after the effective date to obtain such labeling with the product. The requirement that any estrogen drug product be dispensed with patient labeling, as applied to physicians who dispense or administer the drug, will not be effective for supplies in their possession on the effective date, but will apply only to supplies received thereafter.

(e) This section does not apply to estrogen-progestagen oral contraceptives and oral diethylstilbestrol (DES) products intended for postcoital contraception, which shall be labeled according to the requirements of § 310.501.

(f) The Food and Drug Administration has available patient labeling for estrogens that includes information responsive to all items specified in paragraph (b) of this section. The labeling has been published in the FEDERAL REGISTER as part of a DESI notice, and updated versions will continue to be published as guides as changes occur. Any person may rely on the latest published version of this labeling as complying with paragraph (b) of this section.

(g) Holders of new drug applications for estrogen drug products that are subject to this section must submit supplements under § 314.8(d) of this chapter to provide for the labeling required by paragraph (a) of this section. The labeling may be put into use without advance approval by the Food and Drug Administration.

Effective date: This regulation shall be effective on September 20, 1977.

(Secs. 502, 505, 701(a), 52 Stat. 1050–1053 as amended, 1055 (21 U.S.C. 352, 355, 371(a)).)

Dated: July 15, 1977.

DONALD KENNEDY,
Commissioner of Food and Drugs.

[FR Doc.77-20820 Filed 7-21-77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 310]

[Docket No. 77N-0149]

PROGESTATIONAL DRUG PRODUCTS FOR HUMAN USE

Requirements for Labeling Directed to the Patient

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: This document proposes to require patient labeling for progestational drug products because recent scientific reports indicate that pregnant women who use sex hormones during the first 4 months of pregnancy risk damage to the fetus. The new regulation specifies the kind of information and warnings to be contained in the patient labeling and how it is to be made available to the patient. The regulation does not apply to progestagen-containing products intended for contraception.

DATES: Comments by September 20, 1977. Proposed effective date: 60 days after publication of a final regulation in the FEDERAL REGISTER.

ADDRESSES: Written comments to the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Herbert Gerstenzang, Bureau of Drugs (HFD-32), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857 (301-443-3650).

SUPPLEMENTARY INFORMATION: During the past several years, scientific literature reports have indicated that the use of sex hormones during the first 4 months of pregnancy may seriously damage the fetus. Based on these reports, the Food and Drug Administration (FDA) and its Obstetrics and Gynecology Advisory Committee have concluded that a warning regarding this hazard and a statement that progestational drug products are contraindicated as a diagnostic test for pregnancy must be included in physician labeling. The Committee also concurred with the agency's recommendation that a short patient-labeling piece, bearing the warnings in layman's terms, be given to the patient when the drug is dispensed.

Accordingly, the Commissioner of Food and Drugs is proposing to require patient labeling for these drugs. Elsewhere in this issue of the FEDERAL REGISTER, the Director of the Bureau of Drugs is issuing a drug efficacy study implementation (DESI) notice (Docket No. 77N-0098) specifying the text of the warning and contraindications statement for the physician labeling and the text of the patient labeling. The reports upon which this new warning and contraindication are based are cited in the physician labeling. Copies of these reports are filed with the Hearing Clerk, Food and Drug Administration, as part of the file on Docket No. 77N-0098.

The Commissioner recognizes that it is primarily the responsibility of the prescribing physician to convey to the patient information regarding prescribed drugs. But because of the serious threat that this drug product presents to the unborn child when the drug is used during the first 4 months of pregnancy, it is the Commissioner's opinion that patient labeling is necessary to assure that the oral instructions of the physician are not misinterpreted or forgotten by the patient. The patient labeling will reinforce what the physician has explained to the patient and will serve as a written reminder that can be referred to by the patient during the course of the therapy.

The Commissioner proposes to establish new § 310.516 (21 CFR 310.516), which would require certain warnings in the form of patient labeling concerning the use of progestational drug products to be given to the patient either when the drug is dispensed or when it is administered. The patient labeling would be provided by the manufacturer, repacker, or own-label distributor as a separate, printed leaflet, independent of any additional printed materials. A sufficient number of patient-labeling leaflets would be required to be provided with any bulk shipment of progestational drug products to assure that the leaflet can be included with each package dispensed to the patient. The dispensor would then be responsible for providing the patient with the labeling leaflet. Failure to do so would result in the misbranding of the drug product by the dispensor. In the case of drugs intended to be administered directly to patients, sufficient leaflets must be included in the package to provide for distribution to each patient. The minimum letter size used in the leaflet shall be one-sixteenth of an inch in height. The height pertains to lower-case letters, and it is the lower-case "o" or its equivalent that shall meet the minimum standard. The body copy shall be 1-point leading, noncondensed type, and it shall not contain any light-face type or small capital letters.

Patient labeling warnings for progestational drug products are based on the warnings in the approved physician labeling for these drug products and would apply to all such products that are the subject of new drug applications (NDA's) approved either before or after the Drug Amendments of 1962 (21 U.S.C. 355(d)). They would also apply to any identical, related, or similar drug product (as defined in 21 CFR 310.6), whether or not that product is the subject of an approved NDA. This labeling would not, however, apply to progestagen-containing products intended for contraception, which are required to be labeled in accordance with regulations specifically applicable to those drugs (21 CFR 310.501). A list of drug entities that, along with their salts and esters, are examples of progestational agents to which this labeling applies is included in the DESI notice (Docket No. 77N-0098), published elsewhere in this issue of the FEDERAL REGISTER.

The Commissioner proposes to make § 310.516 effective 60 days after the date of its publication as a final order in the FEDERAL REGISTER. Manufacturers and suppliers are advised, and the proposed rule provides, that the language in the accompanying DESI notice (Docket No. 77N-0098) will be considered by the Commissioner to meet the requirements of the final order establishing § 310.516. Manufacturers, repackers, and own-label distributors may therefore put into use immediately, without advance approval by FDA, the patient labeling in the accompanying DESI notice. The Commissioner encourages that this patient labeling be provided in this fashion on a voluntary basis before the publication of a final regulation. He considers it in the interest of the public health that this needed information be provided to patients in as timely a manner as possible.

Supplements to approved NDA's that provide for patient labeling should be submitted under the provisions of § 314.8 (21 CFR 314.8). The changes that are provided for by these supplements will not have a substantial effect on the quality of the human environment, and therefore they need not be accompanied by environmental impact analysis reports.

On or after the effective date of the final regulation, no person would be permitted to introduce or deliver for introduction into interstate commerce, or to hold for sale after shipment in interstate commerce, any progestational drug product to which this regulation applies, unless the labeling of that product complies with the requirements set forth in this regulation. The Commissioner would, however, consider a progestational drug product in the possession of a wholesaler or retailer before the effective date to comply with the order if adequate numbers of copies of the patient labeling that include information responsive to all items in § 310.516 (b) are furnished to the wholesaler or retailer to permit any retail purchaser after the effective date to obtain such labeling with the product. Although a physician who dispenses or administers the drug would be considered to be a retailer under the proposed regulations, the Commissioner believes that it would be impractical to require the forwarding of separate patient labeling, within the specified time frame, to such physicians for those products in their possession before the effective date. Accordingly, the proposed requirement that any progestational drug product be dispensed with patient labeling, as applied to physicians who dispense or administer the drug, would not be effective for supplies in their possession on the effective date, but would apply only to supplies received thereafter.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 701(a), 52 Stat. 1050-1053 as amended, 1055 (21 U.S.C. 352, 355, 371(a))) and

under authority delegated to the Commissioner (21 CFR 5.1), it is proposed that Part 310 be amended by adding new § 310.516 to Subpart E, to read as follows:

§ 310.516 Progestational drug products; labeling directed to the patient.

(a) The Commissioner of Food and Drugs concludes that the safe and effective use of any progestational drug product requires that patients be informed that there is an increased risk of birth defects in children whose mothers have taken this drug during the first 4 months of pregnancy. Accordingly, except as provided by paragraph (d) of this section, any progestational drug product that is the subject of a new drug application approved either before or after October 9, 1962 and all identical, related, or similar drug products as defined in § 310.6, whether or not the subject of an approved new drug application, shall be dispensed to patients with labeling in lay language containing such a warning. The patient labeling shall be provided as a separate printed leaflet independent of any additional materials.

(b) The patient labeling shall specifically include the following:

(1) Name of the drug.

(2) Name and place of business of the manufacturer, packer, or distributor.

(3) A warning that there is an increased risk of birth defects in children whose mothers take this drug during the first 4 months of pregnancy.

(4) A brief discussion of the nature of the risks of birth defects resulting from the use of these drugs during the first 4 months of pregnancy.

(5) A brief statement that these drugs are no longer considered safe as a test for pregnancy.

(6) A statement that the patient should inform her physician as soon as possible if she discovers that she was pregnant when she took the drug.

(c) The patient labeling shall be printed in accordance with the following specifications:

(1) The minimum letter size shall be one-sixteenth of an inch in height.

(2) Letter heights pertain to the lowercase letter "o" or its equivalent that shall meet the minimum height standard.

(3) Type used shall conform to the minimum letter height. The body copy shall contain 1-point leading, noncondensed type, and shall not contain any light-face type or small capital letters.

(d) This section does not apply to a progestagen-containing product intended for contraception, which shall be labeled according to the requirements of § 310.501.

(e) (1) Patient labeling for each progestational drug product shall be provided in or with each package intended to be dispensed to the patient.

(2) In the case of progestational drug products in bulk packages intended for multiple dispensing, each bulk package shall include a sufficient number of patient-labeling pieces to assure that one can be included with each package dispensed to every patient. Each bulk package shall be labeled with instructions to the dispensor to include one patient-labeling piece with each package dispensed to the patient.

(3) In the case of progestational drug products for injection, each package shall include a sufficient number of patient labeling pieces for the volume of the vial, and instructions to the practitioner administering the drug to give one patient-labeling piece to each premenopausal woman, except those in whom childbearing is impossible, receiving the drug.

(4) Any progestational drug product, except as noted in paragraph (d) of this section, that is not labeled as required by this section and is either introduced or delivered for introduction into interstate commerce, or held for sale after shipment in interstate commerce, is misbranded pursuant to section 502 of the Federal Food, Drug, and Cosmetic Act. However, a progestational drug product in the possession of a wholesaler or retailer before (the date 60 days after the date of publication of the final regulation) is not misbranded if adequate numbers of copies of the patient labeling are furnished to the wholesaler or retailer to permit any retail purchaser after that date to obtain such labeling with the product. The requirement that any progestational drug product be dispensed with patient labeling, as applied to physicians who dispense or administer the drug, will not be effective for supplies in their possession on the effective date, but will apply only to supplies received thereafter.

(f) The Food and Drug Administration has available patient labeling for progestational drug products that includes information reponsive to all items specified in paragraph (b) of this section. The labeling has been published in the FEDERAL REGISTER as part of a drug efficacy study implementation (DESI) notice. Any person may rely on this labeling as complying with paragraph (b) of this section after the effective date of this section.

(g) Holders of new drug applications for progestational drug products that are subject to this section shall submit supplements under § 314.8 of this chapter to provide for the labeling required by paragraph (a) of this section on or before (the date 60 days after the date of publication of the final regulation). The labeling may be put into use without advance approval by the Food and Drug Administration.

Interested persons may, on or before September 20, 1977, submit to the Hearing Clerk (HFC–20), Food and Drug Administration, Room 4–65, 5600 Fishers Lane, Rockville, Md. 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

The Food and Drug Administration has determined that this document does not contain a major proposal requiring preparation of an inflation impact statement under Executive Order 11821 and OMB Circular A–107. A copy of the inflation impact assessment is on file with the Hearing Clerk, Food and Drug Administration.

Dated: July 12, 1977.

DONALD KENNEDY,
Commissioner of Food and Drugs.

[FR Doc.77–20819 Filed 7–21–77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[Docket No. 76N-0381; DESI Nos. 740, 1543, 2238, and 7661]

PATIENT LABELING FOR ESTROGENS FOR GENERAL USE

Drugs for Human Use; Drug Efficacy Study Implementation

AGENCY: Food and Drug Administration (FDA).

ACTION: Notice.

SUMMARY: The Food and Drug Administration is revising the guideline text for patient labeling for prescription estrogenic drug products. The revised text can be relied upon as meeting the requirements of the estrogen patient labeling rule (21 CFR 310.515) published elsewhere in this issue of the FEDERAL REGISTER.

DATE: Effective Tuesday, September 20, 1977.

FOR FURTHER INFORMATION CONTACT:

Philip L. Paquin, Bureau of Drugs (HFD-30), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, (307-443-5220).

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of September 29, 1976 (41 FR 43117), as amended in the FEDERAL REGISTER of October 29, 1976 (41 FR 47573), the Director of the Bureau of Drugs published the text of patient labeling for estrogenic drug products and invited public comment. The text was based upon a proposed new requirement, also published on September 29, 1976 (41 FR 43108), for labeling directed to patients using estrogenic drug products. The final order promulgating the regulation (21 CFR 310.515) requiring patient labeling for such products appears elsewhere in this issue of the FEDERAL REGISTER. As a result of revisions made in the regulation in response to public comments, certain changes in the text of the patient labeling are also necessary, as follows:

1. After the third paragraph under the heading "The dangers of estrogens 1. *Cancer of the uterus.*" by adding as a new paragraph the sentence "If you have had your uterus completely removed (total hysterectomy), there is no danger of developing cancer of the uterus."

2. In the sixth paragraph under the heading "Other effects of estrogens," by deleting the word "benign."

3. Under the heading "Summary," by adding as the last paragraph the statement "Based on his or her assessment of your medical needs, your doctor has prescribed the drug for you. Do not give the drug to anyone else."

The Director is continuing to review the several hundred comments received on the text of the patient labeling. After considering the comments and consulting with FDA's Obstetrics and Gynecology Advisory Committee on the major issues raised by the comments, further revision of the patient labeling text may be necessary. Any revision will be published in the FEDERAL REGISTER and can be relied upon as meeting the requirements of § 310.515(b) (21 CFR 310.515).

The review of the patient labeling text will not be completed for several months. The Director is aware that several supplemental new drug applications requesting marketing approval of additional indications for certain estrogenic drug products are being reviewed by the Agency and that if such applications are approved, appropriate revision of the physician and patient labeling will be necessary. Pending the outcome of the review, the guideline text published in this notice represents the latest published revision of patient labeling. Inclusion of indications not contained in the current patient labeling guideline will be deemed as misbranding the drug.

Manufacturers and suppliers are advised that the revised patient labeling text can be relied on as meeting the requirements of the estrogen patient labeling final rule (21 CFR 310.515).

Accordingly, the October 29, 1976 patient labeling text is amended to read as follows:

WHAT YOU SHOULD KNOW ABOUT ESTROGENS

Estrogens are female hormones produced by the ovaries. The ovaries make several different kinds of estrogens. In addition, scientists have been able to make a variety of synthetic estrogens. As far as we know, all these estrogens have similar properties and therefore much the same usefulness, side effects, and risks. This leaflet is intended to help you understand what estrogens are used for, the risks involved in their use, and how to use them as safely as possible.

This leaflet includes the most important information about estrogens, but not all the information. If you want to know more, you can ask your doctor or pharmacist to let you read the package insert prepared for the doctor.

USES OF ESTROGEN

Estrogens are prescribed by doctors for a number of purposes, including:

1. To provide estrogen during a period of adjustment when a woman's ovaries no longer produce it, in order to prevent certain uncomfortable symptoms of estrogen deficiency. (All women normally stop producing estrogens, generally between the ages of 45 and 55; this is called the menopause.)

2. To prevent symptoms of estrogen deficiency when a woman's ovaries have been removed surgically before the natural menopause.

3. To prevent pregnancy. (Estrogens are given along with a progestagen, another female hormone; these combinations are called oral contraceptives or birth control pills. Patient labeling is available to women taking oral contraceptives and they will not be discussed in this leaflet.)

4. To treat certain cancers in women and men.

5. To prevent painful swelling of the breasts after pregnancy in women who choose not to nurse their babies.

THERE IS NO PROPER USE OF ESTROGENS IN A PREGNANT WOMAN

ESTROGENS IN THE MENOPAUSE

In the natural course of their lives, all women eventually experience a decrease in estrogen production. This usually occurs between ages 45 and 55 but may occur earlier or later. Sometimes the ovaries may need to be removed before natural menopause by an operation, producing a "surgical menopause."

When the amount of estrogen in the blood begins to decrease, many women may develop typical symptoms: Feelings of warmth in the face, neck, and chest or sudden intense episodes of heat and sweating throughout the body (called "hot flashes" or "hot flushes"). These symptoms are sometimes very uncomfortable. A few women eventually develop changes in the vagina (called "atrophic vaginitis") which cause discomfort, especially during and after intercourse.

Estrogens can be prescribed to treat these symptoms of the menopause. It is estimated that considerably more than half of all women undergoing the menopause have only mild symptoms or no symptoms at all and therefore do not need estrogens. Other women may need estrogens for a few months, while their bodies adjust to lower estrogen levels. Sometimes the need will be for periods longer than six months. In an attempt to avoid over-stimulation of the uterus (womb), estrogens are usually given cyclically during each month of use, that is three weeks of pills followed by one week without pills.

Sometimes women experience nervous symptoms or depression during menopause. There is no evidence that estrogens are effective for such symptoms and they should not be used to treat them, although other treatment may be needed.

You may have heard that taking estrogens for long periods (years) after the menopause will keep your skin soft and supple and keep you feeling young. There is no evidence that this is so, however, and such long-term treatment carries important risks.

ESTROGENS TO PREVENT SWELLING OF THE BREASTS AFTER PREGNANCY

If you do not breast feed your baby after delivery, your breasts may fill up with milk and become painful and engorged. This usually begins about 3 to 4 days after delivery and may last for a few days to up to a week or more. Sometimes the discomfort is severe, but usually it is not and can be controlled by pain relieving drugs such as aspirin and by binding the breasts up tightly. Estrogens can be used to try to prevent the breasts from filling up. While this treatment is sometimes successful, in many cases the breasts fill up to some degree in spite of treatment. The dose of estrogens needed to prevent pain and swelling of the breasts is much larger than the dose needed to treat symptoms of the menopause and this may increase your

chances of developing blood clots in the legs or lungs (see below). Therefore, it is important that you discuss the benefits and the risks of estrogen use with your doctor if you have decided not to breast feed your baby.

THE DANGERS OF ESTROGENS

1. *Cancer of the uterus.* If estrogens are used in the postmenopausal period for more than a year, there is an increased risk of *endometrial cancer* (cancer of the uterus). Women taking estrogens have roughly 5 to 10 times as great a chance of getting this cancer as women who take no estrogens. To put this another way, while a postmenopausal woman not taking estrogens has 1 chance in 1,000 each year of getting cancer of the uterus, a woman taking estrogens has 5 to 10 chances in 1,000 each year. For this reason *it is important to take estrogens only when you really need them.*

The risk of this cancer is greater the longer estrogens are used and also seems to be greater when larger doses are taken. For this reason *it is important to take the lowest dose of estrogen that will control symptoms and to take it only as long as it is needed.* If estrogens are needed for longer periods of time, your doctor will want to reevaluate your need for estrogens at least every six months.

Women using estrogens should report any irregular vaginal bleeding to their doctors; such bleeding may be of no importance, but it can be an early warning of cancer of the uterus. If you have undiagnosed vaginal bleeding, you should not use estrogens until a diagnosis is made and you are certain there is no cancer of the uterus.

If you have had your uterus completely removed (total hysterectomy), there is no danger of developing cancer of the uterus.

2. *Other possible cancers.* Estrogens can cause development of other tumors in animals, such as tumors of the breast, cervix vagina, or liver, when given for a long time. At present there is no good evidence that women using estrogen in the menopause have an increased risk of such tumors, but there is no way yet to be sure they do not; and one study raises the possibility that use of estrogens in the menopause may increase the risk of breast cancer many years later. This is a further reason to use estrogens only when clearly needed. While you are taking estrogens, it is important that you go to your doctor at least once a year for a physical examination. Also, if members of your family have had breast cancer or if you have breast nodules or abnormal mammograms (breast x-rays), your doctor may wish to carry out more frequent examinations of your breasts.

3. *Gall bladder disease.* Women who use estrogens after menopause are more likely to develop gall bladder disease needing surgery as women who do not use estrogens. Birth control pills have a similar effect.

4. *Abnormal blood clotting.* Oral contraceptives increase the risk of blood clotting in various parts of the body. This can result in a stroke (if the clot is in the brain), a heart attack (clot in a blood vessel of the heart), or a pulmonary embolus (a clot which forms in the legs or pelvis, then breaks off and travels to the lungs). Any of these can be fatal.

At this time use of estrogens in the menopause is not known to cause such blood clotting, but this has not been fully studied and there could still prove to be such a risk. It is recommended that if you have had clotting in the legs or lungs or a heart attack or stroke while you were using estrogens or birth control pills, you should not use estrogens (unless they are being used to treat cancer of the breast or prostate). If you have had a stroke or heart attack or if you have angina pectoris, estrogens should be used with great caution and only if clearly needed (for example, if you have severe symptoms of the menopause).

The larger doses of estrogen used to prevent swelling of the breasts after pregnancy have been reported to cause clotting in the legs and lungs.

SPECIAL WARNING ABOUT PREGNANCY

You should not receive estrogen if you are pregnant. If this should occur, there is a greater than usual chance that the developing child will be born with a birth defect, although the possibility remains fairly small. A female child may have an increased risk of developing cancer of the vagina or cervix later in life in the teens or twenties). Every possible effort should be made to avoid exposure to estrogens during pregnancy. If exposure occurs, see your doctor.

OTHER EFFECTS OF ESTROGENS

In addition to the serious known risks of estrogents described above, estrogens have the following side effects and potential risks:

1. *Nausea and vomiting.* The most common side effect of estrogen therapy is nausea. Vomiting is less common.

2. *Effects on breasts.* Estrogens may cause breast tenderness or enlargement and may cause the breasts to secrete a liquid. These effects are not dangerous.

3. *Effects on the uterus.* Estrogens may cause benign fibroid tumors of the uterus to get larger.

Some women will have menstrual bleeding when estrogens are stopped. But if the bleeding occurs on days you are still taking estrogens you should report this to your doctor.

4. *Effects on liver.* Women taking oral contraceptives develop on rare occasions a tumor of the liver which can rupture and bleed into the abdomen. So far, these tumors have not been reported in women using estrogens in the menopause, but you should report any swelling or unusual pain or tenderness in the abdomen to your doctor immediately.

Women with a past history of jaundice (yellowing of the skin and white parts of the eyes) may get jaundice again during estrogen use. If this occurs, stop taking estrogens and see your doctor.

5. *Other effects.* Estrogens may cause excess fluid to be retained in the body. This may make some conditions worse, such as epilepsy, migraine, heart disease, or kidney disease.

SUMMARY

Estrogens have important uses, but they have serious risks as well. You must decide, with your doctor, whether the risks are acceptable to you in view of the benefits of treatment. Except where your doctor has prescribed estrogens for use in special cases of cancer of the breast or prostate, you should not use estrogens if you have cancer of the breast or uterus, are pregnant, have undiagnosed abnormal vaginal bleeding, clotting in the legs or lungs, or have had a stroke, heart attack or angina, or clotting in the legs or lungs in the past while you were taking estrogens.

You can use estrogens as safely as possible by understanding that your doctor will require regular physical examinations while you are taking them and will try to discontinue the drug as soon as possible and use the smallest dose possible. Be alert for signs of trouble including:

1. Abnormal bleeding from the vagina.
2. Pains in the calves or chest or sudden shortness of breath, or coughing blood (indicating possible clots in the legs, heart, or lungs).
3. Severe headache, dizziness, faintness, or changes in vision (indicating possible developing clots in the brain or eye).
4. Breast lumps (you should ask your doctor how to examine your own breasts).
5. Jaundice (yellowing of the skin).
6. Mental depression.

Based on his or her assessment of your medical needs, your doctor has prescribed this drug for you. Do not give the drug to anyone else.

HOW SUPPLIED

(A description of the particular product, to be supplied by manufacturer.)

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050–1053, as amended (21 U.S.C. 352, 355)) and under authority delegated to the Director of the Bureau of Drugs (21 CFR 5.82) (recodification published in the FEDERAL REGISTER of March 22, 1977 (42 FR 15553)).

Dated: May 18, 1977.

J. RICHARD CROUT,
Director, Bureau of Drugs.

[FR Doc.77-20818 Filed 7-21-77;8:45 am]

[Docket No. 77N-0098; DESI Nos. 9238 and 11839]

PHYSICIAN LABELING AND PATIENT LABELING FOR PROGESTATIONAL DRUG PRODUCTS; WARNINGS AND CONTRAINDICATIONS

Drugs for Human Use; Drug Efficacy Study Implementation

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice requires that the physician labeling for progestational drug products include an additional contraindication and a warning, and sets forth the text of labeling directed to the patient.

DATES: Physician labeling to be revised on or before September 20, 1977.

Supplements to approved NDA's due on or before September 20, 1977.

ADDRESSES: Communications forwarded in response to this notice should be identified with the reference numbers DESI 9238 and 11839 and Docket No. 77N-0098 and directed to the attention of the appropriate office named below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

Supplements (identify with NDA number): Division of Metabolism and Endocrine Drug Products (HFD-130), Rm. 14B-04, Bureau of Drugs.

Original abbreviated new drug applications and supplements thereto (identify as such): Division of Generic Drug Monographs (HFD-530), Bureau of Drugs.

Requests for opinion of the applicability of this notice to a specific product: Division of Drug Labeling Compliance (HFD-310), Bureau of Drugs.

FOR FURTHER INFORMATION CONTACT:

Herbert Gerstenzang, Bureau of Drugs (HFD-32), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3650.

SUPPLEMENTARY INFORMATION: As part of the Drug Efficacy Study Implementation (DESI) project, notices were published in the FEDERAL REGISTER of September 9, 1971 (36 FR 18115) (DESI 9238) and July 27, 1972 (37 FR 15033) (DESI 11839) concerning specific progestational agents. The drug products named in these notices were initially classified as effective, probably effective, possibly effective, and/or lacking substantial evidence of effectiveness. A followup notice was published in the FEDERAL REGISTER of October 10, 1973 (38 FR 27947) for these drugs, requiring deletion of all less-than-effective indications and all pregnancy-related indications from the labeling on the basis of lack of proof of safety or lack of substantial evidence of effectiveness, or both. The notice offered an opportunity for a hearing on these issues. Neither a request for hearing nor comments were received, and all such indications have now been deleted from the labeling of these products.

This notice applies not only to the particular progestational agents subject to the Drug Efficacy Study, but to all such products that are the subject of new drug applications approved either before or after the Drug Amendments of 1962 and also to any identical, related, or similar drug product (21 CFR 310.6), whether or not it is the subject of an approved new drug application. However it does not apply to progestagen-containing products intended for contraception which are required to be labeled in accordance with regulations specifically applicable to those drugs (21 CFR 310.501). It is the responsibility of every drug manufacturer or distributor to review this notice to determine whether it covers any drug product he manufactures or distributes (21 CFR 310.6). Any person may request an opinion of the applicability of this notice to a specific drug product he manufactures or distributes by writing to Division of Drug Labeling Compliance (HFD-310), Bureau of Drugs.

The following drug entities, and their salts and esters, are examples of progestational agents which are covered by this notice, although this is not intended to be an exhaustive listing: dimethisterone, dydrogesterone, ethinylestrenol, ethynodiol, hydroxyprogesterone, medroxyprogesterone, megestrol, norethindrone, norethynodrel, norgestrel, and progesterone.

The Food and Drug Administration is charged with assuring that drugs are safe and effective for their intended use and that their labeling provides adequate information for such use and is not false or misleading. The full disclosure of information to physicians concerning warnings and contraindications is an important element in the discharge of that responsibility. The statutory scheme anticipates that new information concerning the safety and effectiveness of marketed drugs may require that FDA prescribe changes in their labeling to reveal limitations on use or warn of previously unanticipated hazards. Many labeling changes have been effected as a result of the Drug Efficacy Study.

Reports during the past several years have indicated that the use of sex hormones during early pregnancy may seriously damage the offspring. Several reports suggest an association between intrauterine exposure to sex hormone treatment and congenital anomalies, including congenital heart defects and limb reduction defects. Progestational agents have been used beginning with the first trimester of pregnancy in an attempt to prevent habitual abortion or to treat threatened abortion. There is no satisfactory evidence that they are effective for this use, and there is evidence of potential harm to the fetus when such drugs are given during the first four months of pregnancy. Furthermore, in the vast majority of women, the cause of abortion is a defective ovum, which progestational agents could not be expected to influence. Therefore, the use of such drugs during the first four months of pregnancy is not recommended.

The FDA and its Obstetrics and Gynecology Advisory Committee have concluded that the potential risk of teratogenicity (malformation) when the fetus is exposed to sex hormones in early pregnancy is such that these hormones should not be used as a diagnostic test for pregnancy. This use is unnecessary in view of the general availability of satisfactory chemical tests for pregnancy. Moreover, if pregnancy is demonstrated or reasonably suspected in a patient receiving oral contraceptives, this form of contraception should be discontinued immediately. Obviously, every effort should be made to assure that a woman is not pregnant before prescribing sex hormones either for contraception or for any other approved indication.

In view of the adverse effects on the fetus that may be associated with its exposure to pregestational hormones, the Director of the Bureau of Drugs concludes that this information should be required in labeling, including promotional labeling, of all progestational drug products except those for use as contraceptives. Accordingly, it is now required that the physician labeling for such products be revised to include under the Contraindications section the following contraindication:

As a diagnostic test for pregnancy.

It is also required that the following Box Warning and the references cited therein be added to the labeling.

THE USE OF PROGESTATIONAL AGENTS DURING THE FIRST FOUR MONTHS OF PREGNANCY IS NOT RECOMMENDED

Progestational agents have been used beginning with the first trimester of pregnancy in an attempt to prevent habitual abortion or treat threatened abortion. There is no adequate evidence that such use is effective and there is evidence of potential harm to the fetus when such drugs are given during the first four months of pregnancy. Furthermore, in the vast majority of women, the cause of abortion is a defective ovum, which progestational agents could not be expected to influence. In addition, the use of progestational agents, with their uterine-relaxant properties, in patients with fertilized defective ova may cause a delay in spontaneous abortion. Therefore, the use of such drugs during the first four months of pregnancy is not recommended.

Several reports suggest an association between intrauterine exposure to female sex hormones and congenital anomalies, including congenital heart defects and limb reduction defects (Refs. 1-5). One study (Ref. 4) estimated a 4.7-fold increased risk of limb reduction defects in infants exposed in utero to sex hormones (oral contraceptives, hormone withdrawal test for pregnancy, or attempted treatment for threatened abortion). Some of these exposures were very short and involved only a few days of treatment. The data suggest that the risk of limb reduction defects in exposed fetuses is somewhat less than 1 in 1,000.

If the patient is exposed to (name of drug) during the first four months of pregnancy or if she becomes pregnant while taking this drug, she should be apprised of the potential risks to the fetus.

REFERENCES

1. Gal, I., B. Kirman, and J. Stern, "Hormonal Pregnancy Tests and Congenital Malformation," Nature, 216:83, 1967.

2. Levy, E. P., A. Cohen, and F. C. Fraser, "Hormone Treatment During Pregnancy and Congenital Heart Defects," Lancet, 1:611, 1973.

3. Nora, J. and A. Nora, "Birth Defects and Oral Contraceptives," Lancet, 1:941, 1973.

4. Janerich, D. T., J. M. Piper, and D. M. Glebatis, "Oral Contraceptives and Congenital Limb-Reduction Defects," New England Journal of Medicine, 291:697, 1974.

5. Heinonen, O. P., D. Slone, R. R. Monson, E. B. Hook, and S. Shapiro, "Cardiovascular Birth Defects and Antenatal Exposure to Female Sex Hormones," New England Journal of Medicine, 296:67, 1977.

Reprints of the above references have been placed on file with the Hearing Clerk (HFC-20), Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, and may be seen between the hours of 9 a.m. and 4 p.m. Monday through Friday.

Elsewhere in this issue of the FEDERAL REGISTER the Commissioner of Food and Drugs is proposing to amend 21 CFR Part 310 by adding a new § 310.516 that would require certain warnings in the form of patient labeling concerning the use of progestational drug products (Docket No. 77N-0149). Proposed § 310.516 specifies the kind of information to be contained in the patient labeling, without giving the text of the labeling, and the way it is to be made available to the patient. The text of such patient labeling is as follows:

PATIENT LABELING FOR (NAME OF DRUG)
WARNING FOR WOMEN

There is an increased risk of birth defects in children whose mothers take this drug during the first four months of pregnancy.

(Name of drug) is similar to the progesterone hormones naturally produced by the body. Progesterone and progesterone-like drugs are used to treat menstrual disorders, to test if the body is producing certain hormones, and to treat some forms of cancer in women.

They have been used as a test for pregnancy but such use is no longer considered safe because of possible damage to a developing baby. Also, more rapid methods for testing for pregnancy are now available.

These drugs have also been used to prevent miscarriage in the first few months of pregnancy. No adequate evidence is available to show that they are effective for this purpose and there is evidence of an increased risk of birth defects, such as heart or limb defects, if these drugs are taken during the first four months of pregnancy. Furthermore, most cases of early miscarriage are due to causes which could not be helped by these drugs.

The exact risk of taking this drug early in pregnancy and having a baby with a birth defect is not known. However, one study found that babies born to women who had taken sex hormones (such as progesterone-like drugs) during the first three months of pregnancy were 4 to 5 times more likely to have abnormalities of the arms or legs than if their mothers had not taken such drugs. Some of these women had taken these drugs for only a few days. The chance that an infant whose mother had taken this drug will have this type of defect is about 1 in 1,000.

If you take (name of drug) and later find you were pregnant when you took it, be sure to discuss this with your doctor as soon as possible.

The Director of the Bureau of Drugs advises that the patient labeling set forth above complies with the patient labeling requirement proposed in § 310.516 and can be relied upon by manufacturers, packers, and distributors to meet those requirements.

At such time as patient labeling is required pursuant to final promulgation of proposed § 310.516, or when patient labeling is put into use in advance of such requirement, the Precautions section of the physician labeling shall include the following:

Information for the Patient. See text of Patient Package Insert which is printed below.

(The text of the patient labeling set forth above in this notice shall then be included in the appropriate place in the physician labeling.)

The physician labeling for parenterally administered products should state that the patient leaflet should be given to all premenopausal women, except those in whom childbearing is impossible.

Supplements containing appropriate revision of the physician labeling of drug products affected by this notice shall be submitted on or before September 20, 1977. After that date, because of the importance of the above labeling information and the need for its prompt dissemination, the Food and Drug Administration will regard any progestational drug product covered by this notice and not labeled substantially as stated above, as misbranded, and no person will be permitted to introduce or deliver for introduction into interstate commerce or to hold for sale after shipment in interstate commerce any such drug product without the physician labeling required by this notice. However, this prohibition will not apply to any drug product that was received prior to the effective date by any distributor (other than an own-label distributor) or retailer. The purpose of the prohibition is to prevent the further distribution after the effective date by any person involved in the production of these drug products who has responsibility for the content of the labeling.

The requirements in regard to physician labeling thus exempt those who merely distribute or sell products whose labeling is the responsibility of others. It will allow distribution (but not own-label distributors) and retailers to exhaust supplies existing as of the effective date.

Both the physician and patient labeling may be put into use in advance of approval or submission of a supplement to a new drug application.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 502, 503, 52 Stat. 1050-1053, as amended (21 U.S.C. 352, 355)) and under the authority delegated to the Director of the Bureau of Drugs (21 CFR 5.82) (recodification published in the FEDERAL REGISTER of March 22, 1977 (42 FR 15553)).

Dated: April 29, 1977.

J. RICHARD CROUT,
Director, Bureau of Drugs.

[FR Doc.77-20821 Filed 7-21-77;8:45 am]

federal register

FRIDAY, JULY 22, 1977
PART III

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

■

COMMERCIAL DIVING OPERATIONS

Occupational Safety and Health Requirements

Title 29—Labor

CHAPTER XVII—OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION, DEPARTMENT OF LABOR

COMMERCIAL DIVING OPERATIONS

Occupational Safety and Health Requirements

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTION: Final standard.

SUMMARY: This final standard establishes mandatory occupational safety and health requirements for commercial diving operations. It reflects OSHA's determination, based on evidence that has been placed in the public record of this rulemaking proceeding, that commercial diving operations involve significant hazards to employees necessitating Federal regulation. By this final standard the Occupational Safety and Health Administration has established safety and health standards for personnel and medical requirements, operations procedures, equipment procedures and requirements, and recordkeeping.

EFFECTIVE DATE: October 20, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Joseph J. LaRocca, Office of Standards Development, OSHA, Third Street and Constitution Avenue NW., Room N-3716, Washington, D.C. 20210 (202-523-7085).

SUPPLEMENTARY INFORMATION:

I. Procedural History

On August 8, 1975, a petition by the United Brotherhood of Carpenters and Joiners of America, AFL-CIO, was presented to the Secretary of Labor, stating the petitioner's belief that a situation of grave danger existed within the diving industry and urging that an emergency temporary standard (ETC) be issued with respect to diving operations to protect exposed employees. An informal fact-finding hearing was convened by OSHA in Washington, D.C., November 11-14, 1975. Based on the evidence gathered and evaluated by OSHA, with the assistance of an inter-agency federal task force and several independent experts, the Assistant Secretary of Labor for Occupational Safety and Health determined, in accordance with section 6(c) of the Act, that an ETS was appropriate to protect employees engaged in commercial diving from occupational exposure to grave danger.

On June 15, 1976, the Assistant Secretary issued an ETS for Diving Operations (41 FR 24272) as Subpart T of 29 CFR Part 1910, § 1910.401 et seq., pursuant to sections 6(c) and 8(c) of the Act, Secretary of Labor's Order No. 8-76, and 29 CFR Part 1911. The evidence and findings supporting issuance of the ETS and a discussion of its provisions are set forth at 41 FR 24272-24285.

The ETS was to have been effective on July 15, 1976. However, following a temporary stay, the U.S. Court of Appeals for the Fifth Circuit issued an indefinite stay of the ETS on August 11 pending a final decision on a suit filed by several diving contractors challenging the validity of the agency's action, *Taylor Diving and Salvage Co., Inc. et al.* v. *U.S. Department of Labor*, Civil Action No. 76-2886 (CA 5, 1976). Pursuant to the Court's order, the ETS was not enforced by OSHA. For the reasons stated in the Federal Register notice published on November 5, 1976 (41 FR 48742), the ETS was withdrawn. As a result, the Court dismissed the suit on the grounds that the issues raised by the case were moot.

In formulating the proposed permanent standard, OSHA reevaluated the underlying evidence and the substantive provisions of the ETS in conjunction with information made available to the agency subsequent to publication of the ETS. In this task, technical support was provided by individuals from the U.S. Coast Guard, the U.S. Navy, the National Institute for Occupational Safety and Health (NIOSH) of the Department of Health, Education, and Welfare, the National Oceanic and Atmospheric Administration (NOAA) of the Department of Commerce, and the Smithsonian Institution.

Inasmuch as many diving operations are closely associated with, or related to, construction activities, OSHA considered it appropriate prior to formulation of a proposed permanent standard to seek the advice and recommendations of the agency's Advisory Committee on Construction Safety and Health (the Advisory Committee), established under the Construction Safety Act. This action was taken pursuant to 29 CFR 1911.10 and 29 CFR 1912.3. All available materials were presented to the Advisory Committee. In August 1976, the Advisory Committee met to discuss materials and information relating to the occupational safety and health aspects of commercial diving operations. On August 9 and 10, the Advisory Committee considered the provisions of the ETS and the background materials contemplated for inclusion in the new proposal. On August 26 and 27, the Advisory Committee reconvened to consider an OSHA draft technical proposal which was prepared in advance for the Advisory Committee and simultaneously made available to the public. The Advisory Committee made its recommendations to OSHA at that time. In developing the proposed permanent standard, OSHA considered all the recommendations of the Advisory Committee in addition to public comments presented during its proceedings.

The proposed permanent standard and notice of hearings was published in the Federal Register on November 5, 1976 (41 FR 48950), with necessary corrections made on November 12, 1976 (41 FR 50008). A similar notice of hearing was issued by the U.S. Coast Guard on the same date (41 FR 48969). Public hearings on the proposal were held with the joint participation of the Coast Guard in New Orleans, La., on December 16-21, 1976, and January 10-14, 1977. A total of eighty-one individuals appeared at the hearings as witnesses. Among the witnesses were offshore and shallow water diving contractors, large corporate and small business employers, representatives from the affected workforce including divers, supervisors, and surface support personnel, diving instructors, marine scientists, experts in hyperbaric medicine, diving physiologists, equipment specialists, and other interested parties. Public participation was representative of virtually the entire diving community. The verbatim transcript of the hearings, as well as numerous comments and exhibits submitted to OSHA before, during, and after the hearings, were made part of the rulemaking record. The hearing record was originally scheduled to close on January 31, 1977, but at the request of several parties, it was kept open to February 28, 1977. Before the close of the record, OSHA met with each of the major parties represented at the hearings for the purpose of suggesting issues to be addressed in their respective written post-hearing comments.

This final standard is based on a careful consideration of the entire record in this preceeding, including materials submitted for the fact-finding hearing, materials relied on in the ETS, information submitted to and recommendations of the Advisory Committee, materials referenced in the proposal, and the record of the informal rulemaking hearing including the transcript exhibits and pre-hearing and post hearing written comments. Copies of the official list of hearing exhibits, comments, and notices of intent to appear at the hearings can be obtained from the Docket Office, Rm. S-6212, U.S. Department of Labor, Third and Constitution Avenue NW., Washington, D.C. 20210 (202-523-7894). References to exhibit or comment numbers which appear in this preamble are based on the numbering system in that list. Reference to transcript pages which appears in the preamble are based on the pagination of the certified transcript of the informal public hearings on the proposed standard for commercial diving operations.

II. Nature of the Diving Industry

Commercial divers perform a variety of underwater tasks and are engaged in diving throughout the country's coastal waters, the Outer Continental Shelf, in many of the nations' rivers and inland lakes, as well as in artificial and industrial waters. A March 1975 analysis made by NOAA indicated that there were approximately 2,300 commercial divers in the United States as of January 1975. The NOAA study estimated the diver population in the Gulf of Mexico alone to be 905 full-time and 450 part-time divers (ETS Ex. 12).

The structure of the commercial diving industry is such that approximately 90 percent of all offshore operations are conducted by 23 contractors who employ over half of the country's commercial divers. In addition, there are approximately 400 small and medium size diving companies, whose work is principally confined to relatively shallow waters in harbors and inland waterways.

Prior to 1960 almost all commercial diving in the United States was con-

ducted in harbors and inland waterways, and consisted mainly of construction, repair and salvage work. However, within the past fifteen years, in conjunction with the national search for energy and mineral resources, new areas located in coastal waters and further offshore areas have been opened for exploration and development. Divers are utilized extensively in all phases of the offshore oil industry—exploration, construction, and production.

While the majority of inland and harbor diving occurs at depths less than 100 feet of seawater (fsw), the offshore diver works at depths which range from very shallow to 300 fsw or more, and occasionally to 500–1000 fsw. Technology is sufficiently advanced to enable diving to depths exceeding 1,000 fsw. Based on the current trend in offshore oil exploration, deeper and longer working dives can be anticipated.

III. The Diver's Work Environment

Divers are called upon to use their skills in activities such as construction, repair, salvage, scientific observation, inspection, pipe laying, and rescue operations.

Commercial diving involves exposure to a high degree of risk. The diver's work environment is inherently hazardous. Many divers are subjected to the dangers commonly associated with maritime and construction work. Their work often involves such operations as welding and the manipulation of heavy objects. In addition, many times they work in isolation for relatively long periods of time and are exposed to decompression-related injuries and illnesses.

In diving, several techniques and modes are utilized. Their appropriateness for any particular situation depends on a number of factors, including depth, time, nature of the operation to be performed, and the experience and technical capabilities of the persons involved. Each has unique operational advantages and poses special hazards.

SCUBA diving, where the divers carry their own breathing gas supply, is used primarily for inspection and search activities. Diver inwater mobility and ease of operation are its principal assets. However, the possibility of the diver's getting lost in relation to the dive location (i.e., the vessel or surface from which the dive is conducted), the limited breathing gas supply, and the usual absence of voice communications limit the usefulness of SCUBA in commercial activities and pose hazards which can largely be avoided by using the surface-supplied mode.

Surface-supplied diving is more common than SCUBA diving for commercial operations. This method involves supplying the working diver with the breathing gas, either air or mixed gas, through a hose, from a source located at the dive location. This method of supplying the diver with life support allows monitoring of the diver, who is tethered and in communication with dive location. A major safety limitation of this mode is the duration of inwater exposure. The diver working in the water is continuously subjected to temperatures, currents and other adverse factors of the work environment. In addition, if a diver is decompressed in the water, these factors are intensified by the additional exposure required by this procedure.

When a dive is particularly deep or lengthy, these inherent hazards make the use of a diving bell appropriate. A diving bell is a device which allows the diver to be transported to and from the underwater worksite in an enclosed, dry compartment. It may be pressurized (closed), or it may be unpressurized (open). With a bell, the diver, when tethered to the bell, has a shorter umbilical or life support bundle than if surface supplied, is closer to a place of refuge, and can be decompressed in the relative safety of an enclosed environment.

Mixed-gas diving is carried out with mixtures of oxygen and gases such as helium and/or nitrogen; an oxygen-helium (heliox) mixture is most commonly used. Mixed gas replaces air as the breathing mixture when the increased partial pressure of nitrogen in the compressed air becomes narcotic. Consequently, mixed gas is used during deeper and sometimes during longer dives. Mixed gas is used commercially in conjunction with surface-supplied, bell and saturation diving.

Saturation diving, in which the body tissues become saturated with inert gas, is used in situations where the diver will be exposed to hyperbaric (or high pressure) underwater conditions for long periods of time. For example, for diving depths exceeding 400 fsw with working times over two hours, saturation diving is commonly used. The advantage of saturation is that once the diver's body tissues become essentially saturated with inert gas at any given depth, no additional decompression time is needed regardless of the length of time the diver stays at that depth, because additional time spent at pressure results in little additional gas uptake. However, the saturation mode usually involves very long periods of decompression and isolation for the affected divers. This can be physiologically and, in some cases, psychologically wearing.

Liveboating is a technique in which a surface-supplied diver is supported from a vessel which is underway. This gives the diver greater mobility on the bottom for tasks such as pipeline inspection than would be possible if the diver were tethered to a fixed vessel or surface structure. Because the vessel is underway, however, liveboating poses the potential hazard of hose entanglement in the turning propellers.

Whatever the diving technique or mode used, divers must rely completely on external life-support systems while working under severe performance limitations to perform their tasks. Factors such as environmental, psychological and physiological stress, makeshift or poorly designed tools and inadequate training can further impede the diver's efforts. A close working relationship between the diver and surface support personnel must be established, and an experienced, trained person must be present and in charge of each diving operation. The dive team must be trained or experienced in the diving mode to which it is assigned and the use of the tools necessary to perform its tasks. This is especially true of divers, because many of the work tasks they perform underwater, such as burning, welding, and using explosives, are themselves hazardous. In addition, divers and others who are likely to be exposed to hyperbaric conditions and underwater exposure must by physically fit. It is essential, therefore, that a high level of training, experience, fitness, and supervision prevail for each diving operation.

In addition to having qualified personnel who are medically fit, a dive team must follow sound operating procedures to promote the diving operation's safety and efficiency. Advanced planning is essential to the proper selection of techniques and equipment which will achieve maximum safety under anticipated conditions, especially when the exact conditions to be encountered are not fully known in advance. Effective planning requires a thorough evaluation of what the diver must do to complete the job as well as anticipation of present or developing hazards. Environmental conditions often affect the choice of diving procedures and frequently determine whether diving can be carried out safely. Sea state, sea and air temperatures, weather conditions, underwater visibility and currents, and the nature of the bottom all have significant influence on diving safety, and these factors need to be evaluated prior to and throughout any diving operation.

Proper planning for emergencies and development of appropriate contingency plans are essential to the safety of all diving activities. In an emergency many forms of outside aid may be required. Careful consideration must be given to potential emergencies before any operation is undertaken, so that necessary aid may be obtained as quickly as possible. Moreover, means for emergency transportation must be considered and made available. Because the dive team's isolation can transform any accident or injury into a serious medical emergency, there is also a need for first aid training and careful advanced planning so that personnel may respond to such emergencies in a manner which reduces the likelihood of aggravated injury and illness.

Other safety precautions must be routinely incorporated into the diving operation. Examples of precautions which are necessary under certain conditions, are maintaining the diver in thermal balance, having sufficient breathing gas reserves in case of failure or depletion of the primary source of supply, and providing a standby diver to aid the working diver promptly when inwater assistance is necessary. Similarly, whenever diving outside the no-decompression time-depth limits is planned, appropriate decompression tables designed to return the diver to the surface safely must be followed. In the event that decompression sickness does develop, a decompression chamber, oxygen or treatment gas mixtures, and treatment tables and instructions must

be readily available to treat this condition effectively.

The contribution of comprehensive instruction and effective communication to safety is not limited to emergency or contingency situations; many types of communications are vital to safe diving. Whether used to warn other vessels in the area that a diving operation is underway, to summon emergency aid, or to coordinate operations between the diver and the dive location or bell, reliable two-way communication is essential.

The equipment used in a diving operation is also critical. It must be in proper operating condition and carefully inspected prior to use in diving operations. For example, compressors must be well maintained and located away from sources of contamination locations. The safety implications of equipment failure or misuse for the diver warrant the greatest attention to equipment condition and suitability.

IV. Physiological Hazards

Divers are particularly, and in some cases uniquely, exposed to certain kinds of physiological hazards. On any dive, a diver is exposed to such potentially harmful physical agents as pressure, breathing gas, and water. One pervasive variable is the element of depth. Increased depth means an increase in the pressure exerted on the diver's body, 1 atmosphere (14.7 pounds per square inch) for every 33 feet of depth. While every increase in pressure does not necessarily create a proportionately greater physiological risk, many diving hazards are inherently pressure-related.

In a hyperbaric environment, the increased pressure of the breathing gas forces more gas to be dissolved in the body than is the case at atmospheric pressure. Subsequent ascent to a lesser ambient pressure can cause much of this absorbed gas to come out of solution in the form of bubbles, which are the cause of decompression sickness and other diving-related disorders, either directly or indirectly. The probability of these disorders is minimized by controlling the ascent rate of the diver.

The term decompression sickness is applied to a disease which may occur as the result of a reduction in ambient pressure. The symptoms vary from mild local pain or itching of the skin to neurological effects or collapse with unconsciousness. Decompression sickness symptoms usually occur shortly after completion of a dive or other pressure exposure, or before reaching the surface from deeper dives.

Serious decompression sickness may involve permanent or residual damage to the central nervous system (CNS) or to the audio-vestibular system. Decompression sickness involving the audio-vestibular system may be manifested as partial or total hearing loss, a ringing of the ears, or a sudden severe dizziness and nausea. This type of decompression sickness occurs more often during decompression from very deep dives. Among the symptoms indicating possible CNS involvement are numbness, dizziness, nausea and vomiting, weakness, abdominal pain, visual disturbances, speech difficulty, shock and unconsciousness.

Research using ultrasonic monitoring during decompression has produced convincing evidence that some bubbles may exist during most decompressions, even in the absence of overt symptoms of decompression sickness. These bubbles may damage the linings of the blood vessels and cause changes in the blood itself. Eventually, they may also cause other subtle physiological effects on various organs of the body.

Divers as a class are also subjected to increased risk of skeletal damage. There is evidence that this damage, known as dysbaric osteonecrosis, is decompression-related, the result of gas bubbles trapped in bone tissue which cause the death of such tissue. Dysbaric osteonecrosis may appear as a benign lesion of a long bone, but a lesion situated critically at or near a joint may cause structural failure, which results in painful limitation of movement and eventual loss of joint function. At the present time, ways to prevent dysbaric osteonecrosis entirely are unknown, and it is also not possible to relate the occurrence of osteonecrosis to any particular diving exposure with certainty.

Divers are subject to other decompression-related medical problems. An example is gas embolism, the result of gas being forced into the bloodstream, which is usually caused by a diver holding the breath while ascending. This gas acts as an obstruction, or embolus, which blocks the proper flow of blood to the brain or spinal cord. Embolism causes such serious symptoms as weakness, disorientation, visual and hearing disturbances, dizziness, nausea, shock or unconsciousness; it may be fatal or result in permanent damage unless recompression is accomplished immediately. Similarly, gas may also leak into the pleural cavity or flow under the skin and collect around the heart or in the chest, and may cause collapse of a lung.

Other problems may arise if the pressure in the rigid cavities of the body are not equalized. This condition is known as barotrauma or squeeze. If the pressure imbalance is great enough, ruptured blood vessels or other tissue damage may result. This form of barotrauma most commonly affects the middle ear, but may also occur in the sinuses, teeth, or lungs. Similar effects can result from unequal pressure between the ambient environment and spaces enclosed by the mask or folds of the suit.

In addition to the hazards caused, directly or indirectly, by the increased pressure divers are also exposed to a number of hazards because they breathe compressed air or artificial gas mixtures and must rely on special equipment to furnish the gas (compressors, pressure, vessels, valves, hoses, masks, regulators, and helmets). Among the potential dangers, those associated with oxygen present the greatest hazard in diving. If the partial pressure of oxygen in the breathing mixture is too low, oxygen deficiency (hypoxia) will result; this condition can produce unconsciousness without warning, and can be fatal if not corrected. Excessive oxygen in the inspired breathing gas can cause convulsions resembling those of epilepsy; prolonged exposure to somewhat lower levels of oxygen may cause lung irritation which increases if exposure continues. In addition, excessive nitrogen in the inspired breathed gas can produce narcotic or anesthetic effects which impair the diver's cognitive function.

The possible presence of contaminants in the breathing gas is another hazard associated with diving. Several potentially harmful contaminants have been found in air supplied to divers from engine-driven air compressors. These contaminants can be picked up by a compressor intake or be produced by the compressor itself. The most significant one is carbon monoxide, which combines with the blood's hemoglobin and interferes with oxygen transport to the tissues. This can result in reduced cognitive function; if the level of carbon monoxide is high enough, death can result. Carbon dioxide, while a normal metabolite and not toxic at low levels, can cause unconsciousness and convulsion if it accumlates in a breathing system, especially during exertion. Oil mist causes coughing and nausea, and if it reaches a lung, can damage its sensitive lining and lead to the development of lung edema.

In addition, divers are exposed to the hazards inherently associated with water as a work environment, as well as those which accompany other physically demanding and stressful occupations. The normal hazards of such work are compounded by the fact that the diver is in the water, limited in mobility and visibility, working with heavy objects and sometimes restricted to a physically confining space. The possibility of serious traumatic injury is therefore always present.

V. Summary and Explanation of the Standard

The standard applies to all diving operations conducted in connection with all types of work and employment within OSHA's jurisdiction unless specifically exempted. Because of the interrelated nature of every diving operation, it has been necessary to include requirements which address personnel qualifications and assignments, medical fitness, operational procedures, both generally and by diving mode, equipment, and recordkeeping. The approach taken has been to develop a standard which, based on the full record of this proceeding, promotes employee safety and health by providing for safe and healthful working conditions so far as possible, is technically correct, and is technologically and economically feasible. The major issues raised in the proceedings as well as the purpose and rationale of each requirement of the standard is addressed in the section-by-section discussion which follows this introduction.

No serious question has been raised covering the technological feasibility of the standard. The techniques, equipment and procedures mandated by the stand-

ard are known to and used by substantial portions of the commercial diving industry today. To the extent that there will be any difficulty in complying with the standard by the effective date, the difficulty will stem from short-term shortages of some types of equipment and not from any infeasibility of the standard. To a great extent, these possible short-term supply problems have been remedied by providing delayed effective dates in the standard for some of the equipment requirements. Based on evidence in the record and in consideration of the time period that has already elapsed since the notice of proposed rulemaking and the hearings, the standard accordingly requires employers to comply as soon as possible but in no case later than 6 months after the effective date (9 months after the publication date) with provisions where decompression chambers or bells are required and such equipment is not yet available (Tr. 174–6; Ex. 43). To the extent that even after this period all employers may not have been able to obtain the necessary equipment, the provisions for temporary variances in section 6(b)(6)(A) of the Act are appropriate and adequate to provide the relief necessary.

In considering the economic impact of the standard, OSHA has relied on its Inflationary Impact Assessment (IIA) (Ex. 27) and evidence in the record presented by professional economists, individual employers and others connected with the industry. Prior to the proposal, OSHA prepared within the time and resources available to it an IIA in accordance with Executive Order No. 11821 (39 FR 41501, November 29, 1974), OMB Circular A–107 (January 28, 1975), Secretary's Order No. 15–75 (40 FR 54484, November 24, 1975), and the U.S. Department of Labor Temporary Directive No. 1 (November 17, 1975). Based on the data collected in the IIA, OSHA was able to conclude that the proposed standard was not a "major" action which would necessitate further inflationary impact evaluation, because the threshold criteria established by the enabling orders were not exceeded.

The proposal invited information, data and comments concerning economic feasibility and inflationary impact for presentation at the hearings; and testimony was heard on the subject. A panel which was sponsored by the major industry group and which had been contracted by them to conduct a cost impact survey presented testimony challenging the methodology and conclusions of the IIA and introducing their own cost estimates of the impact of the proposed standard (Tr. 1854–1917). After the hearings, OSHA had Arthur Young & Co., its economic consultant in this matter, review this critique and a similar one by the Council on Wage and Price Stability (Ex. 127); this review was entered into the record (Ex. 128). The industry economic panel then commented upon the analysis of the OSHA economic consultant (Ex. 182). Based on the analysis of its consultant, OSHA has determined that the IIA adequately addressed the specific threshold criteria and properly concluded that they were not exceeded.

A finding of a non-major inflationary impact is not necessarily equivalent to a finding of economic feasibility, particularly when a relatively small industry is involved. OSHA has therefore considered the economic impact of this standard on the regulated industry. In assessing economic impact, only the incremental impact of the standard vis a vis current and projected industry practice is relevant; that is, only costs imposed on employers which would not otherwise be incurred can be considered. In making this determination, the agency must rely on whatever data on costs, revenues, profits, and market structure exists in the record, as well as its knowledge of current and expected industry practices. In approaching the data that has been presented, OSHA recognizes that at the time the data was collected, many of the employers surveyed either by OSHA or the industry contractor, and particularly the small business employers, had an inaccurate and often exaggerated conception of what the proposal would require (Tr. 1883, 1912); and, secondly, there was insufficient appreciation of the extent to which diving companies would already be in compliance with the standard given their standard operating procedures (Tr. 1901–12).

The IIA estimated an annualized yearly cost of $22 million for the entire industry, an estimate which was, if anything, intentionally biased on the high side because it did not take into account a report by a major contractor that there would be no significant economic impact (Ex. 27, p. III–4). This figure can be compared to the estimated total domestic revenues of less than $100 million. The industry-sponsored statistician was of the opinion that, because of the sample size used, there was a 25 percent chance that the IIA cost estimates were over or understated by as much as 30 per cent. (TR. 1861, 1889), which would place the annualized yearly cost in a range of approximately $14.7 million to $29.3 million; while the analysis of the OSHA economic consultant, after review of a survey presented by the major industry group of its membership (ETS Post-Hearing Comment 13), indicates that the IIA estimate of total domestic revenues appears warranted.

By contrast, the industry economic panel estimated the total annual cost of compliance to be $34.3 million to $40.2 million (TR. 1885). It presented no precise estimate of total revenues for the industry as a whole, but indicated that they certainly exceeded $100 million in domestic sales and $200 million in worldwide sales (TR. 1872, 1884; Ex. 182). Unfortunately, the background information for the companies it surveyed and upon which its estimates were based was not entered into the record, so that careful analysis of the conclusions presented is not possible. In addition, several individual employers who classified themselves as small businessmen performing mostly shallow-water diving testified in general terms that the economic impact of the standard would be significant on their individual firms (TR. 592, 626–31, 722–3, 1262, 1274, 1277, 1414, 1416–7, 1421–4, 1639, 1693–6), but none provided an itemized breakdown of costs or was willing to divulge revenue or profit information (Tr. 1423–4), and none was in a position to project cost impact for the industry as a whole or any particular sector. No evidence was presented on profits within the industry, either individually or industry-wide; and given the lack of publicly held corporations in the industry, no such evidence was independently available. The information provided by the industry, and over which it was uniquely in control, was therefore of limited usefulness.

Much of the substantive testimony at the hearings and in the record concerned actual industry practice and indicated that it did not differ significantly from much of the proposal; reference to such testimony is made when appropriate in the section-by-section discussion of the standard. Examination of the most common industry manual (ETS Ex. 4), which is endorsed and used by approximately half the industry and nearly all the offshore contractors, confirms this to be true.

In considering cost impact, it should also be recognized that there are differences between this standard and the proposal. For example, costs associated with first aid training and supplies, medical examinations, compressor systems, and recordkeeping should generally be lower than was true of the proposal; while there may be some increased costs with regard to standby divers, reserve breathing supplies, and decompression chambers. On the whole, however, the cost impact of the standard has probably been reduced because care has been taken to eliminate those items of the proposal identified as "liability traps;" other requirements have been modified or deleted to accord with evidence presented in the record; whenever possible to do so without compromising the safety and health of employees, it is left to the employer to seek the most cost-effective means of achieving a particular performance requirement; and close attention has been paid to recommendations from individuals with practical experience in the industry and particularly to evidence of current industry practice. Moreover, there should be no disproportionate impact on market structure, because the nature of the standard is such that the greatest cost impact of the standard will be felt by the portion of the industry best able to bear the cost, namely the larger offshore contractors who do mostly deep diving in conjunction with the oil industry and should be able to pass on much of the cost to their client industry (Ex. 128); while the cost impact on the smaller contractors who do almost exclusively shallow-water work will be correspondingly less. Finally, to the extent that temporary supply bottlenecks can be anticipated due to the initial start-up costs of compliance with

certain capital cost requirements of the standard, the extended effective dates for these requirements should eliminate that potential short-term problem. Accordingly, OSHA is able to determine that the standard is both technically and economically feasible.

In so concluding, OSHA has, of course, also considered the benefits which will accrue from compliance with the standard in the reduction of injuries, illnesses, and fatalities and the accompanying reduction in tangible and intangible social costs. Evidence that deaths, injuries, and illnesses have occurred as a result of the hazards associated with diving is found throughout the records (ETS Exs. 34, 41, 42, 44, 45, 47, 48, 49, 50, 52; ETS Post Hearing Comments 13, 14; Exs. 17, 62, 76, 100; Comments P, Y, MM); much of the statistical information presented has been compiled in a single document by OSHA (Ex. 44B). While no dollar figure is possible, OSHA believes that the benefit to be derived from the standard is significant and serves the legislative mandate of the Act.

In addition, OSHA is able to reaffirm its determination (41 FR 48959) that the standard is not a major Federal action significantly affecting the quality of the human environment and that an environmental impact statement is therefore not required. The only potential impact that has been raised relates to its effect on the offshore oil industry. The IIA found that there would be virtually no impact on either the nation's energy supply or demand, and no impact on supplies of critical materials as a result of the standard (Ex. 27, IV-7). There was testimony by the industry economic panel that the standard could result in some marginal oil wells becoming economically infeasible and an increase in the mobilization time for the diving industry which would cause pipelines and wells needing repairs to be shut down for longer periods of time (Tr. 1869, 1871; Ex. 182). However, this assumption fails to take into account the fact that the increased costs to the diving industry compared to the economic costs of lost production, particularly when considered in light of demand for oil and the ability of the oil industry to absorb an increase in the cost of diving services, is such that no significant impact on energy supplies, and hence on the environment, can reasonably be anticipated (Ex. 128). It is also noted that the standard permits deviation from its requirements, in emergency situations, to the extent necessary to prevent major environmental damage.

1. *Scope and application (§ 1910.401).* The standard applies wherever OSHA has statutory jurisdiction. Consequently, unless specifically excluded from the standard, diving in any natural or artificial inland body of water, as well as diving along the coasts of the United States and possessions listed in Section 4(a) of the Act, 29 U.S. 655, or within the Outer Continental Shelf surrounding them, is covered. Diving outside of the Outer Continental Shelf is not covered by this standard.

The standard applies to diving and related support operations conducted in connection with all types of work and employments over which OSHA has jurisdiction, except in cases where exclusion from the standard has been explicitly provided. For this reason, and to avoid any possible ambiguity, the standard is not only adopted as a subpart of Part 1910 of 29 CFR (general industry), but is also incorporated into Parts 1915 (ship repairing), 1916 (shipbuilding), 1917 (shipbreaking), 1918 (longshoring), and 1926 (construction). Sections 803 and 804 of 29 CFR Part 1926, which apply to compressed air and decompression in construction work, do not apply to diving operations in view of the specific provisions in Subpart T which deal with these subjects as they pertain to diving. Nor does the standard apply to agricultural operations within the meaning of Part 1928 (agriculture).

Pursuant to Section 4(b)(1) of the Act, the standard does not apply to working conditions over which other Federal agencies exercise statutory authority to prescribe or enforce standards or regulations affecting occupational safety and health. OSHA has been advised of the U.S. Coast Guard's intention to publish proposed regulations, within its area of jurisdiction, on commercial diving operations.

Specific exclusions have been provided where the nature of the diving operations is such that inclusion in this standard would be inappropriate, or where the safety and health of divers is governed by rules or regulations of another Federal agency. The three exclusions are: (1) Instructional diving utilizing only open-circuit compressed air SCUBA within the no-decompression limits; (2) search, rescue and related public safety diving by or under the control of a governmental agency; and (3) diving governed by to the Protection of Human Subjects regulations of the Department of Health, Education and Welfare (HEW) or equally effective rules or regulations of another Federal agency.

In addition, pursuant to Section 3(5) of the Act, employees of Federal agencies of the United States government are excluded from the jurisdiction of the standard. Instead, such employees would be protected in accordance with Section 19 of the Act under which it is the responsibility of each agency which engages in diving operations to establish and maintain an effective and comprehensive safety and health program which is consistent with this standard. Because of the nature of this standard, OSHA recognizes that certain Federal agencies such as the U.S. Coast Guard and those within the Department of Defense have unique activities and obligations which may require adjustments to this standard consistent with their diving operations.

Several parties, and the Construction Advisory Committee, have argued against any exclusions from the standards, and particularly against those which appeared in the proposal for instructional and scientific/educational divers whose operations utilized open-circuit compressed air SCUBA and were conducted within the no-decompression depth-time limits. Their reasoning was essentially that no valid distinction can be drawn between commercial diving and that performed by the excluded groups, because divers in both groups are employees, both work in the same marine environment, and both are subject to some of the same inherent hazards and physiological effects of diving. It has also been stated that SCUBA diving is at least as hazardous as surface-supplied diving (Tr. 779, 797, 1391; Ex. 35, 178 p. 81).

OSHA has concluded, however, that a valid distinction can be made between the class of SCUBA instructors and that of commercial divers, and that exclusion of SCUBA instructors, in the circumstances indicated, is warranted. The comments presented by the sport and recreational diving instruction groups provide a convincing rationale for such a distinction (Ex. 148). The diving instructor, who is an employee, is student oriented, not task oriented. The dive site is not determined by the location of a particular job as it is in commercial applications, where operations must of necessity be conducted under environmental conditions which are often adverse. The SCUBA instructor, by contrast, selects a location which is usually clear, shallow, and warm. Indeed, a swimming pool is the dive site for most SCUBA instruction. Such dives are discontinued if the slightest difficulty occurs. SCUBA instructors do not utilize construction tools, handle explosives, or use welding or burning tools. As a result of these factors, SCUBA instructors are rarely exposed to adverse sea states, temperature extremes, great depths poor visibility, or heavy work loads, some or all of which are common to the great majority of commercial diving operations.

However, OSHA recognizes that some diving techniques or conditions pose greater potential hazards than others, regardless of the purpose of the dive. Thus, this exclusion for instructional diving has been ilimited to a restricted diving range, a particular specific mode, and equipment. The exclusion from the standard applies only to instructional diving which uses open-circuit compressed air SCUBA and is conducted within the no-decompression limits. The standard defines no-decompression limits as the depth-time limits of the "no-decompression limits and repetitive dive group designation table for no-decompression air dives" of the U.S. Navy Diving Manual, or equivalent limits which the employer can demonstrate to be equally effective. No distinction per se is made between instructors of prospective sport and recreational divers and instructors of prospective commercial divers. However, by its very nature, the training for commercial divers involves diving that is surface-supplied, uses mixed gas as a breathing gas, or requires decompression; each of these factors potentially increases the hazard

of the operation. Once the instructional environment exceeds the specified limits, the standard applies. Coverage of instructors who work outside these limits protects the instructors' own health and safety, and also serves to introduce proper compliance with the standard at the formal training level.

In addition, it should be noted that individuals engaged in recreational or sport diving for their own personal enjoyment, and not otherwise related to their respective employments, are not within the jurisdiction of the Act, and therefore are outside the scope of this standard. On the other hand, SCUBA diving for a commercial rather than instructional purpose is covered by the standard, regardless of equipment or depth-time range.

The second category to be excluded from the standard is diving operations performed solely for search, rescue, or related public safety purposes by or under the control of a governmental agency. Although not in a class explicitly excluded by the proposal, OSHA has received a number of comments from persons engaged in diving which is incidental to police and public safety functions, who have urged the specific exclusion of this group from the standard (Comments J, W, AA, FF) and OSHA has concluded that such an exclusion is appropriate. The "by or under control of" language is intended to make the exclusion applicable to all divers whose purpose is to provide search, rescue, or public safety diving services under the direction and control of a governmental agency (e.g., local, state or federal government) regardless of whether or not such divers are, strictly speaking, government employees. Diving contractors who occasionally perform such services privately on an emergency basis, and who are not under the control of a governmental agency engaging their services, do not come under this exclusion. This may, however, be covered by the provision concerning application of the standard in an emergency, which is discussed below. In exempting these search and rescue operations, OSHA has determined that safety and health regulation of the police and related functions are best carried out by the individual States or their political subdivisions.

In contrast to the proposal, the category of scientific/educational diving is treated separately in the standard from SCUBA instructors because the record does not adequately support a conclusion that the work conditions and risk exposure of scientific divers differ measurably from those of commercial diving (Tr. 1769–80). They are therefore generally covered by the standard. A portion of the scientific diving community is, however, excluded from this standard. Diving operations which are governed by 45 CFR Part 46 do not come within the scope of this standard; such operations involve research and development or related scientific activities requiring human subjects and receive HEW grants or contracts. Compliance with the HEW regulations is mandatory for such employers or contractors, and the regulations are designed to promote safety and health. Similarly, any other Federal agency which adopts rules or regulations that are equally effective, i.e., similar in design, purpose, and effect to those of HEW, will come under this exemption. The exclusion is appropriate and supported in the record on the grounds that it would permit continued scientific research designed to extend the safe limits of diving physiology and technology (Tr. 1318, 1335–7). The long-term safety and health interests of divers are best served by the continuation of this research, and such diving cannot reasonably be expected to comply in every respect with a standard which is designed to reflect current operational practice.

OSHA has received numerous comments from employers whose operations are predominantly or exclusively confined to relatively shallow waters, requesting that their operations be excluded from the standard or at least be treated separately by a two-tiered standard. OSHA has determined that this would not be appropriate. First, the record indicates that shallow water divers are often subjected to many of the same hazards as the deeper water divers, and occasionally to the increased hazards of repetitive diving (Tr. 105, 748–9, 923–4, 9440–1, 1109; Ex. 178, pp. 13–16). Second, the standard is designed to reflect good operating practice, which is equally relevant to shallow water diving operations. Nevertheless, while a separate set of provisions has not been created for the shallow water diving sector, OSHA has been sensitive to the need to promulgate suitable requirements for this segment of the industry and has endeavored to provide appropriate distinctions wherever it could be done without compromising employee safety or health.

In addition to the exclusions discussed above, the emergency provision has been included in the standard because of the unique situations in which the diving industry is at times placed. Contractor comments urged "that the designated person in charge be given the discretion to take whatever action he deems necessary to cope with emergency situations requiring immediate action, so long as he takes the proper precautions to provide for safety under unusual conditions" (Ex. 178, p. 7). OSHA agrees that in such emergencies the overriding consideration should be the preservation of life and the protection of the environment. The emergency provision, which reflects these concerns, is restricted to permitting deviations from the requirements of the standard in those situations where death, serious physical harm, or major environmental damage is likely, but only to the extent that such action is immediately necessary to prevent or minimize the harm. No exemption is provided for situations where purely economic or property damage is likely, nor is the emergency waiver intended to substitute for the statutory variance procedures (sections 6(b)(6)(A), 6(b)(6)(C), 6(d), and 16 of the Act). This emergency provision anticipates the unique circumstances for which diving services are sometimes needed and thus obviates the need for a continuous OSHA variance capability to make ad hoc determinations in emergency situations, as has been recommended (Ex. 178, p. 5). Although temporarily exempt from inappropriate substantive portions of the standard in such emergency situations, the employer is required to notify the OSHA Area Office within 48 hours and, upon request of the Area Director, to submit a record of the notification, with an indication and explanation of what deviations from the standard were taken as a result of the emergency. This requirement will enable OSHA to monitor the use of this exemption.

As in all OSHA standards, the responsibility for compliance with its requirements is placed upon the employer. Throughout the proceedings, several individuals questioned why some legal responsibility could not also be placed directly upon employees, because the diver must exercise a large measure of individual responsibility and, while underwater, is to a large extent beyond the direct control of the employer/supervisor (TR. 143–4, 178, 1250–1, 1747–52). However, while the Act directs each employee to "comply with occupational safety and health standards * * * which are applicable to his own activities and conduct" (§ 5(b)), there is no mechanism under the Act by which such standards can be enforced against an employee. The legislative history (S. Rep. No. 91–1282, 91st Cong., 2d Sess. 10–11 (1970)) and case law (*Atlantic & Gulf Stevedores v. OSHRC*, 534 F.2d 541 (3rd Cir. 1976)) are clear that "final responsibility for compliance with the requirements of this act remain (sic) with the employer" and Congress did not intend to confer on the Secretary [of Labor] or the [Occupational Safety and Health] Commission the power to sanction employees, because the OSHA Act provides for "an enforcement scheme directed solely at employers."

While placing legal responsibility for compliance solely upon the employer, OSHA has carefully endeavored throughout the standard to take the realities of the diving environment into account and to make the substantive requirements, and hence the responsibility for compliance, consistent with the degree of control the employer has over particular aspects of a diving operation. Moreover, performance of particular functions for which the standard makes the employer responsible may in fact be delegated to the employer's designated person-in-charge or to other employees; however, such delegation does not dilute the employee's legal responsibility for compliance with this standard.

2. *Definitions (§ 1910.402)*. The list of definitions in the standard has been greatly reduced from that which appeared in the proposal. The purpose in providing definitions for key terms is to clarify the intent of these terms as used

in substantive provisions of the standard. For instance, "dive location" refers only to the vessel or surface from which the diving operation is conducted, and never to the underwater site of the dive. Certain definitions which appeared in the proposal have been deleted because they were considered identical to their common, unambiguous meanings (e.g., "decompression," "exhaust valve"); others have been deleted because they no longer appear anywhere in the standard (e.g., "ascent time," "hot tapping," "PVHO"). Of the definitions which remain, many have been modified in the interest of precision and in accordance with testimony and comments received in connection with the hearings on the proposal (Tr 149–152, 168–90, 1721–3, 1936–9, 1979–85, 2006–7; Exs. 154, p. 6–9, 165, 178, p. 17–22).

3. *Personnel qualifications (§ 1910.410).* In the diving industry, employee qualifications are critical to safety and health since lack of adequate training and experience has been one of the most frequent contributing causes to diving accidents and injuries (Tr. 781–3, 843, 921–23, 1814, 2208; Ex. 17, 44, 62, 76, 77). Employee safety and health can be maximized by establishing basic criteria for experience and training of participants in diving operations (Tr. 781, 783, 1366).

The standard specifies that all dive team members, i.e., divers and support employees involved in diving operations, including the designated person-in-charge, must have experience or training in the use of tools, equipment, systems, techniques, operations and emergency procedures which pertain to their assigned tasks and diving modes, i.e., SCUBA, surface-supplied air, or mixed gas. These required elements of experience or training are essentially unchanged from the proposal and is supported by testimony (Tr. 134). In addition, dive team members who are exposed to or control the exposure of others, to hyperbaric conditions (e.g., a chamber operator) must be trained in diving-related physics and physiology. Training in diving-related physics was specifically included at the recommendation of a hearing witness who noted that an understanding of the effects of pressure on gases is as essential to a basic understanding of diving as is knowledge of the physiological effects of diving (Tr. 134). However, under the standard's formulation, for example, a beginning tender or other dive team member who is not exposed to hyperbaric conditions nor responsible for the exposure of others will not be required to have this training.

The level of experience or training required by the standard depends upon the particular function an employee fulfills on a dive team and the diving mode to which the employee is assigned. For example, a tender employed in shallow air diving would be required to have a basic understanding of the breathing air system and the operating and emergency procedures which pertain to this mode and the equipment associated with it. A mixed-gas diver, by contrast, would be required to have a greater degree of understanding, including a working knowledge of mixed-gas equipment, such as a decompression chamber, bell and mixed-gas breathing gas supply system, the operations and emergency procedures associated with this diving mode and the equipment used with it, and an understanding of the physics and physiology of mixed gases. By allowing employee qualifications in these areas to be achieved through either field experience or classroom training, or a combination of both, the standard acknowledges industry practice, which is to train dive team members on the job, including those who are graduates of formal diving courses. Most divers begin as tenders and advance to diving status after a year or more of field experience (Tr. 606; Ex. 64Aii, Ex. 154, p. 10–19).

In addition, each dive team member must be trained in cardiopulmonary resuscitation and standard first aid. This requirement replaces the proposal's requirement that there be one person trained in advanced first aid at every dive location, and a diving paramedic (Emergency Medical Technician/Diving) at the location of certain remote or particularly deep dives. While the need for first aid training is widely recognized, there has been considerable testimony and comment that a diving paramedic (EMT/D) requirement is both inappropriate and infeasible at this time (Tr. 77, 314, 645–6, 649, 1542–45, 1792–3, 1926–7, 2060–1; Comments B, 00; Ex. 178, p. 52–5) although some testimony supported the concept in principle (Tr. 900, 901, 981–5, 1027–31). OSHA has determined that requiring all dive team members to be trained to handle basic trauma and breathing emergencies offers the broadest possible protection to the greatest number of personnel (Tr. 77, 314, 645–6, 649, 717, 901, 1158–9, 1272–3, 1545, 1654, 1733, 2113, 2214–17; Ex. 178, p. 51–2; Ocean Systems letter—3–17–77, late submission 3). An American Red Cross standard course (14 hours) or equivalent training is specified because the combination of both field experience and formal instruction, is considered the best method of gaining necessary first aid knowledge and skills. First aid and cardiopulmonary resuscitation courses of instruction meeting the requirement in the standard are offered throughout the country.

The requirement of the standard concerning job assignments is similar to that for "employee training" in the proposal. It is intended to assure that job assignments are consonant with an employee's experience and training. Dive team members may receive such training on the job when under the direct supervision of an employee already experienced in the task to be performed (Tr. 605–6, 924–5).

The requirement that no employee be exposed to hyperbaric conditions against the employee's will derives from similar provisions in the proposal (§ 1910.421(d)(2) and (e)) and is consistent with traditional and well-understood industry practice (Tr. 2107–8; Ex. 64Aiv,1.2a.2). However, notwithstanding an individual's desires, the standard anticipate that it may become necessary to prolong the diver's hyperbaric exposure to complete a decompression or treatment procedure to avoid serious or fatal consequences (Tr. 137–8, 1748–52; Ex. 178, p. 58–9).

The requirement that a dive team member not be permitted to dive or be otherwise exposed to hyperbaric conditions for the duration of any physical impairment or condition known to the employer and likely to affect adversely the safety or health of a dive team member derives from the "temporary impairment or condition" section of the proposal. Exposure with such as impairment or condition could be detrimental to the employee's health and possibly jeopardize others. However, the "known to the employer" language reflects the requirement that an employer must inquire into, and make an assessment of, the physical fitness of the dive team member before each dive. The list of specific impairments from the proposal has been deleted because these were intended to be merely illustrative, rather than all inclusive (Tr. 2186).

The standard maintains the proposal's requirement that the employer designate a person to be in charge of all aspects of the diving operation affecting the safety and health of dive team members. This requirement was supported by hearing testimony which emphasized the importance of such a person to operational safety (Tr. 143–4, 178, 1748–52, 1768–9; Ex. 178, p. 26–7). The person who fulfills this function may be either the employer or an employee who has had experience and training in the conduct of the assigned diving operation. Depending on the size of the diving operation, the designated person-in-charge may either act as a full-time supervisor or may carry out this role in conjunction with other duties at the dive location. The "affecting the safety and health of dive team members" phrase has been added to clarify that the requirement is not directed to functions which are unrelated to safety or health, such as payroll, contracting, and other management responsibilities. The standard's requirement that the designated person-in-charge be experienced and trained in the conduct of the assigned diving operation derives from testimony that such prior experience is crucial to the safety of the operation and that lack of such experience has resulted in accidents and fatalities in the past (Tr. 843–8). The proposal would have required that the designated person-in-charge be currently or formerly qualified as a commercial or military diver. This was supported by some evidence at the hearings (Tr. 819–20, 1264, 1429, 2105). However, this requirement has been deleted in favor of the general experience requirement because of testimony that it is not necessary in all cases to have been a diver to be an effective supervisor, but it is essential that the person must be experienced and familiar with the operational aspects of the work (Tr. 94–5, 207–8, 435; Ex. 178, p. 27–8).

4. *Medical requirements (1910.411).* The medical requirements of this standard are premised on the fact that diving

is basically a high-stress occupation performed under difficult environmental conditions, and that the safety of the diver and other dive team members can depend on the health of the individual diver. For this reason, OSHA considers it appropriate to require mandatory medical examinations for employees in this occupation who are, or are likely to be, exposed to hyperbaric conditions. In addition, the requirement for medical examinations implements the purposes of section 6(b)(7) of the Act to determine whether the health of such employee is adversely affected by this occupational exposure.

As in the proposal, the employer is ultimately responsible for determining whether affected dive team members are medically fit to perform assigned tasks in a safe and healthful manner. However, the decision is to be based on the best available medical opinion.

For the employer to have sufficient information on which to base that determination, the standard requires the employer to provide dive team members who are, or are likely to be, exposed to hyperbaric conditions with medical examinations at no cost to the employee. The proposal required examinations for "employees engaged as divers or otherwise subjected to hyperbaric conditions." It has been recommended to OSHA that only divers be provided with the required examinations, a recommendation which would exclude all non-diving support employees from the medical requirements (Ex. 178, pp. 23–4, 30–1). However, the standard as written reflects the view, expressed by a commercial diving physician at the hearings (Tr. 71), that any dive team member who is to be exposed to hyperbaric conditions should be medically fit beforehand. Being subjected to pressure and undergoing decompression are stresses which warrant inclusion of this group of employees in the medical requirements of the standard. For the purposes of the standard, "are, or is likely to be exposed" applies to any employee who is expected to dive, enter a decompression chamber, or be otherwise exposed to increased pressure. In addition to divers, this requirement would apply, for example, to dive team members such as tenders or designated persons-in-charge who might reasonably be expected to enter a decompression chamber to treat, or aid in the treatment of, a diver suffering from decompression sickness.

Objection has been raised to the requirement that employers bear the cost of the examinations, particularly with regard to the issue of providing an examination for transient divers hired on a temporary basis for specific jobs. Nevertheless any employer exposing employees to hyperbaric conditions, except in emergency situations, would be obligated to pay for their medical examinations unless it could be demonstrated that an equivalent medical examination were taken within the preceding 12 months. (Tr. 716–7, 926; Ex. 178, p. 30). The cost of medical examinations being borne by the employer is mandated by statute (§ 6(b)(7) of the Act) and reflects a purpose that the medical fitness of all employees is the responsibility of the employer.

There was considerable testimony about the importance of the physician's familiarity and knowledge of diving medicine (Tr. 125, 378, 1011, 1391, 1456), and OSHA believes such concerns are justified. Accordingly, it is expected that employers will seek out and engage the services of physicians who are knowledgeable in the physiological effects of hyperbaric conditions. Such an understanding is important to enable a physician to examine diving employees and to render an informed opinion as to the fitness of an employee based on an employer's indication of likely hyperbaric exposure and types of assigned work. However, no specific qualifications for the training of physicians performing the required medical examinations are prescribed, because there is no formally recognized sub-specialty of hyperbaric medicine at this time.

The requirement that medical examinations be provided at one-year intervals from the date of the initial or last equivalent examination reflects standard medical practice (Tr. 70). Since there will be a 90 day effective date for the standard, OSHA believes there will be adequate time to provide the required examinations (Comment Y). Employees hired after the effective date of this standard must be provided the examination before being assigned to tasks requiring hyperbaric exposure so that the determination of fitness can be made before exposure. As in the proposal, the standard permits an employee who has had an examination within the preceding year which is equivalent to the one required by the standard to meet the examination requirement. This will avoid unnecessary medical examinations.

The reexamination requirement after an injury or illness appeared in the proposal, but the criterion for when such a reexamination is necessary has been modified in accordance with testimony of diving physicians (Tr. 57–8, 73, 1649). The testimony recommended that hospitalization in excess of 24 hours would be proper and adequate, since it reflects current medical practice which requires patients to be hospitalized for observation for a 24-hour period in cases where the seriousness of symptoms or signs is undetermined. After the observation period, those patients whose conditions warrant hospital treatment are admitted, while those whose injuries or illnesses have resolved or are clearly minor in nature are discharged. The standard therefore requires reexamination only for that group of employees whose conditions are medically judged to warrant such hospital admittance, and further provides that the nature and extent of such reexamination be determined by the examining physician. After such a reexamination, an employee cannot be reassigned until the employer determines that the employee is fit to return to the assigned work based upon the physician's report.

The requirement that the employer provide the physician with certain basic information derives from a similar provision in the proposal, as modified by testimony (Tr. 71); this is consistent with general OSHA policy. The examining physician must be supplied with a copy of the medical requirements of the standard. In addition, the employer must provide the physician with a summary statement of the nature and extent of the hyperbaric conditions to which the dive team member will be exposed. For instance, such a statement might indicate that a chamber attendant will be exposed to a pressure equivalent to 165 fsw (6ATA), but would not be exposed to the underwater work environment. The physician must also be told by the employer what modes of diving and what types of work a diver will be performing; such a description might note that the employee will be diving in the saturation mode, which requires prolonged exposure to stressful and isolated hyperbaric conditions, or is expected to perform heavy construction work.

Each initial and annual examination must include a medical history, a diving-related work history, a basic physical examination, the tests required by Table I, and any additional tests the physician considers necessary. In contrast to the proposal, the required work history is limited to diving-related matters, because other details of work history would not be relevant except to the extent they have become a part of the medical history (Tr. 72). The proposal's requirement for "any tests deemed necessary to establish the presence or absence of any * * * disqualifying conditions" has been deleted. This was done because the intent of that provision has been met in the standard by leaving the physician the discretion to administer other tests deemed necessary by sound medical practice, because the absence of a condition cannot be definitively established, and because the specific disqualifying conditions of the proposal are no longer a mandatory part of the standard (Tr. 72, 1650; Ex. 178, p. 35–6).

The required medical tests which appear in Table I are basic examination requirements and are somewhat modified from those which appeared in the proposal. The EKG (Standard 12L) identifies certain cardiac abnormalities not detectable by auscultation (Tr. 85). A hearing test is essential because hearing degradation is common in diving and hearing is essential if the critical voice communication requirements specified in the standard are to be used effectively (Tr. 85). A visual acuity test is necessary to the extent vision may be relevant to job performance. A color blindness test is necessary because color coding is commonly used for piping and hose markings; appropriate work assignments or adjustments should be made if there is a problem in this area (Tr. 86). Blood and urine tests are important because some conditions (anemia, diabetes) can only be detected this way. Diabetes could produce unconsciousness; anemia reduces work capacity and therefore fa-

tigue and exhaustion (Tr. 86). A white blood count is an indication of acute infection. The sickle test index tests for hemoglobinopathies. Abnormal hemoglobins produce sickling under conditions of hypoxia, which causes blockage of blood vessels throughout the body and injury to many organs and tissues (Tr. 52–3 1205); exposure to low oxygen partial pressure might precipitate a sickling crisis, which would be incapacitating underwater. The chest X-ray detects restrictive or obstructive lung disease, which is hazardous for a diver whose pulmonary function is less than normal because of stress imposed by breathing under pressure; certain chest disorders cannot be detected without an X-ray (Tr. 84). In addition, because the physiological effects of the normal aging process begin to be detectable at about age 35, a single routine (12 lead) EKG is required at age 35 or over to establish a base-line record of heart function.

Medical tests which were required only "when medically indicated" have been deleted from the tables, since these and other relevant medical tests and procedures may be required at the discretion of the physician after consideration of the employee's work and medical history and the results of any other required tests. The requirement that all divers involved in decompression dives undergo a triennial long-bone and joint X-ray survey has been deleted from the standard because testimony on this issue was contradictory (Tr. 89–96, 72–3, 643–5, 1059–65, 1204, 106–7, 1397–9, 1651–3), and because of a reluctance to mandate a periodic X-ray procedure as a diagnostic technique where no established relationship between the procedure and effective treatment is clearly established. Similarly, the chest X-ray is required only initially; whether to require it at the annual reexamination is left to the discretion of the physician.

The report written by the examining physician has been modified from that required by the proposal to include the overall results of the examination only, rather than the test results, because they would be difficult for the employer to decipher and revealing such results could perhaps be an infringement of the employee's privacy (Tr. 1764–6). In addition to the examination results, the report must include the physician's opinion of the employee's fitness to be exposed to hyperbaric conditions, including any recommended restrictions or limitations to such exposure. The intent of this provision is that a medical condition should be disqualifying only to the extent dictated by sound medical judgment. For example, the physician might recommend that a diver with an ulcer could dive without jeopardizing the individual's or another dive team member's health or safety so long as the diver only participates in shallow air diving in a harbor or lake, where medical aid is readily accessible and the diver's decompression obligation is minimal. On the other hand, a physician would probably insist that a mixed-gas or saturation diver be in excellent medical condition before declaring such a diver fit to work in such circumstances.

The employer's decision on diving assignments must be consistent with medical opinion. Therefore, the function of the physician's medical report is to serve as a basis of the employer's determination. If the physician's opinion is that an employee is medically fit, the employer should be able to rely on that opinion and assign the employee to any task for which the employee is otherwise qualified. On the other hand, if the physician recommends a restriction or limitation on the employee's hyperbaric exposure, OSHA recognizes that both the employer and employee are put in a difficult position by the standard's requirement that employees who are medically unfit, as determined by the employer based on a mandatory medical examination, not be permitted further hyperbaric exposure. By its nature, diving demands that employees whose assignments require hyperbaric exposure be medically fit. It is recognized that certain medical conditions may be incompatible with diving; persons with these conditions who continue to be exposed jeopardize not only their own lives but may risk the lives of others as well. OSHA must also be cognizant of the employees' countervailing rights to be protected in their choice of occupation. The agency must endeavor not to create, through a health and safety standard, a situation which restricts entry into a profession or allows employees to be dismissed for a cause which is less than substantial.

The proposal provided a procedure to be used if an adverse medical opinion, based on certain mandatory disqualifying conditions, led to an employer's determination to withdraw an employee from further hyperbaric exposure. This decision gave the employee the right to obtain a second opinion from a physician chosen by the employee. If the two medical opinions rendered were in disagreement, the proposal's procedure would have required that a binding third opinion by a physician agreed upon by the first two physicians be obtained. This procedure for the determination of medical fitness was endorsed by employee interests, who believe that it provided a necessary safeguard against unwarranted disqualification. On the other hand, several objections to this procedure were raised at the hearings. First, it was said that it would result in the employment or retention of divers who were marginally fit (Tr. 58–9, 1322–4, 1698–1701; Ex. 178, p. 43). Second, it was argued that the employer, who bears the ultimate responsibility and potential liability for diver safety, should not be required to bear the cost and be bound by the opinion of a physician whom he has not consulted and in whom he may place little confidence (Tr. 76, 1322–4, 1438, 1642, 1675–6, 16999, Ex. 178, p. 44). Third, it was argued that the first examination would often be conducted by the physician who knows the employee and the particular diving and medical background better than any other physician, so that, if anything, the first opinion should carry more weight than later ones (Tr. 76–7, 1642, 1675; Ex. 178, p. 44). Finally, it was claimed that the procedure implied an unwarranted distrust of physicians and medical ethics (Tr. 75, 1700, Ex. 178, p. 45). However, these arguments do not reach the fundamental policy balance between the need for a mandatory medical examination and the employee's right to a thorough medical assessment.

A second opinion by a physician selected by the employee, provides a firmer and broader basis on which to make a determination of medical fitness. This second opinion will benefit both the employer and the employee in planning future action. Moreover, it will help protect the employee from being barred or dismissed from employment or certain job assignments on the basis of a single medical opinion which may be incomplete or inaccurate. In addition, peer review may result in the first physician reconsidering the original opinion after comparing the findings of the second physician. This requirement for a second opinion is in fact not significantly different from current medical practice, since testimony indicated that physicians often consult with other physicians whenever a difficult medical diagnosis or a critical opinion is made (Tr. 1707–8, Ex. 178, p. 44), and patients often seek a second opinion on their own. If there is a concurrence between the medical opinions, the employer must act consistent with the medical opinions.

Where there is a difference between the first and second medical opinions, it is essential to provide a third determinative medical opinion in order to balance the requirement for a mandatory medical examination with the employee's corollary right to a thorough medical assessment of potentially disqualifying, limiting or restricting conditions. The employer's assignment shall be consistent with the third physician's opinion. However, the employer and the employee are free to agree on an assignment which is consistent with any two physicians' opinions. All medical examinations are to be provided at the cost of the employer.

The proposal's list of disqualifying conditions is now included in an appendix, entitled "example of conditions which may restrict or limit exposure to hyperbaric conditions" (Appendix A) which is intended to be advisory in nature. The physician is alerted that the conditions listed may be restricting or limiting depending on severity, presence of residual effects, response to therapy, number of occurrences, and the diving mode, or degree and duration of isolation. This is in accord with testimony (Tr. 76, 685–8, 1466). The conditions listed are essentially the same as those which appeared as mandatory disqualifying conditions in the proposal. However, the appendix is not intended to be binding or exclusive, and the absence of a particular condition from the list should not be construed to mean that the physician should rec-

ommend restriction or limitation for a particular condition or inhibit the physician from recommending that a particular physical condition not included in the appendix should be cause for prohibiting or limiting further hyperbaric exposure by the employee. The standard requires that the recommended restrictions or limitations be reasonably related to the nature and extent of exposure to hyperbaric conditions.

5. *Safe practices manual (§ 1910.420).* The requirement that the employer develop and maintain a safe practices manual is similar to a comparable provision in the proposal. Testimony supported the importance of such a document to operational diving safety (Tr. 134–5, 178, 196–97, 780–1), and indicated that it is general industry practice to have one available (Tr. 178, 196–7, 604, 1718–9, 1769–70). The requirement does reflect, however, testimony which recommended that the manual would be more manageable and useful if made specific to the particular diving modes used by the employer (Tr. 1470, 1499–1501, 1729–30; Ex. 178, p. 46–7). The requirement is also more specific as to what topics the manual must include and makes clear that the purpose of the manual is to contain the employer's policies for implementing the requirements of the OSHA standard. For this reason, a copy of the standard must be included in every safe practices manual. For each diving mode engaged in, the employer's manual shall include safety procedures and checklists for diving operations, dive team assignments and responsibilities, equipment procedures, and emergency procedures, with appropriate checklists to be used to inspect equipment and brief employees before and after each operation. The required safe practices manual is to be distinguished from an employer's operations manual in that the standard mandates inclusion only of items and procedures relating to safety and health, and not to other company policies or business matters; an employer may, however, combine operational and safety procedures in a single document.

6. *Pre-dive procedures (§ 1910.421).* This section corresponds with, but is generally a reordering and reworking of, several sections of the proposal which appeared under the "general operations procedures" section of the proposal (§ 1910.421) and were formerly designated: (b) Emergency aid; (d) hazards to diving operations; (f) inspection of tools, equipment and operational systems; (g) diving plan; (k) diving at altitude; (l) thermal exposure; (n) underwater hazardous conditions; (o) warning display; and (s) positioning. It contains those provisions of general applicability, i.e., not specific to a particular diving mode, which must be considered and complied with before the diver enters the water.

The emergency aid requirement of the standard is essentially the same as the one in the proposal. There was broad support at the hearing for the need to maintain a list of sources of emergency aid at the dive location (Tr. 135, 904–6, 1544), as well as testimony that this is already industry practice (Tr. 1716–7). The category of "air transportation" has been replaced by "available means of transportation" in response to testimony that air transportation may not always be the most appropriate means to transport an injured diver to a medical treatment facility (Tr. 179).

The requirement for first aid supplies approved by a physician at each dive location is similar to the one in the proposal. When used in a decompression chamber or bell, the first aid kit must be suitable for use under hyperbaric conditions because certain items in a standard kit (e.g., bottles of liquids, mercury thermometers, ammonia capsules) create a hazard when subjected to high pressure use in a decompression chamber or bell (Tr. 1939, Ex. 178, p. 49). The requirement that an American Red Cross standard first aid handbook or equivalent be available is related to the level of first aid training required of dive team members, who will be able to use this as a basic and necessary reference source. The bag-type manual resuscitator with transparent mask and tubing is specified because such equipment would not always be included in a standard industrial first aid kit, but could be a life-saving aid in some breathing emergencies (Tr. 59). Unlike other types of resuscitators, the bag-type manual resuscitator, without oxygen flasks, minimizes the danger of overpressurizing the lungs and the hazard associated with the use of oxygen in chambers (Ex. 178, p. 51). A transparent mask and tubing enables the operator to determine whether the passages are clear.

The requirement for planning and assessment of the diving operation derives from the proposal's "diving plan" requirement. Task assessment and planning are closely related to the safety of a dive and central to the role of the designated person-in-charge. From the standpoint of safety and health, task assessment must include consideration of at least the factors listed in the standard. These factors are directly related to other affirmative requirements of the standard.

Examples of surface and underwater conditions which may appropriately be evaluated include not only natural conditions such as weather, water temperature, current, and bottom conditions, but surface conditions which may pose a hazard to the operation; they also include underwater hazards such as mechancial devices in the vicinity of the dive which are capable of creating strong water currents, or high intensity sonar, or electric fields created by cathodic protection. Although it is recognized that it may not always be possible to shut such devices off completely (Tr. 674–9; Comment GG), evaluation should include consideration of appropriate precautions which can be taken to inactivate the device or otherwise minimize or avoid the hazard.

The one resource essential to any diver on any dive is air or other breathing gas. Both the proposal and the standard require a reserve breathing gas supply; the planning called for in the standard should include consideration of such factors as depth and duration of dive, work load, anticipated bottom time, breathing equipment, and gas handling and reclamation capability.

Consideration of thermal protection includes protective clothing and other measures which may be necessary to keep the diver's body temperature in relative thermal balance. Both hypothermia and hyperthermia can be problems in diving. At the hearing, there was testimony that specific thermal protection requirements should be included in the standard (Tr. 80, 140, 155, 739, 755; Comments R, Y; Ex. 154, p. 27). However, because of the complexity of this subject and the indefinite state of the art, OSHA has determined that it is premature to regulate further in this area because there is no satisfactory way to specify what steps must be taken to achieve the goal of diver thermal balance in the widely varying conditions which prevail in diving operations, other than to require that thermal requirements be carefully considered before each dive (Tr. 2067–30; Ex. 177, 178, p. 68–9).

The repetitive dive designation or residual inert gas status of dive team members must be considered because each diver's residual gas obligation affects selection of the proper decompression table (Tr. 105, 748–9, 923–4, 940–1, 1109). Consideration of decompression procedures includes choosing a decompression table suited to the depth and bottom time, breathing mixture, work load, and water temperature. Altitude corrections must be applied to decompression tables, if appropriate. It is also appropriate to review all appropriate emergency procedures.

The requirement for employee briefing follows directly from the task assessment requirement and also derives from the "diving plan" requirement of the proposal. To perform their work safely, dive team members must be told in advance by the designated person-in-charge about the tasks to be undertaken, safety procedures for the diving mode, unusual hazards or environmental conditions, as well as any modifications to the safe practices manual necessitated by the specific diving operation. This is currently a widespread practice within the industry (Ex. 178, p. 62–3), and the need for pre-dive instruction of the dive team was testified to at the hearings (Tr. 138–9, 186). The dive team members must also be asked to disclose any current problems affecting physical fitness and be told the procedures for reporting physical problems or adverse physiological effects during the dive. That affirmative requirement follows from the requirement concerning temporary impairments or conditions in the personnel section of the standard. In response to other testimony, however, it is considered unnecessary and impractical to require that the briefing always be in writing (Tr. 1439–40, 1499–5101, 1735–7, 1749, 1967–8; Comment R). Rather, an oral briefing is considered sufficient to satisfy the goal served by this requirement, and

may in fact be preferable to a written dive plan in many cases because of the greater opportunity afforded for group discussion, coordination, and interchange. In conjuction with this requirement, the safe practices manual which is a written document and generally applicable to all diving operations is to be available to dive team members at the dive location.

The equipment inspection requirement prior to each dive derives from a comparable provision in the proposal and relates directly to the equipment checklist requirement in the safe practices manual, which was the subject of testimony (Tr. 138, 180–1). It specifies that the breathing supply system including reserve breathing gas supplies, masks, helmets, thermal protection, and bell handling mechanism (when appropriate) be inspected prior to each diving operation. Items singled out for pre-dive equipment inspection are those which are critical for the safety of the dive operation; however, this list is not intended to be all inclusive. It is expected that the items of equipment included in the check list which require visual inspection will vary depending on mode and individual company policies. An issue was raised at the hearings concerning employer-provided versus employee-owned equipment and whether the diver or designated person-in-charge should be responsible for the required pre-dive equipment inspection (Tr. 138, 181, 1127–9, 1394, 1734–5, 1798–9, 2193; Ex. 178, p. 60–2). However, the standard's inspection requirement recognizes no such distinction. The employer is responsible for overall compliance and a designated person is in charge of each diving operation; how particular functions required by this standard are apportioned or delegated is the employer's responsibility, so long as the performance required by the standard is met.

The standard requires the international code flag "A" to be displayed at the dive location on structures other than vessels which are situated in areas which support marine traffic. As of July 15, 1977, a similar warning display requirement applies to all diving operations supported from vessels, pursuant to Congressional ratification of the "International Regulations for Preventing Collisions at Sea 1972, Rule 27." The further requirement that the warning display be illuminated at night is responsive to testimony (Tr. 215–7; Comment N). Other warning displays such as the American dive flag may still be flown, but not in lieu of the international code flag "A".

The requirement that diving operations be coordinated with other activities in the vicinity which are likely to interfere with the diving operation corresponds to the "hazards to diving operations" requirement of the proposal, which was generally supported in the hearings (Tr. 136, 1733). The purpose of such coordination is to make appropriate arrangements to minimize hazards to the dive team. Nearby blasting, movement of surface vessels, or movement of materials directly over the dive location would be examples of such activities. In response to testimony, the requirement has been modified to require coordination only with those activities in the vicinity which are "likely" to interfere with the diving operation, and not with all operations that "may" interfere; the warning display should be sufficient notice to such other activities to stay clear of the diving operation (Tr. 2037–8).

7. *Procedures during dive (§ 1910.422).* The requirements in this section relate primarily to procedures which must be followed between the time the diver enters and the time the diver leaves the water.

The requirements for water entry and exit are similar to that of the proposal, although a greater measure of specificity has been introduced by requiring that the means provided be "capable of supporting the diver" and that they "extend below the water surface" when the diver is exiting (Tr. 739–41, 927, 1927). In conjunction with this modification the proposal's provision on "positioning" (formerly § 1910.421(s)) has been deleted since the concept of a stable work platform is embodied to a great extent in the final standard's requirement for a means of entry and exit which is capable of supporting the diver. In some situations, depending on sea state and other factors, a diver's entry into and exit from the water can be extremely hazardous, as evidenced from the hearing record (Tr. 849, 2203). Recommendations included requiring an open-bottom bell (Tr. 849) or a stage for all mixed-gas diving (Tr. 740). There was also testimony that the British require a skip, stage, or basket which is incapable of turning over (Tr. 2203). However, because there are a large number of possible alternatives for different operations under a variety of circumstances, precise means have not been specified (Ex. 178). As written, the requirement permits discretion, depending on sea state, diver dress, stress or fatigue, or any other factor which might affect the driver's ability to enter or exit the water safely, so long as the means provided are capable of supporting the diver. Such means might range from a stable work platform in the case of a SCUBA diver in calm water, to a ladder for a diver in a lightweight diving outfit, or a stage and winch for a diver in heavy gear who may be carrying several hundred pounds of suit and equipment and has greatly limited mobility. The latter situation relates closely to the standard's requirement for an inwater stage for heavy-gear diving as well as for mixed-gas diving, discussed below. Similarly, the provision requiring that the means for exiting the water extend below the water is a recognition that divers are often fatigued at the completion of a dive (Tr. 927). This fact, combined with the weight they carry, necessitates that whatever means are provided be easily accessible to the diver upon surfacing. This is even more critical in the case of an injured diver, for whom, the standard, like the proposal, requires a means to be provided for assistance from the water; for example, a hoist might be required to help a tender assist a disabled diver into a bell.

The requirement for an operational two-way voice communication system between each surface-supplied air or mixed-gas diver and a dive team member at the dive location or bell (when provided or required) is essentially the same as the proposal's requirement for communication between the diver and the tender, which was broadly supported at the hearings (Tr. 135, 141, 622, 719, 783, 200, 1739–40). The requirement for two-way voice communication between the bell and the dive location is also a particular application of the proposal's requirement and equally necessary to the safety of the operation. Pull signals are not considered an adequate substitute for voice communication; the only exception to this rule is SCUBA diving, where reliable voice communications are not generally an available or technologically feasible alternative (Tr. 783). The requirement for operational two-way communications at the dive location to obtain emergency assistance is essentially the same as that which appeared in the "emergency aid" requirement of the proposal. The need for this requirement was supported in the hearing record (Tr. 135, 720) and is in consonance with an existing Coast Guard requirement for vessels (Tr. 622, 720).

The requirements that appropriate decompression tables be at the dive location and a depth-time profile be made for each diver and maintained for the duration of the dive are basically the same requirements as those which appeared in the proposal's "pressure vessel for human occupancy (PVHO)" and "employer's record of dives" provisions. The tables are necessary to decompress the diver within prescribed limits or to assure that the diver remains within the no-decompression limits. Maintaining a record of the dive profile, including any breathing gas changes, enables the designated person-in-charge or the dive team member managing the decompression to determine if the diver is staying within the no-decompression limits, or is being decompressed or compressed in accordance with the planned decompression table (Tr. 1546–9). The proposal's requirement for automatic recording of time and depth for dives deeper than 190 fsw and for all mixed-gas dives has been deleted because testimony indicated that automatic recorders were unreliable for field use (Tr. 194, 1361–2, 1942–4; Ex. 178, p. 75), cannot be used to calculate a diver's decompression obligation (Tr. 1476–8, 1547; Ex. 178, p. 75), and would not increase the diver's safety (Tr. 653, 1547, 1760–1; Ex. 178, p. 75). Therefore, the required information may be recorded by whatever means and in whatever form the employer deems appropriate so long as the dive profile is maintained accurately.

The requirements for hand-held power tools are similar to those in the proposal. Requiring that hand-held electrical tools and equipment be de-energized before being placed into or retrieved from the water is a good safety

precaution against shock because a diver in the water is immersed in a conductive medium which diverts stray currents; when a tool is held out of the water by a partially immersed diver, the only path for leakage current is through the diver's body (Ex. 178, p. 92). The requirement for a constant pressure switch or control on the tool has been deleted in accordance with testimony (Ex. 178, p. 92). It is not always necessary that these tools be controlled from the dive location. There is a requirement however, that if power is supplied from the dive location, the tools not be energized until the diver requests that they be turned on. This provision assures that these tools or equipment will not be supplied with power when it is not wanted or the diver is not ready.

The welding and burning requirements are similar to those that appeared in the proposal. The requirement for a current supply switch to interrupt the current flow to the welding or burning electrode is necessary to control the power supplied to the welding equipment (Tr. 933). The tending requirement is intended to enable the tender or person-in-charge to operate the equipment and oversee the operation at all times; voice communication is essential to operations of this type because of the need for coordination between the power supply at the dive location and the diver working underwater (Ex. 12B, p. 66, 232). The switch has to be in the open position except during the actual welding so that power is not supplied to the welding or burning equipment at other times. The grounding requirement comes from the proposal and serves to protect against the hazard of shock to the diver (Ex. 12B p. 66, 232). The requirements for proper insulation and for equipment capable of carrying the maximum current are also addressed to the shock hazard (Tr. 919, 1743–4, 2019; Ex. 12B, p. 66, 231–2). Testimony supported the safety benefits of insulated gloves but it was also pointed out that employers cannot ensure that the diver underwater will wear them (Tr. 1745, 2018). The venting, flooding, or purging requirement derives from the proposal and is directed to the possibility of explosion in enclosed spaces containing flammable vapors or where such vapors may be generated by the application of hot-work and ignited (Tr. 2019; Ex. 154, p. 34; Ex. 178, p. 93–4). There have been serious accidents caused by explosives of this nature (Ex. 44B). Closed compartments, structures and pipelines already under flow, as in hot tapping operations, are flooded by definition and therefore meet this requirement.

The issue of whether or not the standard should prohibit the use of alternate current (AC) welding machines and direct current (DC) rectifiers in underwater welding was raised at the hearings. The NIOSH document (Ex. 12B, p. 231) and the National Academy of Sciences Marine Board Report, entitled Underwater Electrical Safety Practices, recommend prohibition of these machines because AC current (or AC leakage from DC rectifiers) is physiologically more hazardous than DC. However, testimony indicated that DC rectifiers and AC machines have been widely and safely used in underwater welding (Tr. 2044–9, Ex. 138, 178, p. 94–5). Post-hearing comments recommended that this issue should be investigated further because the Marine Board is at present reconsidering the matter (Ex. 46F; Comment R). OSHA has, therefore, determined that it would be premature to prohibit the use of alternating current and rectified direct current for underwater welding at this time.

The explosives requirements are similar to those in the proposal. No serious issues were raised concerning this section and consequently little testimony was presented on the subject. There was general testimony, however, concerning the hazardous nature of underwater demolition and the need for skill and knowledge in handling explosives (Tr. 903–4). The requirements of this section are addressed to the need for proper handling, storage, and use of explosives and the hazard of premature detonation when the diver is still in a position of risk.

The requirement concerning the termination of dives brings together several concepts which were explicit or implicit in the proposal. Termination refers only to the working interval of the dive; decompression procedures should not be omitted if this practice would add greatly to the diver's overall physical risk. Termination of a dive at the diver's request, restates the proposal's prohibition against making a diver dive unwillingly (Tr. 137, 2107–8); it is presumed that the diver would only request termination in the event of serious difficulty. If a diver fails to respond correctly to communications or signals, the dive should be terminated because of the likelihood that something is wrong with the diver, who may be unconscious, out of breathing gas, or otherwise disabled (Tr. 844–7, 853). Requiring that the working interval be terminated when communications are lost between the diver and a dive team member at the dive location or bell (either voice or line pull, as appropriate) is a corollary to the standard's two-way communication requirement, which requires such communication during the dive. Communication is essential to supporting the diver safely. Because of the high potential for hazards to the diver in liveboating operations, a similar termination provision is included when communication is lost between the designated person-in-charge and the person controlling the vessel in these operations. Finally, the dive must be terminated when the diver begins to use the diver-carried reserve or when the dive-location rseerve breathing gas supply is reduced to an amount sufficient only to supply the divers during decompression. This follows from the proposal's reserve breathing gas supply requirements. Because the diver-carrier reserve (bail-out bottle), the manual air reserve valve (J valve) of a SCUBA cylinder and the reserve supply available in heavy-gear dress are sufficient for only 3–5 minutes depending on depth, it is imperative that the diver stop work immediately and seek refuge or another source of breathing gas. Similarly, when the dive-location reserve supply is reduced to a level which will only support the divers during decompression, the working interval must cease and the diver must begin decompression.

8. *Post-dive procedures (§ 1910.423).* This section is concerned with procedures which must be followed after the completion of a dive. The requirement concerning post-dive precautions is similar in most respects to that of the proposal. The steps to be taken must include checking the diver's physical condition and watching for signs and symptoms of decompression sickness. This requirement applies to all divers because of tesimony that there may be sufficient inert gas in the tissues of a no-decompression diver to warrant post-dive surveillance (Tr. 322). After completion of a decompression dive, the diver must also be instructed to report any physical problems or adverse physiological effects, including symptoms of decompression sickness. Similarly, the diver must be advised of the location of an available decompression chamber. Decompression sickness symptoms may not be apparent until several hours after the dive, at which time the dive team may no longer be at the dive location. In such a situation, the diver should know exactly what to do to obtain proper treatment. Instruction on the hazards of flying after decompression diving derives from the proposal and testimony in support of the provision (Tr 906, 1208, 1737), although omission of a time or altitude limitation reflects evidence that the state of the art in this area is not sufficiently developed to prescribe specific restrictions (Tr. 322, 1323, Ex. 178, p. 76–8). In addition, for those dives which require the presence of a decompression chamber, the diver must be instructed to remain awake and in the vicinity of the chamber for at least one hour after the dive including decompression or, if appropriate, treatment (Tr. 1104, 1472–3). These requirements are comparable to similar provisions in the proposal, and reflect a recognition that delayed decompression effects can occur, and that sleep may conceal the onset of symptoms of decompression sickness.

The requirements for decompression chambers derives from the pressure vessel for human occupancy (PVHO) section of the proposal. The acronym PVHO is a general term encompassing any pressure vessel designed to be occupied by a human being. Because of the potential confusion in using a term which is currently not used in the industry, "PVHO" has been omitted from the standard (Tr. 1485–6; Ex. 178, p 64). Pressure vessels for human occupany other than decompression chambers (e.g., closed bells and personnel transfer capsules) are not specifically addressed in this standard except in respect to their recompression capability. As defined in the standard, the term decompression chamber is used to mean any pressure vessel, whether deck

chamber or bell/deep diving system, used for the purpose of treatment.

The standard requires a decompression chamber to be ready for use at the dive location for any dive which is outside the no-decompression limits or deeper than 100 fsw. Throughout the standard, the no-decompression limits and 100 fsw are used as a dividing line for the imposition of certain requirements which are made mandatory only outside these limits. For instance, the requirements concerning standby divers and diver-carried reserves, as well as the requirements for a decompression chamber, are based on these limits. This tiering of the standard reflects a determination that there is an increasing level of hazard associated with dives outside these limits. Decompression dives are deeper or longer than no-decompression dives, and they subject the diver to greater exposure times and increase the likelihood of diver fatigue and decompression sickness. These dives may also involve greater operational complexity. There is also a relationship between depth and increasing hazard. The diver is more frequently exposed to colder water on deep dives, and is constantly subjected to the added risks of greater pressure and pressure changes. All of these factors contribute to the increased stress associated with depth.

OSHA recognizes that decompression chambers involve relatively significant cost outlays and are sometimes cumbersome to transport, but their importance to diver safety is clear (Tr. 809, 817, 1272). Decompression chambers serve two primary functions. First they provide the only effective therapy—recompression—for decompression sickness and embolism. Second, decompression chambers are used for surface decompression, to reduce the amount of time the diver must be exposed underwater (Tr. 1272). Testimony on the issue of when to require a decompression chamber resulted in a number of alternative suggestions (Tr. 61, 181, 229–30, 239–40, 314–15, 397, 433, 598, 608–9, 720, 737, 747–8, 927–8, 969, 1645, 1941; Ex. 144, 145, 147, 154, p. 26 178, p. 65 Comment A). These ranged from a statement recognizing that a decompression chamber could be useful on all dive sites regardless of depth or conditions (Tr. 229), to a recommendation that it be required at 132 fsw if more than 30 minutes of ascent time is involved in the dive (Tr. 315). Other testimony supported the concept of a combination of time and depth as a determinant for decompression chamber availability (Tr. 61). Other specific depth-time combination recommendations included from any mixed gas dive, or dive deeper than 66 fsw decompression dive (Ex. 12B, p. 70), to 60 or 70 fsw and any decompression dive (Tr. 1941, 1972), to 120 fsw (Tr. 720). By setting a depth limit of 100 fsw in addition to the no-decompression/decompression cut-off, OSHA has attempted to weigh the conflicting evidence and has chosen the limit which had the widest support in the record (tr. 68, 181, 230, 608, 968; Ex. 154, p. 26; Comment V). By adding a depth limit to the decompression chamber requirement, the standard sets a specified depth at which all diving operations will require a chamber, eliminating the safety hazard inherent in operations which are planned below that depth to no-decompression limits without an on-site chamber, but which exceed those limits when the job is actually carried out (Ex. 178, p. 65). While it is difficult for a single rule to take into account all conditions where a decompression chamber might be needed, OSHA believes that this provision will result in recompression capability being available for the great majority of diving situations where the probability of its being needed is greatest.

Most, if not all, decompression chambers currently used in the field should already meet the 6 ATA requirement (Tr. 193). The requirement for a surface treatment capability to the maximum depth of the dive for dives exceeding 300 fsw can be met by a large-capacity deck decompression chamber, or a closed bell equipped for treatment, or a closed bell capable of mating with the chamber under pressure. A pressure capability of 6 ATA is sufficient for most decompression sickness treatment, but recompression capability to the depth of the dive is necessary for very deep dives because of the possibility of having to recompress a deep mixed-gas diver to the depth of the dive to carry out effective treatment (Tr. 192–3). If a bell or deep diving system is used as a decompression chamber, it must meet the other requirements for decompression chambers as well.

The treatment chamber must be dual-lock (two compartments) so that supplies and personnel may be transferred into and out of the main compartment (Tr. 950–1). Multiplace means that at least the main compartment must be large enough to accommodate and decompress two persons (a diver and an attendant) simultaneously (Ex. 178, p. 66). The requirement that the chamber be located within 5 minutes of the dive location is in consonance with the proposal's requirement that the chamber be "ready for use" and was supported in testimony (Tr. 738, 1091). The requirement that the chamber be located within 5 minutes of the dive location is necessary because the surface decompression tables are commonly designed to be used with equipment which meets this criterion (Tr. 193).

The requirement for a pressure gauge for each compartment capable of being pressurized follows from the dual-lock requirement and also derives from the depth gauge requirement of the proposal; it is comparable to the requirement that a depth gauge be used for each dive. A separate pressure gauge for each compartment is essential for dual-lock chambers to control pressure in each of two chambers if two divers are being treated in different locks, or if personnel have been transferred from outside and must be brought to the pressure of the inner lock (Tr. 170, 1069; Ex. 12B, 42, 178; Comment N).

The built-in-breathing-system requirement derives from the same section of the proposal, but has been made mandatory in response to testimony that all surface decompression and treatment tables in existence today are designed to use oxygen as an internal part of the decompression or treatment process (Tr. 181, 1069, 1073, 1272; Ex. 178, p. 110). The requirement for voice communication between chamber occupants and support personnel allows monitoring of a diver undergoing decompression or treatment, and is identical to the proposal's requirement. A viewport is essential so that chamber occupants can be observed when in the chamber; this provision also appeared in the proposal.

The requirement that the chambers be capable of illumination to permit observation of occupants and essential equipment is basic to the operation and tending of the chamber and its occupants from the outside (Tr. 1700, 1069).

The requirement that treatment tables, oxygen or other treatment gas, and sufficient breathing gas to pressurize the chamber during treatment be present when treatment is conducted reflects the need to treat divers with pressure-related illnesses or injuries and is based on testimony that proper and prompt treatment must be available to divers under such circumstances (Tr. 199, 1073, Ex. 178, p. 110). The requirement that a dive team member be available to operate the chamber for one hour after a dive derives from the proposal's requirement that a chamber operator be available to operate the chamber and that divers should remain in the vicinity of a chamber for one hour after completion of a dive. This provision reflects the fact that decompression sickness may occur within approximately an hour of surfacing; a chamber without a qualified operator would be of no help to a diver needing treatment and could itself pose a hazard (Tr. 1077–8).

The requirement to maintain a record of dives is similar to the one in the proposal. The hearing record indicates that keeping dive records is industry practice (Tr. 794–5, 801, 1549, 1575) and supports the need for accurate dive records (Tr. 1546–7). The main difference between this requirement and the proposal's is that certain items of information are required to be kept for all dives, and other information must be kept only for dives which are outside the no-decompression limits, deeper than 100 fsw or involve mixed gas, and others must be kept only for dives in which decompression sickness is suspected or its symptoms evidenced. Dive records are particularly relevant to accident reconstruction, determining individual diver sensitivities, and for making necessary operational adjustments in decompression procedures. The recordkeeping requirement for shallow water dives has been reduced, as recommended by evidence in the record (Comments A, B). In addition, the details of underwater and surface conditions have been modified and need only be approximate (Tr. 1757–8; Ex. 178 p. 73–4). The breathing gas profile and the residual inert gas obligation of each diver at the beginning of the dive,

in addition to the depth-time profile has been included in the list of required information for dives deeper than 100 fsw, outside the no-decompression limits, or using mixed gas to provide a complete record of the essential dive information (Tr. 1562). The approach which the standard takes toward reducing the incidence of decompression sickness is based on assessment of the past performance of tables and procedures, and consequently relies on the availability of records such as these.

Employers are required to keep accurate records of those decompression dives in which decompression sickness is suspected or symptoms are evidenced. These records are to include the depth and time of onset and description of decompression sickness symptoms, and the description and results of treatment. Many companies already keep such records (Tr. 1545–8, 1560–2) and the offshore diving industry where the impact of this provision is likely to be greatest generally recommends such a recordkeeping program (Ex. 178, p. 74–5). This requirement is in addition to the required investigation, evaluation and appropriate corrective action required in the decompression procedure assessment section.

The standard's requirements for decompression procedure assessment reflect the testimony and comments received in connection with the proposal's "decompression table assessment" section. The evidence presented by experts in the field of decompression indicated that the present state of decompression table development, performance, and verification is not sufficiently advanced to warrant inclusion of specific numerical field performance criteria of the type which appeared in the proposal (Tr. 300–303). However, the record does support a program of recordkeeping, investigation and evaluation of each incident of decompression sickness, with corrective action to be taken, after evaluation of the incident, to reduce the probability of recurrence of decompression sickness (Tr. 321, 886–7, Ex. 178, p. 89–91). The factors to be considered in the required investigation are the relevant information contained in the dive record, including such factors as work, temperature, diver's repetitive status, consideration of the past performance history of the decompression table in question, and the individual susceptibility of the diver, since these would be necessary to any investigation to determine what corrective action would be appropriate. The advantage of this approach compared to the criteria method of the proposal is that this approach requires every incident of decompression sickness to be assessed without waiting for the number of incidents to exceed a prescribed numerical ceiling (Tr. 309, 327). Because the performance criteria concept has been deleted, the need for a decompression assessment advisory committee, an idea which was explored by the panel of expert witnesses at the hearings (Tr. 328, 341), is not being pursued by OSHA at this time. However, after sufficient experience with the standard's decompression assessment provision has been gained, OSHA will seek to have the data reviewed and endeavor to reevaluate its regulatory approach in this area of concern.

The decompression procedure assessment section is designed to aid employers in the evaluation of the field performance of their decompression procedures (Tr. 311, 305). It is believed that such evaluation will lower the incidence of this occupational hazard, regardless of diving mode or current incidence, by eliminating or modifying those tables whose performance is not adequate and by revealing other procedures or conditions which may be causing decompression sickness (Tr. 307). OSHA anticipates that this requirement will result in continuing improvement in decompression tables and procedures so that divers in the field can be protected to the extent possible from the hazard of decompression sickness.

9. *SCUBA Diving* (*§ 1910.424*). The limits for SCUBA diving reflect testimony as to industry practice and procedure (Tr. 60–1, 779, 796–7, 851–2; Ex. 154, p. 30, 178, p. 80–1), and NIOSH and Navy recommendations (ETS Ex. 6, I–4–9, Ex. 12B, p. 79–82). Because the SCUBA diver has a limited breathing supply, does not generally have voice communication, and is often not monitored or controlled by surface support personnel, more stringent limits than those for surface-supplied air diving are considered appropriate to this mode (Tr. 1391, 1408). These factors have caused OSHA to limit commercial open-circuit SCUBA diving operations to depths shallower than 130 fsw. Although some testimony was presented to OSHA recommending an extension of the SCUBA depth limitation for divers using self-propulsion devices (Tr. 60; Ex. 154, p. 31, 178, p. 81), OSHA believes that the increased risks associated with the greater depths and a severely limited breathing gas supply do not justify this extension, particularly since most tasks can be more safely accomplished using other diving modes.

The standard requires a decompression chamber ready for use at depths deeper than 100 fsw or outside the no-decompression limits. No distinction between SCUBA and surface-supplied diving is made in this regard; and the reasons for the requirement are the same.

Untethered SCUBA diving, i.e., where the diver is not line-tended from the dive location, has been prohibited against currents greater than 1 knot, because divers in such situations must exert considerable effort to swim upstream, and the risk of disorientation and running out of breathing gas is a distinct hazard (Tr. 1391, 1408; ETS Ex. 6, I–4–9; Ex. 12B, p. 79–82). This requirement does not preclude work swimming with, rather than against, the current. Similarly, the requirement that a SCUBA diver not be allowed to perform work in enclosed and physically confining spaces unless line-tended has been included because of the danger of the diver's exhausting the breathing gas supply before reaching the surface in circumstances where the possible risk of temporary entrapment or disorientation is high (ETS Ex. 6, I–4–17; Ex. 62).

The procedures required for SCUBA diving include a standby diver available at the dive location while a diver is in the water. The purpose of a standby diver is to be ready to aid a diver who needs assistance in the water. This requirement for the SCUBA mode is based on a recommendation made by the diving contractors, who testified that SCUBA diving is generally not as safe as surface-supplied air diving, and that requiring a standby is an appropriate means of reducing the hazards associated with this mode (Ex. 178, p. 81).

The requirement that the diver be supported by either a diver in the water in continuous visual contact or a dive team member line-tending from the surface derives from the proposal's exception to the communications requirement for "buddy diving" in the SCUBA mode, and is a clarification of the intent of that provision. While line-tending the SCUBA diver from the dive location is considered preferable to buddy diving (Tr. 1391–2), it is recognized that the latter is an accepted practice and is relatively safe in clear and calm waters, such as should prevail when there are currents less than 1 knot. The "in continuous visual contact" restriction has been added because the safety advantage of having two divers in the water tending each other (buddy diving) is lost if this condition is not fulfilled; without visibility, divers cannot tend each other adequately (Tr. 796).

Stationing a diver at the underwater point of entry to an enclosed or confining space was a requirement of the proposal which was endorsed as industry practice in testimony, and is necessary because of the increased danger of entanglement or disorientation when diving in such circumstances (Tr. 140, 791, 822). The diver at the point of entry is required in addition to any standby diver at the dive location. Because of the configuration of many underwater structures, the diver in a physically confining space must be able to rely on immediate assistance in an emergency, particularly since in very narrow spaces, such a diver may not be able to carry an independent reserve breathing supply. This is a particularly important requirement for line-tended SCUBA diving in such circumstances because of the limited air supply.

The requirement that a diver-carried reserve breathing gas supply with either a manual reserve (J valve) or an independent reserve cylinder be provided for each diver allows alternative means of carrying a reserve breathing gas supply when diving in the SCUBA mode, such a supply is essential to the safety of the SCUBA diver (Ex. 178, p. 81). Requiring that the manual reserve valve or supply valve on the independent reserve cylinder be in the closed position prior to each dive is a safety precaution to assure that the air reserve will not be depleted inadvertently during the dive (ETS Ex. 6–5–1; Ex. 12B, p. 141).

10. *Surface-supplied air diving (§ 1910.425).* The surface-supplied air diving limits are the same as those which appeared in the proposal; they were generally supported by testimony (Tr. 142, 689–92; Ex. 178, p. 82). Beyond these limits air diving is considered unsafe because of nitrogen narcosis.

The standard requires that a decompression chamber be available and ready for use at the dive location for any surface-supplied air dive outside the no-decompression limits or deeper than 100 fsw; the reasons for such a requirement are the same as those discussed in connection with the requirement for recompression capability. The standard also requires the use of a bell for any dive with an inwater decompression time greater than 120 minutes, except when heavy gear is worn or diving is conducted in physically confining spaces. The 120 minute limit for bell diving, which appeared in the proposal, is now specified as "inwater" decompression time because it is time actually spent in the water which most affects the diver (Tr. 1574, 1952; Ex. 154, p. 31, 178, p. 83). The exceptions to the bell requirements have been modified to conform with testimony in the record. Heavy-gear diving with an inwater decompression time in excess of 120 minutes is permitted without a bell because this type of gear affords the diver relatively greater protection (ETS Ex. 6, I–6–1), and is too cumbersome to be used safely in conjunction with an open-bottom bell. This modification accords with the NIOSH recommendation (Ex. 12B, p. 82, 256) and with testimony (Tr. 157, 190–1, 1969, 1978). Second, the proposal's exception for "structurally enclosed dives" has been reworded as "physically confining spaces" to make it clear that the exception relates to any space whose configuration is such that use of the bell is hazardous because of the likelihood of entanglement, or infeasible because of the smallness of the space (Tr. 646, 1298, 1951; Ex. 178, p. 83). An example of such a situation would be inspection or work inside the structure of an offshore platform. No depth requirements are established for the use of a closed bell in surface-supplied air diving, because such diving is not permitted at the depths at which the standard requires closed bells to be used. The depth limits for closed bells are therefore discussed in connection with mixed-gas diving.

The requirement for each diver to be continuously tended while in the water is a basic safety practice for surface-supplied air diving. The requirement for a diver to be stationed at the underwater point of entry of an enclosed or physically confining space is included for the same reasons as stated in the discussion of SCUBA diving. The requirements that there be a primary breathing gas supply recognizes the most essential component of surface-supplied air diving. The system which provides air to the surface-supplied diver must have the capability to support all divers for the duration of the planned dive including decompression. (Ex. 12B, p. 36, 160).

Because of the generally greater hazards and complexity associated with deeper or longer dives, the standard specifies that one member of the dive team shall tend each diver in the water for dives deeper than 100 fsw or outside the no-decompression limits, because the safety of the diver could easily be compromised if the tender were also responsible for tending a second diver. This provision is supported by testimony (Tr. 925; Ex. 154, p. 24).

The requirement for a standby diver for all dives deeper than 100 fsw and outside the no-decompression limits is similar to the proposal's. The inclusion of a depth factor in this provision is another recognition by OSHA of the increasing hazard associated with increasing depth. Testimony indicated that this practice is essential to diver safety. (Tr. 610, 720, 929).

The requirement for a diver-carried reserve breathing gas supply for surface-supplied air dives deeper than 100 fsw or outside the no-decompression limits derives from a comparable section in the proposal and has been amended to accord with testimony recommending that greater specificity in this requirement would increase diver safety (Tr. 80, 141, 157; Comment R). A diver-carried reserve breathing gas supply is also required if a diver is prevented by the configuration of the dive area from directly reaching the surface, because of the greater risk of diver entrapment (Tr. 1927; Ex. 154). The diver-carried reserve required by the standard must be sufficient under standard operating conditions to allow the diver to reach the surface or another source of breathing gas, or to be reached by a standby diver. Heavy-gear diving is exempted from these provisions, because the gear itself carries its own reserve. There is also an exemption where the physical space of the dive area is such that a reserve supply cannot be carried safely.

The requirement for a dive-location reserve breathing gas supply at depths deeper than 100 fsw or outside the no-decompression limits derives from the reserve breathing gas supply section of the proposal. The supply is intended to function as a surface reserve supply. That this reserve system must be sufficient to support the divers during decompression follows from the fact that the working interval of the dive must be terminated as soon as the dive-location reserve is reduced to the amount needed to decompress any divers adequately. The working interval of a dive may continue, however, if this reserve is itself supplemented by an additional reserve supply. This requirement interrelates with the requirement for a diver-carried reserve sufficient to get the diver to a bell or other underwater place of refuge (which would have to be supplied by the dive-location system), the surface (where the diver may need a decompression chamber supplied by the dive-location system), or to support the diver while awaiting a standby diver (who must be supplied by the dive-location system) (Ex. 12B, p. 84, 259).

The requirements for an extra breathing gas hose capable of supplying breathing gas to the diver in the water and available to the standby diver at the dive location when heavy gear is worn for dives deeper than 100 fsw or outside the no-decompression limits is important because the established way to rescue the diver whose breathing gas supply has been lost is by sending a standby diver with a spare hose which is either attached to a secondary supply or contains an emergency air reserve. To be effective, the standby dive must also have the necessary tools to attach the spare hose (Tr. 868; Ex. 12B, p. 84). Similarly, an inwater stage is provided for heavy-gear diving outside these diving limits. This will limit the fatigue to which a heavy-gear diver is subject by providing a place when the diver can rest and from which a reserve breathing gas supply may be suspended (Tr. 157, 190–1, 850).

11. *Mixed-gas diving (§ 1910.426).* Mixed gas must be used as the breathing gas for any dive which exceeds the depth and bottom time limits for surfaced-supplied air diving. This requirement is unchanged from the one in the proposal, and the need for mixed gas at least at these limits is generally recognized.

A decompression chamber is required for all mixed-gas dives because of the greater likelihood of decompression sickness associated with this diving mode (Tr. 283–4; Ex. 12B, p. 70, 238). In addition, diving bells are required for such diving below 220 fsw or if the inwater decompression time exceeds 120 minutes, and closed bells are required below 300 fsw, with exceptions made when heavy gear is worn in the 220–300 fsw and the over 120 minute inwater decompression ranges, and for diving in physically confining spaces. The basic depth limits for mixed-gas diving with a bell appeared in the proposal, and are supported in the record (Ex. 154, p. 31). There was also testimony that bells always enhance job safety (Tr. 695) and some suggestion that bells should become mandatory at depths as shallow as 165 fsw, as is required in Great Britain (ETS Ex. 7); but contrary testimony urged a limit of 350 fsw (Comment EE). While the Association of Diving Contractors manual parallels the bell limits provision in many respects, the depth-time combinations of the manual would on occasion lead to different results (Tr. 176[4], 1713–14; ETS Ex. 4). Testimony in the record, however, was more concerned with discussing what appropriate exceptions to the bell requirements should be rather than taking issue with the prescribed depth limits (Ex. 178, p. 82–3). As in surface-supplied air diving, exceptions are made for heavy-gear diving and diving conducted in physically confining spaces. The exception for heavy-gear diving does not extend deeper than 300 fsw because the hazards associated with such depths are not offset by the relatively greater safety advantages of heavy gear.

It should be noted that the standard does not include the section from the proposal on limits for oxygen partial pressures, long-duration oxygen expo-

sure, and partial pressures of nitrogen. Testimony at the hearing was opposed to the proposal's limits because such limits were too conservative (Tr. 81, 647), have not yet been definitively established (Tr. 1332, 1348–9; Ex. 178, p. 87), might interfere rather than enhance diver safety (Tr. 316, 647, 1392), and would prohibit a number of safe and successful procedures (Tr. 317, 647, 1332, 1348–9).

The procedures required for mixed-gas diving are similar to those for surface-supplied air diving and the same rationale supports them, except that no depth or time distinctions are made with regard to the requirements for a separate dive team member to tend each diver, a standby diver, and a dive-location reserve breathing gas supply. This is because mixed-gas dives are inherently complex operations. Regardless of depth or time in the water, mixed-gas diving presents a relatively greater risk than does air diving. Also, because of the cumbersomeness of the gear and the fatigue to which mixed-gas divers are subject, an inwater stage is required to be provided for all mixed-gas dives deeper than 100 fsw or outside the no-decompression limits without access to a bell and for all heavy-gear dives regardless of time or depth (Tr. 927). As a practical matter, however, most mixed-gas dives are conducted for times or at depths at which the comparable requirements would be applied if the surface-supplied air diving mode were used.

In the case of mixed-gas diving, the requirements with regard to the amount of breathing gas that must be available is particularly significant because the mixed-gas supply is fixed in quantity and must be either mixed at the dive location or brought pre-mixed. Further, these dives are likely to be longer and deeper, and the likelihood of decompression sickness is consequently greater, thus necessitating relatively longer dependence on the available breathing supply. Moreover, because the decompression chamber is generally supplied with air even though the dive itself was on mixed gas, both primary and dive-location reserve systems must include sufficient air capacity in addition to the mixed-gas supply.

12. *Liveboating (§ 1910.427).* Liveboating is defined as the practice of supporting a surface-supplied air or mixed-gas diver from a vessel which is underway. It is considered to be one of the more hazardous divings operations because the vessel is moving and the possibility exists of the diver's hose becoming entangled in the propeller (Tr. 741–2). As in the proposal, liveboating is limited by the surface-supplied air diving limits, although mixed-gas may also be used to 220 fsw. This represents a determination that liveboating is too hazardous for greater times or depths and corresponds with the minimum time and depth limits at which use of a diving bell is required (Tr. 751, 1432; Ex. 154, p. 32). Since liveboating cannot practically or safely be conducted with a bell (Tr. 751; Ex. 178, p. 184), it is not permitted beyond these depths. There are alternative methods of accomplishing the same work tasks performed by liveboating operations (Comment EE). The limit for decompression time has been changed to "inwater decompression time," in accordance with testimony, and for the reasons stated in the discussion of the diving bell limits. The requirement that liveboating not be conducted in rough seas has been made "rough seas which significantly impede diver mobility or work function" in response to suggestions that this be specified (Tr. 750, 1144–5; Ex. 154, p. 32), the determination of rough seas is therefore directly related to their affect on the safe conduct of the operation. The prohibition on diving in other than daylight hours remains because of the excessive hazard of liveboating in the dark, when the diver and hose cannot be adequately monitored.

The procedures required for liveboating apply in addition to those for surface-supplied air or mixed-gas diving, and are necessitated by the particular characteristics and relative hazards of this technique. The standard requires that the propellers of the vessel supporting liveboating be stopped before the diver leaves the last water stop (Tr. 742). This is a necessary precaution against hose entanglement. Second, a device must be used in all liveboating operations to protect the diver's hose from accidental entanglement with the vessel's propeller. Suggestions for the necessary device ranged from a propellor shroud (Tr. 742) to a weighted fair lead system (Tr. 930–2, 1703–4), to an air tugger with a heavy weight (Tr. 1430). Some of these devices are said to interfere significantly with the vessel maneuverability and thus to increase the hazard (Ex. 178), and other testimony indicates that using a weight off the bow is ineffective (Tr. Darr). Because of the conflicting testimony and the lack of firm data as to which is the preferred method, the standard does not specify which device must be used, so long as a device or apparatus is used to minimize the hazard of hose entanglement. Third, the proposal's requirement for two-way communication has been extended to include such equipment between the designated person-in-charge at the liveboating dive location and the person controlling the vessel from which the operation is supported (Tr. 1132, 1431). This provision allows the person-in-charge instant communication with the vessel captain should an emergency such as hose entanglement occur. Finally, a standby diver must be available and a diver-carried reserve breathing gas supply must be carried during all liveboating operations in recognition of the relatively greater hazard, particularly the risk of entanglement inherently associated with this diving technique. In addition, the working interval of a liveboating operation must be terminated if communication is lost between the diver and the dive location, or between the person-in-charge and the person controlling the vessel. The general personnel requirements that each dive team member must be assigned tasks in accordance with the individual's experience and training, and that the designated person-in-charge have experience and training in the conduct of the assigned diving operation, are of particular importance in liveboating (Tr. 741, 778–9, 1134, 1952).

13. *Equipment (1910.430).* The equipment section provides basic requirements for equipment essential to diving operations. The general requirement that work done on or to equipment used in diving operations be recorded is similar to the "equipment log" section of the proposal. Such recording is basic safety procedure; the failure to keep records concerning such operations as equipment modification, repair, testing, calibration or maintenance service could constitute a serious hazard to the health or safety of the diver (Tr. 142–3). The standard permits either tagging or logging of the recorded information, whichever the employer finds more useful or appropriate, in accordance with testimony (Tr. 2072, Ex. 178, p. 112). Requiring the recording of the date and nature of the work performed and the name or initials of the person performing the work should provide the basic information necessary to ascertain the conditions of the equipment in question and whether or not it is in need of maintenance, testing, or replacement. The record, i.e., log or tag, must be kept until replaced by a subsequent, up-to-date record or when the equipment to which the record refers is withdrawn from service, because that is the period in which the record will be useful to the employer and employees.

The air compressor system requirements are similar to the proposals. The standard specifies that compressors must be equipped with a volume tank. The volume tank requirement is essentially the same as in the proposal, except that a drain valve has been included in the list of required items, in accordance with testimony (Tr. 977; Ex. 12B, p. 37). The check valve prevents loss of air from the volume tank if the compressor fails; the pressure gauge tells how much pressure is available, and the relief valve prevents excessive pressure buildup in the vessel. The drain valve can be used to drain water from the volume tank. The requirement that air compressor intakes located in an area away from exhaust and other contaminants is a basic and undisputed requirement designed to protect the purity of the diver's breathing air.

The air purity standards of the proposal reflect a concern with the quality of breathing air in diving operations, which was testified to by several divers (Tr. 781, 898, 1054–5, 1087–9). The contaminant levels contained in the proposal have been revised, however, in accordance with testimony and the new U.S. Navy air purity standards for divers, which indicate that 20 ppm for carbon monoxide and 1000 ppm for carbon dioxide are acceptable exposure levels for divers (Tr. 83, 317–20, 567–87 1647, 1657–59; Ex. 178, p. 106–7, Ex. 181). The proposal's hydrocarbon limit of 5 milligrams per cubic meter has been defined as oil

mist, as recommended in testimony (Tr. 569–71; Ex. 178, p. 106–7). Where the air sample should be taken is an important factor in determining air purity (Tr. 194–5). Requiring sampling at the connection to the distribution system allows air to be monitored near where it enters the system, i.e., diver's hose or chamber. This provides a truer indication of what the diver is breathing. The exclusion from oil mist testing of air delivered by compressors which do not use oil for lubrication is in accordance with testimony that such testing is unnecessary, and the use of such non-oil lubricated compressors should be encouraged (Tr. 167; Ex. 12B, p. 161–2, Ex. 178, p. 107). The proposal's requirement that air purity be tested every 1000 hours has been deleted to respond to testimony that compressors which run frequently have fewer problems than those run intermittently (Tr. 168, 183–4, 571–2); the requirement for testing at least every six months remains and was supported by testimony (Tr. 167–8).

The requirements for breathing gas supply hoses, connections and umbilicals are similar to those in the proposal. The requirement that the hoses shall have a working pressure at least equal to the working pressure of the total breathing gas system derives from, but is more specific than, the proposal's requirement that such hoses "be capable of the required gas flow rates of the system used." The requirement for bursting pressure was in the proposal and is a basic engineering principle, while the pressure testing requirement has been reworded to better achieve the intent. (Tr. 611, 2014–5, 2075–7; Ex. 178, p. 104). A test of 1.5 times the working pressure, rather than the maximum allowable working pressure, is appropriate to determine hose strength but places less stress on the hose, since the pressure prescribed will be well within the designed pressure capability of the hose. Requiring the open ends of hoses to be taped, capped or plugged when not in use is essentially the same requirement as appeared in the proposal and is designed to prevent the entry of foreign matter into hoses. With regard to breathing gas supply hose connectors, the standard makes it clear that the connectors, like the hoses themselves, must have a working pressure at least equal to the working pressure of the hose to which they are attached. That they be "resistant to accidental disengagement" has been specified in accordance with testimony indicating that such wording establishes an achievable requirement (Tr. 163). The requirements for hose markings, kink-resistance, and calculation of working pressure in relation to depth apply specifically to breathing gas supply hoses (umbilicals) between the supply source (i.e., the drive location or a bell) and the diver, because they are not necessary for other hoses used on the surface. The requirement for markings at 10 ft. interval has been extended to 100 ft. because some decompression tables require stops deeper than 50 ft. While the hose markings should never be used as the primary means of depth measurement, they have sometimes been used as a back-up when the pneumofathometer is disconnected (Tr. 821–2, 934, 1165, 1433). The requirement for calculating the working pressure relative to the supply source is so stated because the calculation is different depending on whether the supply source is on the surface or a submerged bell under pressure. The determining factor is the pressure differential between the supply source and the diver (Tr. 162–3).

The buoyancy control requirement is similar to the proposal's "dry suits (variable volume)" requirement, but is modified in accordance with testimony (Tr. 2030–1; Ex. 178, p. 103). The purpose of requiring exhaust valves in connection with buoyancy control is to minimize the possibility of uncontrolled ascent by the diver. The requirement for a buoyancy compensator, if used in SCUBA diving, to have an inflation source separate from the breathing gas supply is related to the SCUBA reserve supply requirement and is necessary to prevent diversion of the primary or reserve supply to non-emergency use. The provision for an inflatable flotation device for SCUBA diving has been given design specifications because an improperly designed device can be a greater safety hazard than aid (ETS Ex. 6, I–4–9). Requiring the manually activated device allows for quick inflation while the oral inflation device provides for a back-up capability. The function of the exhaust valve is the same on an inflatable flotation device as on any buoyancy-changing equipment.

The requirements for compressed gas cylinders are similar to those in the proposal. Specific design, construction and maintenance criteria for such equipment are already included in an existing OSHA regulation (29 CFR §§ 1910.166–177), and the applicable provisions of that standard apply to diving operations as well. The protection cap requirement has been modified to make clear that a cap is not required when the cylinder is manifolded or when used for SCUBA diving (Tr. 2059; Ex. 178, p. 111). The requirements for protection from excessive heat and falling are designed to prevent accidental rupture of the cylinders.

Design and maintenance criteria have been included for decompression chambers in that the standard requires such chambers to be built in accordance with the ASME (American Society of Mechanical Engineers) Boiler and Pressure Vessel Code, Section VIII or an equivalent. There was testimony that other pressure vessel codes, such as Det Norske Veritas, Lloyds, and the American Bureau of Shipping, establish acceptable standards which are recognized within the industry (Tr. 320; Comment R). These would be considered equivalent codes under this standard. However, decompression chambers manufacturered prior to the effective date of the standard will be in compliance if they are maintained in conformance with the code requirements, to which they were built, or their equivalent.

The requirement for means of maintaining the oxygen concentration in the chamber atmosphere below a level of 25% by volume derives from the "installed oxygen breathing system" section of the proposal, which has been modified based on testimony (Tr. 1486–8, 1442, 1953–4). Some means to control the chamber's oxygen level is essential when oxygen is being administered by mask for treatment or in surface decompression, as a protection against fire, particularly since the mask can leak (Tr. 1791). The means employed may be a ventilation system or an overboard dump system. While no written records or oxygen analysis are required, OSHA would anticipate that the oxygen concentration would be periodically analyzed during oxygen administration (Ex. 178, p. 110–11).

The muffler requirement has been included in accordance with testimony (Tr. 170, 184, 203, 1104; Ex. 154, p. 40; Comment R). Noise suppression in the chamber is essential to protect against hearing loss and to permit communication (Ex. 12B, p. 55, 209). It is recognized, however, that noise mufflers can be a fire hazard because oil collects on them. Accordingly, they must be regularly inspected and maintained. The exhaust muffler protects hearing of personnel outside the chamber and also prevents the noise of decompression from excessive disruption of voice communications.

The requirements for guards on exhaust line openings and a means for extinguishing fire are essentially the same as appear in the proposal, and have not been the subject of comment. They are directed to the suction and fire hazards that can occur in chambers. The requirement to equip and maintain the chamber to minimize sources of ignition and combustible materials is directly addressed to the problem of chamber fires. It has been modified from the proposal in accordance with testimony that fire hazards can and must be minimized, but cannot always be eliminated entirely (Tr. 169).

The requirement of a depth gauge for all divers is essentially the same as in the proposal and follows from the need to monitor the diver's depth-time profile, which is a basic component in calculating decompression (Ex. 178, p. 75). This gauge must be readable at the dive location for all surface-supplied and mixed-gas dives, but, as in practice carried by the SCUBA diver. A pneumofathometer is not specifically required because a digital gauge may also be used. The requirement for deadweight testing or calibration against a master reference gauge every 6 months appeared in the proposal and is intended to achieve the necessary accuracy (Tr. 1545). The factor of 2% discrepancy is based on testimony (Tr. 320). A timekeeping device is also specified to effect the requirement for maintaining and recording the key times of each dive.

The requirements for masks or helmets are similar to those in the proposal. The non-return valve was specified in the proposal and is designed to prevent reverse flow of the breathing gas if the supply is cut off; this is a protection against diver squeeze. The exhaust valve

requirement is the helmet/mask equivalent to the proposal's dry suit exhaust valve; the valve is used to control buoyancy and reduce the risk of uncontrolled ascent to the surface. This is standard equipment (ETS Ex. 6, I–69, Ex. 64Aiii, 1.2e1, e2). The mask or helmet ventilation requirement for surface-supplied air diving is identical to the one appearing in the proposal, except that the standard adds a performance specification which would allow helmets or masks with lower ventilation rates to be used or developed, provided they meet the performance requirements. This modification is in accord with the testimony at the hearings (Tr. 160–2, 195–6, 204–6), and NIOSH (Ex. 12B, p. 32–33).

The requirements for oxygen safety procedures have systemwide application. The oxygen safety requirement addresses primarily the hazard of combustion, and derives from the "oxygen cleaning" and the "oxygen piping in PVHO's" requirements of the proposal. That equipment used with oxygen or mixtures containing over 40% by volume oxygen must be designed for oxygen service was testified to at the hearings (Tr. 1393). Examples of metals which are suited to oxygen service are copper, brass, and monel. Non-metal materials should have low flammability (Ex. 12B, p. 133). Structural factors such as avoiding sharp turns and edges and using slow-opening valves should also be considered in determining suitability for oxygen service. The requirement concerning cleaning for oxygen service generalizes the proposal's requirement by applying it to all components (except umbilicals) used in oxygen service, in accordance with testimony (Tr. 164). Umbilicals are excluded from the requirement because there is no agreement as to how they should be cleaned and this is not current industry practice (Tr. 164). The standard does not specify which cleaning agents should or should not be used, because of lack of a generally recognized preferred method, and because many effective agents can be used. It should be noted, however, that NIOSH recommends that trichloroethylene, a non-fluorinated chlorinated hydrocarbon, should not be used because of potentially toxic effects of the solvent and its breakdown products; tri-sodium phosphate, trichlorotrifluoroethane and non-ionic detergents are considered acceptable agents, while use of ultrasonic cleaning devices facilitates quick and effective cleaning (Ex. 12B, p. 63).

The requirement for slow-opening shut-off valves in high-pressure systems also addresses the hazard of combustion. It is intended to prohibit the use of a ball valve or other quick-opening valve because quick-opening valves allow a rapid buildup of pressure, and therefore heat, in the piping system. If any hydrocarbons are present in such a situation, combustion may result. It is not meant to apply to hull-stop valves, which are open under normal operating conditions. Compressed air systems over 500 psig are included in this requirement because a similar combustion hazard exists in high-pressure air systems.

The weights and harnesses requirements derive from similar provisions in the proposal. The weight belt or assembly requirement its intended to permit weight assemblies, such as weights carried in pockets, to be used; this is preferable to specifying only belts. In accordance with the proposal and testimony, the standard requires the weights to be quick release, but does not specify that the quick release must be "simple" (Tr. 141, 152, 423, 1949; Ex. 178, p. 80). The harness requirement exempts SCUBA diving in addition to heavy-gear diving, since harnesses are not used or needed in these situations. The harness requirement has been modified in accordance with testimony that the harness does not have to be "separate" (Ex. 178, p. 82). No testimony was presented against the positive buckling device requirement, which remains from the proposal. The attachment and lifting point requirements have been modified slightly to achieve the intent both of preventing strain on the mask or helmet and distributing the force over the diver's body.

14. *Recordkeeping requirement (§ 1910.440).* The recordkeeping requirements of the standard are consistent with general OSHA policy concerning the recording, reporting, and availability of records. Part 1904 of 29 CFR is the basic OSHA regulation on the recording and reporting of occupational injuries and illnesses. Reference to 29 CFR Part 1904 is included in the final standard, as in the proposal, to remove any uncertainty as to its applicability. In addition, employers are required to record the occurrence of any diving-related injury or illness which requires hospitalization of 24 hours or more. Because of the relatively small size of the diving population and of individual diving operations, reports of fatalities or five or more hospitalizations, as required by 29 CFR Part 1904, may leave unrecorded a substantial proprotion of diving accidents. Requiring a record of hospitalizations of 24 hours or more will preserve information which can provide a more complete indication of the incidence of disease and injuries in the diving industry. The 24-hour hospitalization period has been used for the same reasons that have been discussed in relation to the reexamination after injury or illness requirement; again, this represents a modification of the 72-hour hospitalization or 5 days' treatment by a doctor criteria which appeared in the proposal.

In addition to recording and reporting of occupational injuries and illnesses there are other documents or reports which the standard requires. These are:

(1) Notification of deviations from the standard in an emergency situation and a written submission of the same upon request of the Area Director (§ 1910.401 (c));

(2) Physician's written report to the employer (§ 1910.411(e));

(3) Safe practices manual (§ 1910.420 (b));

(4) List of emergency aid (§ 1910.421 (b));

(5) Record of each dive (§ 1910.423 (d));

(6) Written evaluation of the decompression procedures assessment (§ 1910.-423(e)); and

(7) Tagging or logging of equipment procedures (§ 1910.430(a)). The rationale and record support for each of these documentation requirements have already been discussed in the order in which they appear in the standard.

The requirement to make records available to OSHA officials and to retain records required by the standard for varying periods depending on the type of record, remains from the proposal. Records which contain essential medical information, including dive team medical records, records of dives when there has been an incident of decompression sickness, decompression procedures assessment evaluations, and records of hospitalizations, are required to be kept for 5 years. This is consistent with the retention period for occupational illnesses and injuries reports required by 29 CFR Part 1904. The five year retention period is considered an appropriate time period in which employers must maintain the data from which the safety and health problem of diving can later be studied. After a record has been retained five years by the employer, the records must be forwarded to the National Institute for Occupational Safety and Health, which, under Section 20 and 22 of the Act, is authorized to conduct research, experiments, and demonstrations relating to occupational safety and health.

Depth-time profiles are required to be kept until completion of the recording of dive or, if appropriate, a decompression procedure assessment. A separate record of the profile information is not needed at that point. Records of dives, when there has been no incident of decompression sickness, must be retained for a year for OSHA enforcement purposes; they may also be used for research or study by NIOSH or OSHA. The safe practice manual and equipment records must be current because they serve only an operational function for which no historical record is necessary.

In addition, the standard provides for the availability of any record which pertains directly to the employee for inspection and copying by employees, former employees or their authorized representatives. This reflects a statutory provision in section 8(c)(3) of the Act that employees have a right to know their work exposures and medical status. A provision which requires successor employers to keep dive and employee medical records and the forwarding of records of the type required to be kept for 5 years to NIOSH in the event that an employer ceases to do business and there is no successor, has been included so that such records will be preserved for at least the required retention period.

In developing these requirements, OSHA has endeavored to require recordkeeping to the extent which is minimally necessary from the standpoint of safety

and health. On the whole, the requirements should be less burdensome for the shallow water employer, because the safe practices manual will be less complex, less information is required to be kept for each dive, and the need to assess an incident of decompression sickness should not arise in these operations.

Moreover, the recordkeeping requirements have been simplified in other respects from the proposal. First, as has been discussed, there is no requirement for automatic recording of time-depth profiles, and no need to maintain complicated statistical data in order to satisfy specified performance criteria for decompression sickness. Secondly, the requirement for a diver's log has been deleted. OSHA believes that since the log would, by its nature, have to be maintained by the employee, it would be difficult and unrealistic to enforce against the employer. Testimony at the hearings maintained that employers would not be willing to rely on the diver's log to verify an employee's diving-related work history or experience (Tr. 1522–7), that employer logkeeping placed an unnecessary burden on both employer and employee (Tr. 1478–81, 1711–2, 1753–6; Ex. 178, p. 78), and that such a log could not be used as a substitute for an accurate and complete diving-related medical history for each diver (Tr. 1478–81, 1522–7). OSHA encourages divers to maintain logs for their own personal use, but the agency has determined that the essential information required by this section of the proposal can best be obtained and maintained in the form of accurate dive and medical records, such as those required by the standard.

VI. Legal Authority

This standard is promulgated pursuant to sections 6(b), 6(c), and 8(c) of the Occupational Safety and Health Act of 1970 (the Act) (84 Stat. 1593, 1596, 1599; 29 U.S.C. 655, 657), Secretary of Labor's Order No. 8–76 (41 FR 25059), and Title 29, Code of Federal Regulations (CFR) Part 1911. By that authority, Part 1910 of 29 CFR is amended by adding a new permanent occupational safety and health standard for commercial diving operations as Subpart T, §§ 1910.401–1910.441. In addition, pursuant to the above authority and section 41 of the Longshoremen's and Harbor Workers' Compensation Act, as amended (44 Stat. 1444; 33 U.S.C. 941) and section 107 of the Contract Work Hours and Safety Standards Act (the Construction Safety Act) (83 Stat. 96; 40 U.S.C. 333), Parts 1915, 1916, 1917, 1918, and 1926 of 29 CFR are amended by adding to those Parts references to the new standard for commercial diving operations to clarify the applicability of this standard to diving operations conducted in the maritime and construction industries. A conforming amendment is also made to 29 CFR 1928.21(b), to include this Subpart T of Part 1910 among the general industry standards not applicable to agriculture.

This document was prepared under the direction of Eula Bingham, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue NW., Rcom S–2315, Washington, D.C. (202–523–9261).

Signed at Washington, D.C., this 15th day of July 1977.

Eula Bingham,
Assistant Secretary of Labor.

PART 1910—OCCUPATIONAL SAFETY AND HEALTH STANDARDS

Part 1910 of Title 29 of the Code of Federal Regulations is amended by adding a new subpart T to read as follows:

Subpart T—Commercial Diving Operations

General

1910.401 Scope and application.
1910.402 Definitions.

Personnel Requirements

1910.410 Qualifications of dive team.
1910.411 Medical requirements.

General Operations Procedures

1910.420 Safe practice manual.
1910.421 Pre-dive procedures.
1910.422 Procedures during dive.
1910.423 Post-dive procedures.

Specific Operations Procedures

1910.424 SCUBA diving.
1910.425 Surface-supplied air diving.
1910.426 Mixed-gas diving.
1910.427 Liveboating.

Equipment Procedures and Requirements

1910.430 Equipment.

Recordkeeping

1910.440 Recordkeeping requirements.
1910.441 Effective date.

Appendix

Appendix A: Examples of Conditions Which May Restrict or Limit Exposure to Hyperbaric Conditions.

Authority: Sec. 6, 8, 84 Stat. 1593, 1596, 1599 (29 U.S.C. 655, 657); Secretary of Labor's Order 8–76 (41 FR 25059); 29 CFR Part 1911; sec. 41, 44 Stat. (33 U.S.C. 941); sec. 107, 83 Stat. 96 (40 U.S.C. 333).

Subpart T—Commercial Diving Operations

General

§ 1910.401 Scope and application.

(a) *Scope.* (1) This subpart (standard) applies to every place of employment within the waters of the United States, or within any State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Trust Territory of the Pacific Islands, Wake Island, Johnston Island, the Canal Zone, or within the Outer Continental Shelf lands as defined in the Outer Continental Shelf Lands Act (67 Stat. 462, 43 U.S.C. 1331), where diving and related support operations are performed.

(2) This standard applies to diving and related support operations conducted in connection with all types of work and employments, including general industry, construction, ship repairing, shipbuilding, shipbreaking and longshoring. However, this standard does not apply to any diving operation:

(i) Performed solely for instructional purposes, using open-circuit, compressed-air SCUBA and conducted within the no-decompression limits;

(ii) Performed solely for search, rescue, or related public safety purposes by or under the control of a governmental agency; or

(iii) Governed by 45 CFR Part 46 (Protection of Human Subjects, U.S. Department of Health, Education, and Welfare) or equivalent rules or regulations established by another federal agency, which regulate research, development, or related purposes involving human subjects.

(b) *Application in emergencies.* An employer may deviate from the requirements of this standard to the extent necessary to prevent or minimize a situation which is likely to cause death, serious physical harm, or major environmental damage, provided that the employer

(1) Notifies the Area Director, Occupational Safety and Health Administration within 48 hours of the onset of the emergency situation indicating the nature of the emergency and extent of the deviation from the prescribed regulations; and

(2) Upon request from the Area Director, submits such information in writing.

(c) *Employer obligation.* The employer shall be responsible for compliance with:

(1) All provisions of this standard of general applicability; and

(2) All requirements pertaining to specific diving modes to the extent diving operations in such modes are conducted.

§ 1910.402 Definitions.

As used in this standard, the listed terms are defined as follows:

"Acfm": Actual cubic feet per minute.

"ASME Code or equivalent": ASME (American Society of Mechanical Engineers) Boiler and Pressure Vessel Code, Section VIII, or an equivalent code which the employer can demonstrate to be equally effective.

"ATA": Atmosphere absolute.

"Bell": An enclosed compartment, pressurized (closed bell) or unpressurized (open bell), which allows the diver to be transported to and from the underwater work area and which may be used as a temporary refuge during diving operations.

"Bottom time": The total elapsed time measured in minutes from the time when the diver leaves the surface in descent to the time that the diver begins ascent.

"Bursting pressure": The pressure at which a pressure containment device would fail structurally.

"Cylinder": A pressure vessel for the storage of gases.

"Decompression chamber": A pressure vessel for human occupancy such as a surface decompression chamber, closed bell, or deep diving system used to decompress divers and to treat decompression sickness.

"Decompression sickness": A condition with a variety of symptoms which

may result from gas or bubbles in the tissues of divers after pressure reduction.

"Decompression table": A profile or set of profiles of depth-time relationships for ascent rates and breathing mixtures to be followed after a specific depth-time exposure or exposures.

"Dive location": A surface or vessel from which a diving operation is conducted.

"Dive-location reserve breathing gas": A supply system of air or mixed-gas (as appropriate) at the dive location which is independent of the primary supply system and sufficient to support divers during the planned decompression

"Dive team": Divers and support employees involved in a diving operation, including the designated person-in-charge.

"Diver": An employee working in water using underwater apparatus which supplies compressed breathing gas at the ambient pressure.

"Diver-carried reserve breathing gas": A diver-carried supply of air or mixed gas (as appropriate) sufficient under standard operating conditions to allow the diver to reach the surface, or another source of breathing gas, or to be reached by a standby diver.

"Diving mode": A type of diving requiring specific equipment, procedures and techniques (SCUBA, surface-supplied air, or mixed gas).

"Fsw": Feet of seawater (or equivalent static pressure head).

"Heavy gear": Diver-worn deep-sea dress including helmet, breastplate, dry suit, and weighted shoes.

"Hyperbaric conditions": Pressure conditions in excess of surface pressure.

"Inwater stage": A suspended underwater platform which supports a diver in the water.

"Liveboating": The practice of supporting a surfaced-supplied air or mixed gas diver from a vessel which is underway.

"Mixed-gas diving": A diving mode in which the diver is supplied in the water with a breathing gas other than air.

"No-decompression limits": The depth-time limits of the "no-decompression limits and repetitive dive group designation table for no-decompression air dives", U.S. Navy Diving Manual or equivalent limits which the employer can demonstrate to be equally effective.

"Psi(g)": Pounds per square inch (gauge).

"SCUBA diving": A diving mode independent of surface supply in which the diver uses open circuit self-contained underwater breathing apparatus.

"Standby diver": A diver at the dive location available to assist a diver in the water.

"Surface-supplied air diving": A diving mode in which the diver in the water is supplied from the dive location with compressed air for breathing.

"Treatment table": A depth-time and breathing gas profile designed to treat decompression sickness.

"Umbilical": The composite hose bundle between a dive location and a diver or bell, or between a diver and a bell, which supplies the diver or bell with breathing gas, communications, power, or heat as appropriate to the diving mode or conditions, and includes a safety line between the diver and the dive location.

"Volume tank": A pressure vessel connected to the outlet of a compressor and used as an air reservoir.

"Working pressure": The maximum pressure to which a pressure containment device may be exposed under standard operating conditions.

Personnel Requirements

§ 1910.410 Qualifications of dive team.

(a) *General.* (1) Each dive team member shall have the experience or training necessary to perform assigned tasks in a safe and healthful manner.

(2) Each dive team member shall have experience or training in the following:

(i) The use of tools, equipment and systems relevant to assigned tasks;

(ii) Techniques of the assigned diving mode; and

(iii) Diving operations and emergency procedures.

(3) All dive team members shall be trained in cardiopulmonary resuscitation and first aid (American Red Cross standard course or equivalent).

(4) Dive team members who are exposed to or control the exposure of others to hyperbaric conditions shall be trained in diving-related physics and physiology.

(b) *Assignments.* (1) Each dive team member shall be assigned tasks in accordance with the employee's experience or training, except that limited additional tasks may be assigned to an employee undergoing training provided that these tasks are performed under the direct supervision of an experienced dive team member.

(2) The employer shall not require a dive team member to be exposed to hyperbaric conditions against the employee's will, except when necessary to complete decompression or treatment procedures.

(3) The employer shall not permit a dive team member to dive or be otherwise exposed to hyperbaric conditions for the duration of any temporary physical impairment or condition which is known to the employer and is likely to affect adversely the safety or health of a dive team member.

(c) *Designated person-in-charge.* (1) The employer or an employee designated by the employer shall be at the dive location in charge of all aspects of the diving operation affecting the safety and health of dive team members.

(2) The designated person-in-charge shall have experience and training in the conduct of the assigned diving operation.

§ 1910.411 Medical requirements.

(a) *General.* (1) The employer shall determine that dive team members who are, or are likely to be, exposed to hyperbaric conditions are medically fit to perform assigned tasks in a safe and healthful manner.

(2) The employer shall provide each dive team member who is, or is likely to be, exposed to hyperbaric conditions with all medical examinations required by this standard.

(3) All medical examinations required by this standard shall be performed by, or under the direction of, a physician at no cost to the employee.

(b) *Frequency of medical examinations.* Medical examinations shall be provided:

(1) Prior to initial hyperbaric exposure with the employer, unless an equivalent medical examination has been given within the preceding 12 months and the employer has obtained the results of the examination and an opinion from the examining physician of the employee's medical fitness to dive or to be otherwise exposed to hyperbaric conditions;

(2) At one year intervals from the date of initial examination or last equivalent examination; and

(3) After an injury or illness requiring hospitalization of more than twenty-four (24) hours.

(c) *Information provided to examining physician.* The employer shall provide the following information to the examining physician:

(1) A copy of the medical requirements of this standard; and

(2) A summary of the nature and extent of hyperbaric conditions to which the dive team member will be exposed, including diving modes and types of work to be assigned.

(d) *Content of medical examinations.* (1) Medical examinations conducted initially and annually shall consist of the following:

(i) Medical history;

(ii) Diving-related work history;

(iii) Basic physical examination;

(iv) The tests required by Table 1; and

(v) Any additional tests the physician considers necessary.

(2) Medical examinations conducted after an injury or illness requiring hospitalization of more than 24 hours shall be appropriate to the nature and extent of the injury or illness as determined by the examining physician.

Table I.—*Tests for diving medical examination*

Test	Initial examination	Annual reexamination
Chest X-ray	X	
Visual acuity	X	X
Color blindness	X	
EKG: standard 12L[1]		
Hearing test	X	X
Hematocrit or hemoglobin	X	X
Sickle cell index	X	
White blood count	X	X
Urinalysis	X	X

[1] To be given to the employee once, at age 35 or over.

(e) *Physician's written report.* (1) After any medical examination required by this standard, the employer shall obtain a written report prepared by the examining physician containing:

(i) The results of the medical examination; and

(ii) The examining physician's opinion of the employee's fitness to be exposed to hyperbaric conditions, including any recommended restrictions or limitations to such exposure (see Appendix B).

(2) The employer shall provide the employee with a copy of the physician's written report.

(f) *Determination of employee fitness.* (1) The employer shall determine the extent and nature of the dive team member's fitness to engage in diving or be otherwise exposed to hyperbaric conditions consistent with the recommendations in the examining physician's report.

(2) If the examining physician has recommended a restriction or limitation on the dive team member's exposure to hyperbaric conditions, and the affected employee does not concur, a second physician selected by the employee shall render a medical opinion on the nature and extent of the restriction or limitation, if any.

(3) If the recommendation of the second opinion differs from that of the examining (first) physician, and if the employer and employee are unable to agree on the nature and extent of the restriction or limitation, an opinion from a third physician selected by the first two physicians shall be obtained. The employer's determination of the dive team member's fitness shall be consistent with the medical opinion of the third physician, unless the employer and employee reach an agreement which is otherwise consistent with the recommendation or opinion of at least two of the physicians involved.

(4) Nothing in this procedure shall be construed to prohibit either a dive team member from accepting, or an employer from offering, an assignment which is otherwise consistent with at least one medical opinion while a final determination on the employee's fitness is pending.

GENERAL OPERATIONS PROCEDURES

§ 1910.420 Safe practices manual.

(a) *General.* The employer shall develop and maintain a safe practices manual which shall be made available at the dive location to each dive team member.

(b) *Contents.* (1) The safe practices manual shall contain a copy of this standard and the employer's policies for implementing the requirements of this standard.

(2) For each diving mode engaged in, the safe practices manual shall include:

(i) Safety procedures and checklists for diving operations;

(ii) Assignments and responsibilities of the dive team members;

(iii) Equipment procedures and checklists; and

(iv) Emergency procedures for fire, equipment failure, adverse environmental conditions, and medical illness and injury.

§ 1910.421 Pre-dive procedures.

(a) *General.* The employer shall comply with the following requirements prior to each diving operation, unless otherwise specified.

(b) *Emergency aid.* A list shall be kept at the dive location of the telephone or call numbers of the following:

(1) An operational decompression chamber (if not at the dive location);

(2) Accessible hospitals;

(3) Available physicians;

(4) Available means of transportation; and

(5) The nearest U.S. Coast Guard Rescue Coordination Center.

(c) *First aid supplies.* (1) A first aid kit appropriate for the diving operation and approved by a physician shall be available at the dive location.

(2) When used in a decompression chamber or bell, the first aid kit shall be suitable for use under hyperbaric conditions.

(3) In addition to any other first aid supplies, an American Red Cross standard first aid handbook or equivalent, and a bag-type manual resuscitator with transparent mask and tubing shall be available at the dive location.

(d) *Planning and assessment.* Planning of a diving operation shall include an assessment of the safety and health aspects of the following:

(1) Diving mode;

(2) Surface and underwater conditions and hazards;

(3) Breathing gas supply (including reserves);

(4) Thermal protection;

(5) Diving equipment and systems;

(6) Dive team assignments and physical fitness of dive team members (including any impairment known to the employer);

(7) Repetitive dive designation or residual inert gas status of dive team members;

(8) Decompression and treatment procedures (including altitude corrections); and

(9) Emergency procedures.

(e) *Hazardous activities.* To minimize hazards to the dive team, diving operations shall be coordinated with other activities in the vicinity which are likely to interfere with the diving operation.

(f) *Employee briefing.* (1) Dive team members shall be briefed on:

(i) The tasks to be undertaken;

(ii) Safety procedures for the diving mode;

(iii) Any unusual hazards or environmental conditions likely to affect the safety of the diving operation; and

(iv) Any modifications to operating procedures necessitated by the specific diving operation.

(2) Prior to making individual dive team member assignments, the employer shall inquire into the dive team member's current state of physical fitness, and indicate to the dive team member the procedure for reporting physical problems or adverse physiological effects during and after the dive.

(g) *Equipment inspection.* The breathing gas supply system including reserve breathing gas supplies, masks, helmets, thermal protection, and bell handling mechanism (when appropriate) shall be inspected prior to each dive.

(h) *Warning signal.* When diving from surfaces other than vessels in areas capable of supporting marine traffic, a rigid replica of the international code flag "A" at least one meter in height shall be displayed at the dive location in a manner which allows all-round visibility, and shall be illuminated during night diving operations.

§ 1910.422 Procedures during dive.

(a) *General.* The employer shall comply with the following requirements which are applicable to each diving operation unless otherwise specfied.

(b) *Water entry and exit.* (1) A means capable of supporting the diver shall be provided for entering and exiting the water.

(2) The means provided for exiting the water shall extend below the water surface.

(3) A means shall be provided to assist an injured diver from the water or into a bell.

(c) *Communications.* (1) An operational two-way voice communication system shall be used between:

(i) Each surface-supplied air or mixed-gas diver and a dive team member at the dive location or bell (when provided or required); and

(ii) The bell and the dive location.

(2) An operational, two-way communication system shall be available at the dive location to obtain emergency assistance.

(d) *Decompression tables.* Decompression, repetitive, and no-decompression tables (as appropriate) shall be at the dive location.

(e) *Dive profiles.* A depth-time profile, including when appropriate any breathing gas changes, shall be maintained for each diver during the dive including decompression.

(f) *Hand-held power tools and equipment.* (1) Hand-held electrical tools and equipment shall be de-energized before being placed into or retrieved from the water.

(2) Hand-held power tools shall not be supplied with power from the dive location until requested by the diver.

(g) *Welding and burning.* (1) A current supply switch to interrupt the current flow to the welding or burning electrode shall be:

(i) Tended by a dive team member in voice communication with the diver performing the welding or burning; and

(ii) Kept in the open position except when the diver is welding or burning.

(2) The welding machine frame shall be grounded.

(3) Welding and burning cables, electrode holders, and connections shall be capable of carrying the maximum current required by the work, and shall be properly insulated.

(4) Insulated gloves shall be provided to divers performing welding and burning operations.

(5) Prior to welding or burning on closed compartments, structures or pipes, which contain a flammable vapor or in which a flammable vapor may be generated by the work, they shall be

vented, flooded, or purged with a mixture of gases which will not support combustion.

(h) *Explosives.* (1) Employers shall transport, store, and use explosives in accordance with this section and the applicable provisions of § 1910.109 and § 1926.912 of Title 29 of the Code of Federal Regulations.

(2) Electrical continuity of explosive circuits shall not be tested until the diver is out of the water.

(3) Explosives shall not be detonated while the diver is in the water.

(i) *Termination of dive.* The working interval of a dive shall be terminated when:

(1) A diver requests termination;

(2) A diver fails to respond correctly to communications or signals from a dive team member;

(3) Communications are lost and can not be quickly re-established between the diver and a dive team member at the dive location, and between the designated person-in-charge and the person controlling the vessel in liveboating operations; or

(4) A diver begins to use diver-carried reserve breathing gas or the dive-location reserve breathing gas.

§ 1910.423 Post-dive procedures.

(a) *General.* The employer shall comply with the following requirements which are applicable after each diving operation, unless otherwise specified.

(b) *Precautions.* (1) After the completion of any dive, the employer shall:

(i) Check the physical condition of the diver;

(ii) Instruct the diver to report any physical problems or adverse physiological effects including symptoms of decompression sickness;

(iii) Advise the diver of the location of a decompression chamber which is ready for use; and

(iv) Alert the diver to the potential hazards of flying after diving.

(2) For any dive outside the no-decompression limits, deeper than 100 fsw or using mixed gas as a breathing mixture, the employer shall instruct the diver to remain awake and in the vicinity of the decompression chamber which is at the dive location for at least one hour after the dive (including decompression or treatment as appropriate).

(c) *Recompression capability.* (1) A decompression chamber capable of recompressing the diver at the surface to a minimum of 165 fsw (6 ATA) shall be available at the dive location for:

(i) Surface-supplied air diving to depths deeper than 100 fsw and shallower than 220 fsw;

(ii) Mixed gas diving shallower than 300 fsw; or

(iii) Diving outside the no-decompression limits shallower than 300 fsw.

(2) A decompression chamber capable of recompressing the diver at the surface to the maximum depth of the dive shall be available at the dive location for dives deeper than 300 fsw.

(3) The decompression chamber shall be:

(i) Dual-lock;

(ii) Multiplace; and

(iii) Located within 5 minutes of the dive location.

(4) The decompression chamber shall be equipped with:

(i) A pressure gauge for each pressurized compartment designed for human occupancy;

(ii) A built-in-breathing-system with a minimum of one mask per occupant;

(iii) A two-way voice communication system between occupants and a dive team member at the dive location;

(iv) A viewport; and

(v) Illumination capability to light the interior.

(4) Treatment tables, treatment gas appropriate to the diving mode, and sufficient gas to conduct treatment shall be available at the dive location.

(5) A dive team member shall be available at the dive location during and for at least one hour after the dive to operate the decompression chamber (when required or provided).

(d) *Record of dive.* (1) The following information shall be recorded and maintained for each diving operation:

(i) Names of dive team members including designated person-in-charge;

(ii) Date, time, and location;

(iii) Diving modes used;

(iv) General nature of work performed;

(v) Approximate underwater and surface conditions (visibility, water temperature and current); and

(vi) Maximum depth and bottom time for each diver.

(2) For each dive outside the no-decompression limits, deeper than 100 fsw or using mixed gas, the following additional information shall be recorded and maintained:

(i) Depth-time and breathing gas profiles;

(ii) Decompression table designation (including modification); and

(iii) Elapsed time since last pressure exposure if less than 24 hours or repetitive dive designation for each diver.

(3) For each dive in which decompression sickness is suspected or symptoms are evident, the following additional information shall be recorded and maintained:

(i) Description of decompression sickness symptoms (including depth and time of onset); and

(ii) Description and results of treatment.

(e) *Decompression procedure assessment.* The employer shall:

(1) Investigate and evaluate each incident of decompression sickness based on the recorded information, consideration of the past performance of decompression table used, and individual susceptibility;

(2) Take appropriate corrective action to reduce the probability of recurrence of decompression sickness; and

(3) Prepare a written evaluation of the decompression procedure assessment, including any corrective action taken, within 45 days of the incident of decompression sickness.

SPECIFIC OPERATIONS PROCEDURES

§ 1910.424 SCUBA diving.

(a) *General.* Employers engaged in SCUBA diving shall comply with the following requirements, unless otherwise specified.

(b) *Limits.* SCUBA diving shall not be conducted:

(1) At depths deeper than 130 fsw;

(2) At depths deeper than 100 fsw or outside the no-decompression limits unless a decompression chamber is ready for use;

(3) Against currents exceeding one (1) knot unless line-tended; or

(4) In enclosed or physically confining spaces unless line-tended.

(c) *Procedures.*

(1) A standby diver shall be available while a diver is in the water.

(2) A diver shall be line-tended from the surface, or accompanied by another diver in the water in continuous visual contact during the diving operation.

(3) A diver shall be stationed at the underwater point of entry when diving is conducted in enclosed or physically confining spaces.

(4) A diver-carried reserve breathing gas supply shall be provided for each diver consisting of:

(i) A manual reserve (J valve); or

(ii) An independent reserve cylinder with a separate regulator or connected to the underwater breathing apparatus.

(5) The valve of the reserve breathing gas supply shall be in the closed position prior to the dive.

§ 1910.425 Surface-supplied air diving.

(a) *General.* Employers engaged in surface-supplied air diving shall comply with the following requirements, unless otherwise specified.

(b) *Limits.* (1) Surface-supplied air diving shall not be conducted at depths deeper than 190 fsw, except that dives with bottom times of 30 minutes or less may be conducted to depths of 220 fsw.

(2) A decompression chamber shall be ready for use at the dive location for any dive outside the no-decompression limits or deeper than 100 fsw.

(3) A bell shall be used for dives with an inwater decompression time greater than 120 minutes, except when heavy gear is worn or diving is conducted in physically confining spaces.

(c) *Procedures.* (1) Each diver shall be continuously tended while in the water.

(2) A diver shall be stationed at the underwater point of entry when diving is conducted in enclosed or physically confining spaces.

(3) Each diving operation shall have a primary breathing gas supply sufficient to support divers for the duration of the planned dive including decompression.

(4) For dives deeper than 100 fsw or outside the no-decompression limits:

(i) A separate dive team member shall tend each diver in the water;

(ii) A standby diver shall be available while a diver is in the water;

(iii) A diver-carried reserve breathing gas supply shall be provided for each diver except when heavy gear is worn; and

(iv) A dive-location reserve breathing gas supply shall be provided.

(5) For heavy-gear diving deeper than 100 fsw or outside the no-decompression limits:

(i) An extra breathing gas hose capable of supplying breathing gas to the diver in the water shall be available to the standby diver.

(ii) An inwater stage shall be provided to divers in the water.

(6) Except when heavy gear is worn or where physical space does not permit, a diver-carried reserve breathing gas supply shall be provided whenever the diver is prevented by the configuration of the dive area from ascending directly to the surface.

§ 1910.426 Mixed-gas diving.

(a) *General.* Employers engaged in mixed-gas diving shall comply with the following requirements, unless otherwise specified.

(b) *Limits.* Mixed-gas diving shall be conducted only when:

(1) A decompression chamber is ready for use at the dive location; and

(i) A bell is used at depths greater than 220 fsw or when the dive involves inwater decompression time of greater than 120 minutes, except when heavy gear is worn or when diving in physically confining spaces; or

(ii) A closed bell is used at depths greater than 300 fsw, except when diving is conducted in physically confining spaces.

(c) *Procedures.* (1) A separate dive team member shall tend each diver in the water.

(2) A standby diver shall be available while a diver is in the water.

(3) A diver shall be stationed at the underwater point of entry when diving is conducted in enclosed or physically confining spaces.

(4) Each diving operation shall have a primary breathing gas supply sufficient to support divers for the duration of the planned dive including decompression.

(5) Each diving operation shall have a dive-location reserve breathing gas supply.

(6) When heavy gear is worn:

(i) An extra breathing gas hose capable of supplying breathing gas to the diver in the water shall be available to the standby diver; and

(ii) An inwater stage shall be provided to divers in the water.

(7) An inwater stage shall be provided for divers without access to a bell for dives deeper than 100 fsw or outside the no-decompression limits.

(8) When a closed bell is used, one dive team member in the bell shall be available and tend the diver in the water.

(9) Except when heavy gear is worn or where physical space does not permit, a diver-carried reserve breathing gas supply shall be provided for each diver:

(i) Diving deeper than 100 fsw or outside the no-decompression limits; or

(ii) Prevented by the configuration of the dive area from directly ascending to the surface.

§ 1910.427 Liveboating.

(a) *General.* Employers engaged in diving operations involving liveboating shall comply with the following requirements.

(b) *Limits.* Diving operations involving liveboating shall not be conducted:

(1) With an inwater decompression time of greater than 120 minutes;

(2) Using surface-supplied air at depths deeper than 190 fsw, except that dives with bottom times of 30 minutes or less may be conducted to depths of 220 fsw;

(3) Using mixed gas at depths greater than 220 fsw;

(4) In rough seas which significantly impede diver mobility or work function; or

(5) In other than daylight hours.

(d) *Procedures.* (1) The propeller of the vessel shall be stopped before the diver enters or exits the water.

(2) A device shall be used which minimizes the possibility of entanglement of the diver's hose in the propeller of the vessel.

(3) Two-way voice communication between the designated person-in-charge and the person controlling the vessel shall be available while the diver is in the water.

(4) A standby diver shall be available while a diver is in the water.

(5) A diver-carried reserve breathing gas supply shall be carried by each diver engaged in liveboating operations.

EQUIPMENT PROCEDURES AND REQUIREMENTS

§ 1910.430 Equipment.

(a) *General.* (1) All employers shall comply with the following requirements, unless otherwise specified.

(2) Each equipment modification, repair, test, calibration or maintenance service shall be recorded by means of a tagging or logging system, and include the date and nature of work performed, and the name or initials of the person performing the work.

(b) *Air compressor systems.* (1) Compressors used to supply air to the diver shall be equipped with a volume tank with a check valve on the inlet side, a pressure gauge, a relief valve, and a drain valve.

(2) Air compressor intakes shall be located away from areas containing exhaust or other contaminants.

(3) Respirable air supplied to a diver shall not contain:

(i) A level of carbon monoxide (CO) greater than 20 ppm;

(ii) A level of carbon dioxide (CO_2) greater than 1,000 ppm;

(iii) A level of oil mist greater than 5 milligrams per cubic meter; or

(iv) A noxious or pronounced odor.

(4) The output of air compressor systems shall be tested for air purity every six months by means of samples taken at the connection to the distribution system, except that non-oil lubricated compressors need not be tested for oil mist.

(c) *Breathing gas supply hoses.* (1) Breathing gas supply hoses shall:

(i) Have a working pressure at least equal to the working pressure of the total breathing gas system;

(ii) Have a rated bursting pressure at least equal to 4 times the working pressure;

(iii) Be tested at least annually to 1.5 times their working pressure; and

(iv) Have their open ends taped, capped or plugged when not in use.

(2) Breathing gas supply hose connectors shall:

(i) Be made of corrosion-resistant materials;

(ii) Have a working pressure at least equal to the working pressure of the hose to which they are attached; and

(iii) Be resistant to accidental disengagement.

(3) Umbilicals shall:

(i) Be marked in 10-ft. increments to 100 feet beginning at the diver's end, and in 50 ft. increments thereafter;

(ii) Be made of kink-resistant materials; and

(iii) Have a working pressure greater than the pressure equivalent to the maximum depth of the dive (relative to the supply source) plus 100 psi.

(d) *Buoyancy control.* (1) Helmets or masks connected directly to the dry suit or other buoyancy-changing equipment shall be equipped with an exhaust valve.

(2) A dry suit or other buoyancy-changing equipment not directly connected to the helmet or mask shall be equipped with an exhaust valve.

(3) When used for SCUBA diving, a buoyancy compensator shall have an inflation source separate from the breathing gas supply.

(4) An inflatable flotation device capable of maintaining the diver at the surface in a face-up position, having a manually activated inflation source independent of the breathing supply, an oral inflation device, and an exhaust valve shall be used for SCUBA diving.

(e) *Compressed gas cylinders.* Compressed gas cylinders shall:

(1) Be designed, constructed and maintained in accordance with the applicable provisions of 29 CFR § 1910.166-171;

(2) Be stored in a ventilated area and protected from excessive heat;

(3) Be secured from falling; and

(4) Have shut-off valves recessed into the cylinder or protected by a cap, except when in use or manifolded, or when used for SCUBA diving.

(f) *Decompression chambers.* (1) Each decompression chamber manufactured after the effective date of this standard, shall be built and maintained in accordance with the ASME Code or equivalent.

(2) Each decompression chamber manufactured prior to the effective date of this standard shall be maintained in conformity with the code requirements to which it was built, or equivalent.

(3) Each decompression chamber shall be equipped with:

(i) Means to maintain the atmosphere below a level of 25% oxygen by volume;

(ii) Mufflers on intake and exhaust lines, which shall be regularly inspected and maintained;

(iii) Suction guards on exhaust line openings; and

(iv) A means for extinguishing fire, and shall be maintained to minimize sources of ignition and combustible material.

(g) *Gauges and timekeeping devices.* (1) Gauges indicating diver depth which can be read at the dive location shall be used for all dives except SCUBA.

(2) Each depth gauge shall be deadweight tested or calibrated against a master reference gauge every six months, and when there is a discrepancy greater than two percent (2%) of full scale between any two equivalent gauges.

(3) A cylinder pressure gauge capable of being monitored by the diver during the dive shall be worn by each SCUBA diver.

(4) A timekeeping device shall be available at each dive location.

(h) *Masks and helmets.* (1) Surface-supplied air and mixed-gas masks and helmets shall have:

(i) A non-return valve at the attachment point between helmet or mask and hose which shall close readily and positively; and

(ii) An exhaust valve.

(2) Surface-supplied air masks and helmets shall have a minimum ventilation rate capability of 4.5 acfm at any depth at which they are operated or the capability of maintaining the diver's inspired carbon dioxide partial pressure below 0.02 ATA when the diver is producing carbon dioxide at the rate of 1.6 standard liters per minute.

(i) *Oxygen safety.* (1) Equipment used with oxygen or mixtures containing over forty percent (40%) by volume oxygen shall be designed for oxygen service.

(2) Components (except umbilicals) exposed to oxygen or mixtures containing over forty percent (40%) by volume oxygen shall be cleaned of flammable materials before use.

(3) Oxygen systems over 125 psig and compressed air systems over 500 psig shall have slow-opening shut-off valves.

(j) *Weights and harnesses.* (1) Except when heavy gear is worn, divers shall be equipped with a weight belt or assembly capable of quick release.

(2) Except when heavy gear is worn or in SCUBA diving, each diver shall wear a safety harness with:

(i) A positive buckling device;

(ii) An attachment point for the umbilical to prevent strain on the mask or helmet; and

(iii) A lifting point to distribute the pull force of the line over the diver's body.

RECORDKEEPING

§ 1910.440 Recordkeeping requirements.

(a) *Recording and Reporting.* (1) The employer shall record and report occupational injuries and illnesses in accordance with requirements of 29 CFR Part 1904.

(2) The employer shall record the occurrence of any diving-related injury or illness which requires any dive team member to be hospitalized for 24 hours or more, specifying the circumstances of the incident and the extent of any injuries or illnesses.

(b) *Availability of records.* (1) Upon the request of the Assistant Secretary of Labor for Occupational Safety and Health, or the Director, National Institute for Occupational Safety and Health, Department of Health, Education and Welfare or their designees, the employer shall make available for inspection and copying any record or document required by this standard.

(2) Upon request of any employee, former employee or authorized representative, the employer shall make available for inspection and copying any record or document required by this standard which pertains to the individual employee or former employee.

(3) Records and documents required by this standard shall be retained by the employer for the following period:

(i) Dive team member medical records (physician's reports) (§ 1910.411)—5 years;

(ii) Safe practices manual (§ 1910.420)—current document only;

(iii) Depth-time profile (§ 1910.422)—until completion of the recording of dive, or until completion of decompression procedure assessment where there has been an incident of decompression sickness;

(iv) Recording of dive (§ 1910.423)—1 year, except 5 years where there has been an incident of decompression sickness;

(v) Decompression procedure assessment evaluations (§ 1910.423)—5 years;

(vi) Equipment inspections and testing records (§ 1910.430)—current entry or tag, or until equipment is withdrawn from service;

(vii) Records of hospitalizations (§ 1910.440)—5 years.

(4) After the expiration of the retention period of any record required to be kept for 5 years, the employer shall forward such records to the National Institute for Occupational Safety and Health, Department of Health, Education, and Welfare.

(5) In the event the employer ceases to do business:

(i) The successor employer shall receive and retain all dive and employee medical records required by this standard; or

(ii) If there is no successor employer, dive and employee medical records shall be forwarded to the National Institute for Occupational Safety and Health, Department of Health, Education, and Welfare.

§ 1910.441 Effective date.

This standard shall be effective on October 20, 1977, except that for provisions where decompression chambers or bells are required and such equipment is not yet available, employers shall comply as soon as possible thereafter but in no case later than 6 months after the effective date of the standard.

APPENDIX A

EXAMPLES OF CONDITIONS WHICH MAY RESTRICT OR LIMIT EXPOSURE TO HYPERBARIC CONDITIONS

The following disorders may restrict or limit occupational exposure to hyperbaric conditions depending on severity, presence of residual effects, response to therapy, number of occurrences, diving mode, or degree and duration of isolation.

History of seizure disorder other than early febrile convulsions.

Malignancies (active) unless treated and without recurrence for 5 yrs.

Chronic inability to equalize sinus and/or middle ear pressure.

Cystic or cavitary disease of the lungs.

Impaired organ function caused by alcohol or drug use.

Conditions requiring continuous medication for control (e.g., antihistamines, steroids, barbiturates, moodaltering drugs, or insulin).

Meniere's disease.

Hemoglobinopathies.

Obstructive or restrictive lung disease.

Vestibular end organ destruction.

Pneumothorax.

Cardiac abnormalities (e.g., pathological heart block, valvular disease, intraventricular conduction defects other than isolated right bundle branch block, angina pectoris, arrhythmia, coronary artery disease).

Juxta-articular osteonecrosis.

PART 1915—SAFETY AND HEALTH REGULATIONS FOR SHIP REPAIRING

2. A new § 1915.59 is added to 29 CFR Part 1915 to read as follows:

§ 1915.59 Commercial diving operations.

Commercial diving operations shall be subject to Subpart T of Part 1910, §§ 1910.401–1910.441, of this Chapter.

PART 1916—SAFETY AND HEALTH REGULATIONS FOR SHIPBUILDING

3. A new § 1916.59 is added to 29 CFR Part 1916 to read as follows:

§ 1916.59 Commercial diving operations.

Commercial diving operations shall be subject to Subpart T of Part 1910, §§ 1910.401–1910.441, of this Chapter.

PART 1917—SAFETY AND HEALTH REGULATIONS FOR SHIPBREAKING

4. A new § 1917.59 is added to 29 CFR Part 1917 to read as follows:

§ 1917.59 Commercial diving operations.

Commercial diving operations shall be subject to Subpart T of Part 1910, §§ 1910.401–1910.441, of this Chapter.

PART 1918—SAFETY AND HEALTH REGULATIONS FOR LONGSHORING

5. A new section 1918.99 of 29 CFR Part 1918 is added to read as follows:

§ 1918.99 Commercial diving operations.

Commercial diving operations shall be subject to Subpart T of Part 1910, §§ 1910.401–1910.441, of this chapter.

PART 1926—SAFETY AND HEALTH REGULATIONS FOR CONSTRUCTION

6. Paragraph (e) of § 1926.605 is amended to read as follows:

§ 1926.605 Marine operations and equipment.

* * * * *

(e) *Commercial diving operations.* Commercial diving operations shall be subject to Subpart T of Part 1910, §§ 1910.401–1910.441, of this Chapter.

PART 1928—SAFETY AND HEALTH STANDARDS FOR AGRICULTURE

§ 1928.21 [Amended]

7. Section 1928.21(b) of 29 CFR Part 1928 is amended by substituting the letter T for S in the fourth line of the paragraph.

(Secs. 6, 8, 84 Stat. 1596, 1599 (29 U.S.C. 655, 657); Sec. 41, 44 Stat. 1444 (33 U.S.C. 941); Sec. 107, 83 Stat. 96 (40 U.S.C. 333); Secretary of Labor's Order 8–76 (41 FR 25059); 29 CFR Part 1911).

[FR Doc.77–20943 Filed 7–21–77;8:45 am]

federal register

FRIDAY, JULY 22, 1977

PART IV

DEPARTMENT OF STATE

■

FISHERY CONSERVATION AND MANAGEMENT ACT OF 1976

Applications for Permits To Fish Off the Coasts of the United States

DEPARTMENT OF STATE

[Public Notice 556]

FISHERY CONSERVATION AND MANAGEMENT ACT OF 1976

Applications for Permits to Fish Off the Coasts of the United States

The Fishery Conservation and Management Act of 1976 (P.L. 94–265) (the "Act") provides that no fishing shall be conducted by foreign fishing vessels in the Fishery Conservation Zone of the United States after February 28, 1977, except in accordance with a valid and applicable permit issued pursuant to Section 204 of the Act.

The Act also requires that all applications for such permits be published in the FEDERAL REGISTER.

Applications for fishing during 1977 have been received from the Government of Japan, and are published herewith.

Dated: July 14, 1977.

ALBERT L. ZUCCA,
Director, Office of Fisheries Affairs.

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

JA-77-0341

JA-77-0341

Permit Period AUGUST 1,1977 Application No. _____
Applied For: TO DECEMBER 31, 1977 For Use of Issuing Office

State: JAPAN

1. Name of Vessel KONCO MARU

2. Vessel No.: Hull No. KMM 9035 (TOEN-703) Registration No. FO 1-221

3. Name and Address of Owner Name and Address of Charterer

Name NIPPON SUISAN KAISHA, LTD.

Address 6-2, OTEMACHI 2-CHOME,

CHIYODA-KU, TOKYO 100 JAPAN

Cable Address

NISSUI TOKYO

4. Homeport and State of Registry: TOKYO JAPAN

5. Type of Vessel STERN TRAWLER

6. Tonnage (Gross) 3,249.32 M.T. (Net) 1,741.93 M.T.

7. Length 102.264 M. 8. Breadth 16.0 M. 9. Draft 6.601 M.

10. Horsepower 4,400 shp. 11. Maximum Speed 16.4 kt.

11. Propulsion: Diesel (*), Steam ( ), Diesel/Electric ( ),

Other -

13. Date Built DECEMBER 3, 1968

14. Number and Nationality of Personnel 62 JAPAN

Officers 11 Crew 27 Other (Specify) 24 WORKERS

15. Communications: VHF-FM (*), AM/SSB, Voice ( ), Telegraphy ( ),

Other -

International Radio Call Sign JJSM

Radio Frequencies Monitored 500KHZ

Other Working Frequencies SEE THE ATTACHED PAPER 1

Schedule WATCH TIME : 24 HOURS (BERING SEA & ALEUTIAN IS. GULF OF ALASKA)

16. Navigation Equipment: Loran C (*), Loran A (*), Omega ( ), Decca ( ), Navsat ( ), Radar (*), Fathometer (*),

Other -

17. Cargo Capacity (MT)

Salted Fish _____

Fresh Fish _____

Frozen Fish 900 M.T.

Fish Meal 330 M.T.

Other FISH OIL 190 M.T.

18. Cargo Space

Number	Name
SEE THE ATTACHED PAPER 2	
Freezer	1.2.3. FROZEN FISH HOLD
Dry Hold	4.5. FISH MEAL HOLD
	6.7. FISH OIL TANK
Tanks	
Other	

19. Processing Equipment (Indicate daily capacity,MT)

HEADING & CUTTING MACHINE	3SETS	45M.T./DAY (MAX)
FILLETTING MACHINE	3SETS	8M.T./DAY (MAX)
QUICK FREEZING SET	18SETS	50M.T./DAY (MAX)
PACKER	1SET	50M.T./DAY (MAX)
MEAL PLANT	1SET	FISH MEAL 16T./DAY (MAX) FISH OIL 8KL/DAY (MAX)

20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contenplated Catch (MT)	Gear to be Used
SEE THE ATTACHED PAPER 3				
BERING SEA ALEUTION IS. GULF OF ALASKA	AUG-DEC			MID WATER TRAWL BOTTOM TRAWL

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

_____

_____

_____

NOTICES

JA-77-0341

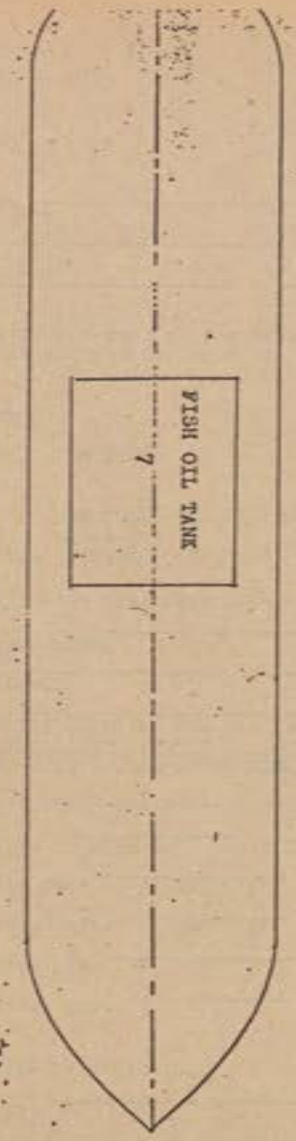
ATTACHED PAPER 1

OTHER WORKING FREQUENCIES

A1 A2	410 425 432 454 468 480 500 512 KHZ	
A1	1660	6280.5 2070 2091 16748 22246
	4187	6273.3 8374 12561 16728.8 22234
	4182.2	6299.25 8364.4 12546.6 16798 22299
	4199.5	6309 8399 12598.5 16824
	4206	6315 8412 12618 16840 22302.5
	4210	6321.75 8420 12630 16858 22252.5
	4214.5	6291 8429 12643.5 16776 22260
	4194	8388 12582
A3J	27054.5 27226.5 27274.5 27306.5 27374.5 KHZ	
F3	156.05 156.10 156.15 156.20 156.25 156.35 156.40	
	156.45 156.50 156.30 156.55 156.60 156.65 156.70	
	156.80 156.90 156.95 157.00 157.05 157.10 157.15	
	157.20 157.25 157.30 157.35 157.40 159.21	
	(EMERGENCY ONLY)	
A1 A2	410 425 468 500 KHZ	
A1	2091 KHZ	

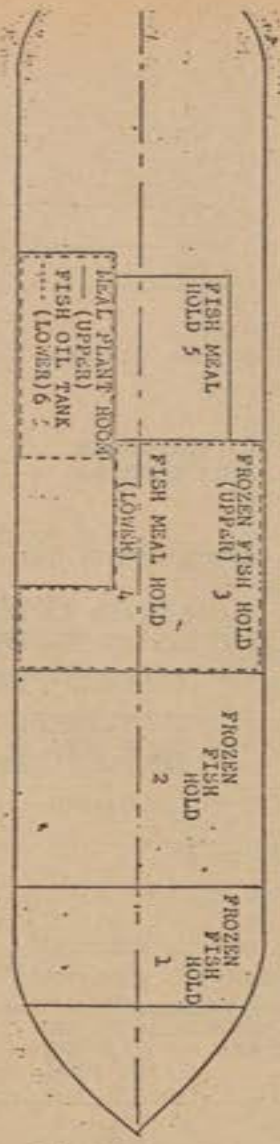
JA-77-0341

KONGO-MARU



HOLD ARRANGEMENT

ATTACHED PAPER 2



JA-77-0341

THE ATTACHED PAPER II

This vessel applies for fishing a portion of the allocations for the species in the ocean areas as described below:

Bering Sea and Aleutian Islands

Rockfishes	12,000 MT	
Pacific Cod	45,000	
Flounders	130,000	
Black Cod	7,000	
Herring	10,000	
Squid	10,000	
Pollock	800,000	bycatch
Other Groundfish	40,000	bycatch
Shrimp	500	bycatch

Gulf of Alaska

Rockfishes	22,000 MT	
Pacific Cod	1,000	
Flounders	16,000	
Black Cod	17,500	
Atka Mackerel	2,000	
Pollock	50,000	bycatch
Other Groundfish	12,000	bycatch

JA-77-1087

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

Permit Period MARCH 1, 1977 TO DECEMBER 31, 1977
Applied For:

Application No. 1087
For Use of Issuing Office

State: JAPAN

1. Name of Vessel SHINANO MARU
2. Vessel No.: Hull No. ——— Registration No. TK1-518
3. Name and Address of Owner / Name and Address of Charterer
   Name NICHIRO GYOGYO KABUSHIKI KAISHA / ———
   Address 12-1, YURAKU-CHO 1-CHOME / ———
   CHIYODA-KU, TOKYO, 100, JAPAN / ———
   Cable Address NICHIROGYO TOKYO / ———
   ——— / ———
4. Homeport and State of Registry: TOKYO, JAPAN
5. Type of Vessel REFRIGERATED TRANSPORT
6. Tonnage (Gross) 8,852.49 MT (Net) 5,116.18 MT
7. Length 153.27 M. 8. Breadth 20.80 M. 9. Draft 7.270 M.
10. Horsepower 6,500 shp. 11. Maximum Speed 16.9 kt.
11. Propulsion: Diesel (*), Steam ( ), Diesel/Electric ( ).
    Other ———
13. Date Built NOVEMBER, 1964
14. Number and Nationality of Personnel 45 JAPAN
    Officers 13 Crew 32 Other (Specify) ———
15. Communications: VHF-FM (*), AM/SSB, Voice ( ), Telegraphy (*).
    Other ———
    International Radio Call Sign J P E V
    Radio Frequencies Monitored 500 KHz
    Other Working Frequencies SEE THE ATTACHED PAPER I
    Schedule 24 Hours

JA-77-1087

JA-77-1087

16. Navigation Equipment: Loran C (*), Loran A (*), Omega (*),

Decca ( ), Navsat ( ), Radar (*), Fathometer (*),

Other _____

17. Cargo Capacity (MT)

Salted Fish _____

Fresh Fish _____

Frozen Fish 4680 MT

Fish Meal _____

Other _____

18. Cargo Space

Number	Name
SEE TH ATTACHED PAPER II	
I TO IX	FROZEN FISH HOLD
Freezer	
Dry Hold	
Tanks	
Other	

19. Processing Equipment (Indicate daily capacity, MT)

_____

_____

_____

_____

20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

_____

_____

_____

PAPER I SHINANO MARU

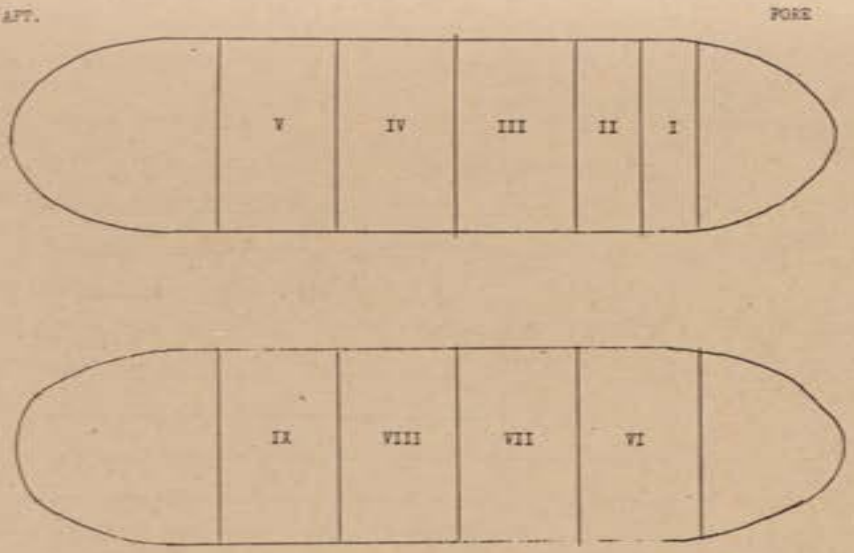
OTHER WORKING FREQUENCIES

A1

A2 410, 425, 432, 454, 468, 480, 500, 512 KHz

A1 4181.8, 6272.7, 8363.6, 12545.4, 16727.2, 22232 KHz
4185.8, 6278.7, 8371.6, 12557.4, 16743.2, 22244 KHz
4192.5, 6288.75, 8385, 12577.5, 16770, 22282.5 KHz
4213.5, 6320.25, 8427, 12640.5, 16854, 22306.5 KHz

F3 01 ch TO 28 ch



A Bering Sea and Aleutian Islands Trawl and Herring Gillnet Fishery

B Gulf of Alaska Trawl Fishery

C Sablefish Fishery

D Crabs Fishery

E Snails Fishery

F Seamount Groundfish Fishery

G Squids Fishery-Atlantic

H Other Finfish Fishery-Atlantic

JA-77-1087

SUMMARY OF ADDITIONAL APPLICATION

Number of Page	Name of Support Vessel	Type of Fishery
No.1087	SHINANO MARU	A,B,C,D,E,G,H
No.1088	KIZAN MARU	A,B,C,D,E,G,H

JA-77-1088

FISHING VESSEL IDENTIFICATION FORM (FOREIGN)

Permit Period Applied For: MARCH 1, 1977 TO DECEMBER 31, 1977

Application No. 1088
For Use of Issuing Office

State: JAPAN

1. Name of Vessel KIZAN MARU
2. Vessel No.: Hull No. —— Registration No. TKI-432
3. Name and Address of Owner / Name and Address of Charterer
   Name NICHIRO GYOGYO KABUSHIKI KAISHA / —
   Address 12-1, YURAKU-CHO 1-CHOME / —
   CHIYODA-KU, TOKYO, 100, JAPAN / —
   Cable Address NICHIROGYO TOKYO / —
   — / —
4. Homeport and State of Registry: TOKYO, JAPAN
5. Type of Vessel REFRIGERATED TRANSPORT
6. Tonnage (Gross) 8,859.94 MT (Net) 4,780.31 MT
7. Length 149.81 M. 8. Breadth 20.40 M. 9. Draft 8.119 M.
10. Horsepower 6,500 shp. 11. Maximum Speed 16.5 kt.
11. Propulsion: Diesel (•), Steam ( ), Diesel/Electric ( ),
    Other ——
13. Date Built DECEMBER, 1961
14. Number and Nationality of Personnel 45 JAPAN
    Officers 13 Crew 32 Other (Specify) —
15. Communications: VHF-FM (•), AM/SSB, Voice ( ), Telegraphy (•).
    Other ——
    International Radio Call Sign J B R H
    Radio Frequencies Monitored 500 KHz
    Other Working Frequencies SEE THE ATTACHED PAPER I
    Schedule 24 Hours

JA-77-1088 PAPER I KIZAN MARU JA-77-1088

15. Navigation Equipment: Loran C (*), Loran A (*), Omega (*),
Decca ( ), Navsat ( ), Radar (*), Fathometer (*),
Other _____

17. Cargo Capacity (MT)

Salted Fish _____
Fresh Fish _____
Frozen Fish 4460 MT
Fish Meal _____
Other _____

18. Cargo Space

Number	Name
SEE THE ATTACHED PAPER II	
I TO XIII	FROZEN FISH HOLD
Dry Hold	
Tanks	
Other	

19. Processing Equipment (Indicate daily capacity,MT)

_____
_____
_____
_____

20. Fisheries for which Permit is Requested:

Ocean Area	Period (From-To)	Species	Contemplated Catch (MT)	Gear to be Used

21. Name and Address of Agent appointed to receive any legal process issued in the United States:

_____
_____
_____

OTHER WORKING FREQUENCIES

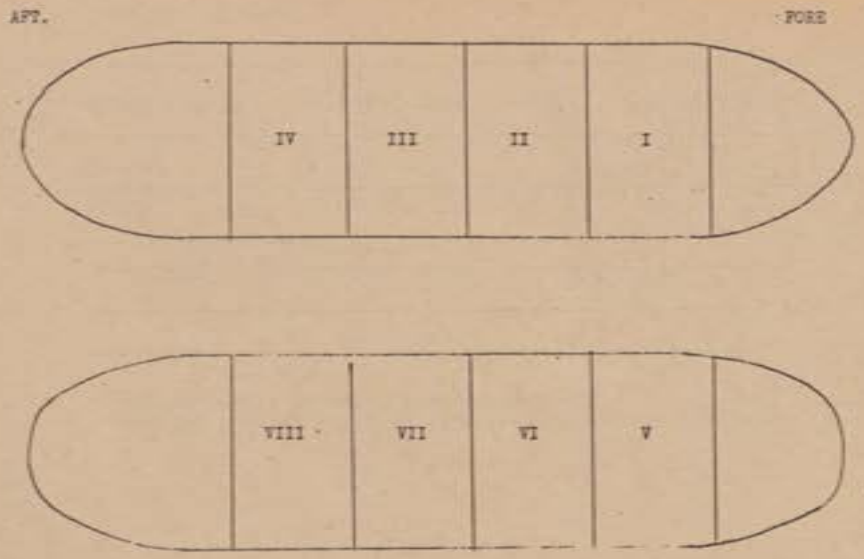
A1
A2 410, 425, 432, 454, 463, 480, 500, 512 KHz

A1 4181.8, 6272.7, 8363.6, 12545.4, 16727.2, 22232 KHz
4185.8, 6278.7, 8371.6, 12557.4, 16743.2, 22244 KHz
4192.5, 6288.75, 8385, 12577.5, 16770, 22282.5 KHz
4213.5, 6320.25, 8427, 12640.5 16854, 22306.5 KHz

F3 01 ch TO 28 ch

JA-77-1088

JA-77-1088



A Bering Sea and Aleutian Islands Trawl and Herring Gillnet Fishery

B Gulf of Alaska Trawl Fishery

C Sablefish Fishery

D Crabs Fishery

E Snails Fishery

F Seamount Groundfish Fishery

G Squids Fishery-Atlantic

H Other Finfish Fishery-Atlantic

JA-77-1088

SUMMARY OF ADDITIONAL APPLICATION

Number of Page	Name of Support Vessel	Type of Fishery
No.1087	SHINANO MARU	A,B,C,D,E,G,H
No.1088	KISAN MARU	A,B,C,D,E,G,H

[FR Doc. 77-20902 Filed 7-21-77;8:45 am]

federal register

FRIDAY, JULY 22, 1977

PART V

OFFICE OF MANAGEMENT AND BUDGET

■

BUDGET RESCISSIONS AND DEFERRALS

Reports to Congress

OFFICE OF MANAGEMENT AND BUDGET

PROPOSED BUDGET RESCISSIONS

Reports

TO THE CONGRESS OF THE UNITED STATES:

In accordance with the Impoundment Control Act of 1974, I herewith propose rescission of $462.0 million in procurement funds appropriated to the Department of Defense for the B–1 bomber. In addition, I am proposing rescission of $1.4 million provided to the Department of Defense for procurement of the short range attack missile (SRAM–B).

The details of the proposed rescissions are contained in the attached reports.

Jimmy Carter

THE WHITE HOUSE, JULY 19, 1977.

CONTENTS OF SPECIAL MESSAGE
(in thousands of dollars)

Rescission #	Item	Budget Authority
	Department of Defense–Military:	
R77-18	Aircraft procurement, Air Force	462,000
R77-19	Missile procurement, Air Force	1,400
	Total, rescissions	463,400

* *

SUMMARY OF SPECIAL MESSAGES
FOR FY 1977
(in thousands of dollars)

	Rescissions	Deferrals
Fifteenth special message:		
New items	463,400	---
Changes to amounts previously submitted	---	---
Effect of the fifteenth special message	463,400	---
Previous special messages	1,263,530	7,454,057
Total amount proposed in special messages	1,726,930 (in 19 rescission proposals)	7,454,057 (in 62 deferrals)

NOTE: All amounts listed represent budget authority except for $134,807,092 consisting of two general revenue sharing deferrals of outlays only (D77-26 and D77-27A). Reports for D77-26 and D77-27A are included in the special messages of October 1, 1976, and December 3, 1976, respectively.

Rescission Proposal No: R-77-18

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

Agency: Department of Defense	New budget authority (P.L. 94-419) $6,067,700.00
Bureau	Other budgetary resources 696,800.00
Appropriation title & symbol: Aircraft Procurement, Air Force 577/93010	Total budgetary resources 6,764,500.00
	Amount proposed for rescission $462,000,00
OMB identification code: 57-3010-0-1-051	Legal authority (in addition to sec. 1012): ☐ Antideficiency Act
Grant program: ☐ Yes ☒ No	☐ Other
Type of account or fund: ☐ Annual ☒ Multiple-year September 30, 1979 (expiration date) ☐ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification

Due to recent evolution of the air-launched cruise missile as an effective weapons system and the continued ability to use the B-52 bomber well into the 1980's, the President has directed that B-1 bomber production be halted. Of the amount appropriated for the B-1 bomber, $462.0 million is proposed for rescission. These funds are in excess of estimated termination liabilities.

Estimated Effects

If this rescission proposal is accepted, no additional B-1 bombers would be produced. In lieu of producing B-1 bombers, additional funding in 1978 will be sought for acceleration of air-launched cruise missile programs and for enhancing the capabilities of the present bomber force.

Outlay Effects (estimated in millions of dollars)

Comparison with the President's 1978 budget:	
1. Budget outlay estimate for FY 1977	$3,515.0
2. Outlay savings, if any, included in the budget outlay estimate	0
Current outlay estimate for FY 1977:	
3. Without rescission	3,348.0
4. With rescission	3,306.4
5. Current outlay savings (line 3 - line 4)	41.6
Outlay savings for FY 1978	189.7
Outlay savings for FY 1979	138.6
Outlay savings for FY 1980	55.4

R77-18

3.

DEPARTMENT OF DEFENSE - MILITARY

TITLE IV

PROCUREMENT

Aircraft Procurement, Air Force
(Including Transfer of Funds)

Of the funds appropriated under this head in the Department of Defense Appropriation Act, 1977, $462,000,000 are rescinded.

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

Agency Department of Defense	New budget authority (P.L. 94-419)	$1,827,700,000
Bureau	Other budgetary resources	104,630,569
Appropriation title & symbol Missile Procurement, Air Force 577/93020	Total budgetary resources	1,932,330,569
	Amount proposed for rescission	$ 1,400,000
OMB identification code: 57-3020-0-1-051	Legal authority (in addition to sec. 1012): ☐ Antideficiency Act	
Grant program ☐ Yes ☒ No	☐ Other	
Type of account or fund: ☐ Annual ☒ Multiple-year September 30, 1979 (expiration date) ☐ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other	

Justification

Due to recent evolution of the air-launched cruise missile as an effective weapons system and the continued ability to use the B-52 bomber well into the 1980's, the President directed that B-1 bomber production be halted. The short range attack missile (SRAM-B) is no longer required since it was designed exclusively for use with the B-1. Of the amount appropriated for the SRAM-B missile, $1.4 million is proposed for rescission. These funds are in excess of the estimated termination liability.

Estimated Effects

If the Congress accepts this rescission proposal, no SRAM-B missiles would be produced. In lieu of producing B-1 bombers and the associated SRAM-B missile, additional funding in 1978 will be sought for acceleration of air-launched cruise missile programs and for enhancing the capabilities of the present bomber force.

Outlay Effects (estimated in millions of dollars)

Comparison with the President's 1978 budget:

1. Budget outlay estimate for FY 1977	$1,642.0
2. Outlay savings, if any, included in the budget outlay estimate	0

Current outlay estimate for FY 1977:

3. Without rescission	1,642.0
4. With rescission	1,641.7
5. Current outlay savings (line 3 - line 4)	0.3
Outlay savings for FY 1978	0.7
Outlay savings for FY 1979	0.3
Outlay savings for FY 1980	0.1

DEPARTMENT OF DEFENSE - MILITARY

TITLE IV

PROCUREMENT

Missile Procurement, Air Force
(Including Transfer of Funds)

Of the funds appropriated under this head in the Department of Defense Appropriation Act, 1977, $1,400,000 are rescinded.

[FR Doc.77-21264 Filed 7-20-77;11:48 am]

PROPOSED BUDGET RESCISSIONS AND DEFERRAL

Reports

TO THE CONGRESS OF THE UNITED STATES:

In accordance with the Impoundment Control Act of 1974, I herewith propose two new rescissions totalling $96.1 million in budget authority and report one new deferral of $12.5 million in budget authority.

The rescission proposals pertain to the foreign military credit sales program and the General Services Administration's Federal Buildings Fund. The new deferral relates to the Department of Defense, Uniform Services University of the Health Sciences.

I urge the Congress to act favorably on the rescission proposals.

Jimmy Carter

THE WHITE HOUSE, JULY 19, 1977.

CONTENTS OF SPECIAL MESSAGE
(in thousands of dollars)

Rescission #	Item	Budget Authority
	Funds Appropriated to the President: International Security Assistance	
R77-16	Foreign military credit sales.....	21,090
	General Services Administration:	
R77-17	Federal Buildings Fund.....	75,000
	Subtotal, rescissions.....	96,090
Deferral #		
	Department of Defense - Military:	
D77-62	Military personnel and Operation and maintenance.....	12,465
	Total, rescissions and deferrals..	108,555

* *

SUMMARY OF SPECIAL MESSAGES
FOR FY 1977
(in thousands of dollars)

	Rescissions	Deferrals
Fourteenth special message:		
New items.....	96,090	12,465
Changes to amounts previously submitted.....	---	---
Effect of the fourteenth special message.....	96,090	12,465
Previous special messages.....	1,167,440	7,441,592
Total amount proposed in special messages.....	1,263,530 (in 17 rescission proposals)	7,454,057 (in 62 deferrals)

NOTE: All amounts listed represent budget authority except for $134,806,092 consisting of two general revenue sharing deferrals of outlays only (D77-26 and D77-27A). Reports for D77-26 and D77-27A are included in the special messages of October 1, 1976, and December 3, 1976, respectively.

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

Agency: Funds Appropriated to the President	New budget authority (P.L. 94-441, 95-15): $ 698,500,000
Bureau: International Security Assistance	Other budgetary resources: -0-
Appropriation title & symbol: Foreign Military Credit Sales, 1977 1171082	Total budgetary resources: 698,500,000
	Amount proposed for rescission: $ 21,090,000 1/
OMB identification code: 11-1082-0-1-052	Legal authority (in addition to sec. 1012): ☒ Antideficiency Act
Grant program: ☐ Yes ☒ No	☐ Other
Type of account or fund: ☒ Annual ☐ Multiple-year (expiration date) ☐ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification

Pursuant to Public Law 90-629, the Foreign Military Sales Act, approved October 22, 1968, as amended (including Title II of Public Law 94-329, the International Security Assistance and Arms Export Control Act of 1976, approved June 30, 1976), and Executive Order No. 11501 of December 22, 1969, as amended, the Secretary of Defense, under the continuous supervision and general direction of the Secretary of State, uses appropriated funds to make loans to friendly foreign countries and international organizations to finance procurement of defense articles and defense services from the United States and to guarantee loans made by private U.S. financial institutions or the Federal Financing Bank for the same purpose.

Public Law 94-441, the "Foreign Assistance and Related Programs Appropriations Act, 1977," approved October 1, 1976, appropriated $740,000,000 for the period October 1, 1976, through September 30, 1977, "to enable the President to carry out the provisions of the Foreign Military Sales Act" (now known as the Arms Export Control Act). On March 25, 1977, $41,500,000 of the amount was rescinded (Public Law 95-15), leaving a balance of $698,500,000 in this account.

It has now been determined that an additional $21,090,000 will not be required to carry out the full objectives and scope of the program for which it was provided and a rescission of that amount is proposed. This excess budget authority results from changes in program plans that place increased reliance on guaranteed loans rather than direct credit during fiscal year 1977. Under the guarantee program, funds equal to 10% of the face value are obligated to guarantee loans provided to foreign aid recipients by the Federal Financing Bank or private lending institutions. In contrast, the full face value of the loans is obligated by the U.S. Government in direct credit transactions. The program could operate at its full authorized level ($2,022.1 million) if the rescission is accepted.

1/ This amount was included in deferral D77-38. The amount currently deferred, net of this $21.1 million and routine releases, is $49.5 million.

Estimated Effects

The planned 1977 program of $2,022.1 million would not be affected by this rescission proposal because the proposal is concerned only with a change in the method of financing the loans--not in the level of loans.

Outlay Effect (Estimated in millions of dollars) 1/

Comparison with the President's 1978 budget:

1. Budget outlay estimate for 1977	575.0
2. Outlay savings, if any, included in the budget outlay estimate	---
Current outlay estimate for 1977:	
3. Without rescission	550.0
4. With rescission	545.0
5. Current outlay savings (line 3-line 4)	5.0
Outlay savings for 1978	10.0
Outlay savings for 1979	--
Outlay savings for 1980	--

1/ The outlay savings listed are savings from on-budget outlays. The shift from direct loans to loan guarantees results in a corresponding shift from on-budget to off-budget (Federal Financing Bank) outlays in the same amount as the "outlay savings" when the loans are made by the Federal Financing Bank.

TITLE II - FOREIGN MILITARY CREDIT SALES

Foreign Military Credit Sales

Of the funds appropriated under this head in the Foreign Assistance and Related Programs Appropriations Act, 1977, $21,090,000 are rescinded.

PROPOSED RESCISSION OF BUDGET AUTHORITY

Report Pursuant to Section 1012 of P.L. 93-344

Agency General Services Administration	New budget authority (P.L. 95-26) $125,000,000
Bureau	Other budgetary resources -0-
Appropriation title & symbol	Total budgetary resources 125,000,000
Federal Buildings Fund 47X4542	Amount proposed for rescission $ 75,000,000 *
OMB identification code: 47-4542-0-4-804	Legal authority (in addition to sec. 1012): ☐ Antideficiency Act
Grant program ☐ Yes ☒ No	☐ Other
Type of account or fund: ☐ Annual ☐ Multiple-year (expiration date) ☒ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification

The Supplemental Appropriations Act, 1977, (Public Law 95-26) provided $125 million to the Federal Buildings Fund (FBF) for alterations and major repairs projects.

At that time the supplemental appropriation was under consideration by the Congress in February and March, the economy was still lagging in its recovery, and unemployment was higher than it is currently. The stated purpose of the $125 million which was appropriated was to provide additional jobs on a nationwide basis, while at the same time improving the quality of Federal buildings. Subsequent to the passage of the supplemental appropriation, economic conditions improved significantly with unemployment decreasing and activity increasing in the construction industry as well as in the general economy. Thus, only $50 million of the appropriation--which would bring the 1977 repairs and alterations level up to its 1976 (and historic) level of approximately $100 million--is now needed and planned for use during the remainder of the fiscal year 1977. The major effort to achieve the other objective--improving the quality of Federal buildings will be met by doubling repair and alteration activity in 1978 when the level is planned to be $200 million. This level of funding--nearly twice the amount ever provided in the past--will fund the planned high priority repairs and alterations of GSA facilities. Funding of this magnitude permits work on a large number of geographically dispersed projects affecting all construction trades. Planning for this doubling of effort has been under way since January and has just been approved by the Congress in its actions on the regular 1978 appropriations.

* The entire $125 million appropriation was withheld from availability for the first two weeks in July, 1977 while this proposal was being considered.

Estimated Effects

The alterations and major repair work that would have been funded by the amount proposed for rescission will be carried out in 1978 and beyond.

Outlay Effect (estimated in millions of dollars)

Comparison with President's 1978 Budget:

1. Budget outlay estimate for 1977	$10.8
2. Outlay savings, if any, included in the budget outlay estimate	0

Current Outlay Estimates for 1977: 1/

3. Without rescission	-39.5
4. With rescission	-40.0
5. Current outlay savings (line 3-4)	+0.5
Outlay Savings for 1978	+35.0
Outlay Savings for 1979	+39.5

1/ The revised outlay estimate reflects consideration of the current outlay trend. The fund is now expected to have negative outlays in 1977 that would be increased by the rescission.

TITLE I
CHAPTER XIII
INDEPENDENT AGENCIES
GENERAL SERVICES ADMINISTRATION
Federal Buildings Fund
Alterations and Major Repairs

Of the funds appropriated under this head in the Supplemental Appropriations Act, 1977, $75,000,000 are rescinded.

Deferral No: D77-62

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency: Department of Defense	New budget authority (P.L. 95-26): $12,465,000
Bureau:	Other budgetary resources: -0-
Appropriation title & symbol: See Coverage section below	Total budgetary resources: 12,465,000
	Amount to be deferred: Part of year: $; Entire year: 12,465,000
OMB identification code: See Coverage section below	Legal authority (in addition to sec. 1013): [X] Antideficiency Act; [ ] Other
Grant program: [ ] Yes [X] No	
Type of account or fund: [ ] Annual; [X] Multiple-year September 30, 1978 (expiration date); [ ] No-year	Type of budget authority: [X] Appropriation; [ ] Contract authority; [ ] Other

Coverage:

Account Title	Appropriation Symbol	OMB Identification Code	Amount
Military personnel, Army	217/82010	21-2010-0-1-051	$ 1,167,000
Military personnel, Navy	177/81453	17-1453-0-1-051	888,000
Military personnel, Air Force	577/83500	57-3500-0-1-051	910,000
Operation and maintenance, Defense Agencies	977/80100	97-0100-0-1-051	9,500,000
			$12,465,000

Justification:

The amounts listed above are for the Uniformed Services University of the Health Sciences. These funds were appropriated in the Supplemental Appropriations Act, 1977 and made available until the end of 1978. The Congress appropriated the funds for operating the University in 1978. The purpose of this deferral is to postpone use of these funds until 1978 in accordance with the intent of Congress. The deferral will be maintained throughout 1977 to accomplish this purpose.

Estimated Effects:

There are no programmatic or budgetary effects resulting from this deferral since the funds will be apportioned in 1978 to comply with the intent of Congress.

Outlay Effects:

There are no outlay effects resulting from this deferral.

[FR Doc.77-21265 Filed 7-20-77;11:48 am]

federal register

FRIDAY, JULY 22, 1977

PART VI

DEPARTMENT OF LABOR

Employment Standards Administration

■

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

General Wage Determination Decisions

DEPARTMENT OF LABOR

Employment Standards Administration

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

General Wage Determination Decisions

General Wage Determination Decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed in construction activity of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates, (37 FR 21138) and of Secretary of Labor's Orders 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General Wage Determination Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

MODIFICATIONS AND SUPERSEDEAS DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS

Modifications and Supersedeas Decisions to General Wage Determination Decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the Modifications and Supersedeas Decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing General Wage Determination Decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and Supersedeas Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Office of Special Wage Standards, Division of Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rule-making procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Wage Determination Decision.

NEW GENERAL WAGE DETERMINATION DECISIONS

Michigan	MI77-2104

MODIFICATIONS TO GENERAL WAGE DETERMINATION DECISIONS

The numbers of the decisions being modified and their dates of publication in the FEDERAL REGISTER are listed with each State.

Alabama:		
	AL77-1040	Apr. 1, 1977.
Arizona:		
	AZ77-5058; AZ77-5060	June 17, 1977.
Arkansas:		
	AR77-4106	May 27, 1977.
	AR77-4107	June 3, 1977.
	AR77-4112; AR77-4114	June 10, 1977.
	AR77-4147	July 1, 1977.
California:		
	CA77-5039; CA77-5040	Apr. 22, 1977.
Connecticut:		
	CT76-2173	Dec. 28, 1976.
Michigan:		
	MI76-2140	Nov. 19, 1976.
Mississippi:		
	MS77-1030; MS77-1032	Mar. 25, 1977.
Missouri:		
	MO77-4162	July 15, 1977.
Minnesota:		
	MN77-2043	May 6, 1977.
Nevada:		
	NV77-5061	June 17, 1977.
	NV77-5146	Apr. 29, 1977.
New Mexico:		
	NM77-4116	June 17, 1977.
Pennsylvania:		
	PA77-3032	Mar. 25, 1977.
	PA77-3033	Feb. 18, 1977.
	PA77-3043	Apr. 8, 1977.
	PA77-3056	May 13, 1977.
Tennessee:		
	TN77-1082	July 8, 1977.
Texas:		
	TX77-4097	May 6, 1977.
	TX77-4102	May 13, 1977.
	TX77-4151; TX77-4152; TX 77-4153; TX77-4155; TX 77-4158; TX77-4159.	July 8, 1977.

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:		
	AL77-1039 (AL77-1085)	Apr. 22, 1977.
Massachusetts:		
	MA76-2095 (MA77-3062); MA76-2100 (MA77-3067).	Aug. 13, 1976.
	MA76-2103 (MA77-3070)	Aug. 20, 1976.
	MA76-2104 (MA77-3071)	Sept. 3, 1976.
Montana:		
	MT77-5021 (MT77-5073)	Mar. 4, 1977.
Pennsylvania:		
	PA76-3208 (PA77-3103)	July 2, 1976.
	PA77-3026 (PA77-3104)	Feb. 4, 1977.
	PA77-3039 (PA77-3102)	Apr. 8, 1977.
Tennessee:		
	TN77-1038 (TN77-1080)	Apr. 1, 1977.
Wisconsin:		
	WI76-2157 (WI77-2105); WI76-2158 (WI77-2106); WI76-2160 (WI77-2109); WI76-2161 (WI77-2110).	Dec. 17, 1976.
West Virginia:		
	WV77-3027 (WV77-3101)	Feb. 18, 1977.

Signed at Washington, D.C. this 15th day of July, 1977.

RAY J. DOLAN,
Assistant Administrator,
Wage and Hour Division.

NEW DECISION

STATE: Michigan COUNTY: Chippewa
DECISION NO: MI77-2104 DATE: Date of Publication
DESCRIPTION OF WORK: Residential Construction consisting of a single family homes and garden type apartments up to and including 4 stories.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Carpenters	$6.07	.25	.20		.01
Cement Masons	8.82	.60	.50		
Electricians:					
Units up to and including 2 story, garden type apartments (excluding buildings requiring the installation of an elevator or buildings that are steel fabricated or reinforced concrete frame)	6.64	.40	1%		½ of 1%
All other Residential Construction	10.15	.40	1%		$25.00/yr.
Drywall Hangers	7.50				
Laborers - Common	5.01				
Painters - Brush	5.00				
Plumbers & Pipefitters	8.82	.45	.60	1.00	.02
Roofers	7.31				
Soft Floor Layers	5.00				
POWER EQUIPMENT OPERATORS:					
Bulldozer Operator	6.80				
Backhoe Operator	6.06				
WELDERS - Rate for craft					

MODIFICATIONS P. 1

Decision # AL77-1040 - Mod. # 2 (42 FR-17752 - April 1, 1977) Madison County, Alabama	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Carpenters	8.40				.03
Laborers:					
Laborers, mason tenders	4.87	.25	.40		
Air tool operator (jackhammer, vibrator) mortar mixers	5.12	.25	.40		
Millwrights	8.90				.03

MODIFICATIONS P. 2

DECISION NO. AZ77-5058 - Mod. #2 (42 FR 31056 - June 17, 1977) Statewide, Arizona	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Electricians (Flagstaff Area):					
Zone A					
Electricians	$ 12.20	.96	3%+.78		1/2%
Cable Splicers	12.20	.96	3%+.78		1/2%
Zone B					
Electricians	14.50	.96	3%+.78		1/2%
Cable Splicers	14.50	.96	3%+.78		1/2%
Electricians (Gallup Area-Northern Apache County):					
Electricians	12.60	.60	3%+.70		1/2%
Cable Splicers	13.65	.60	3%+.70		1/2%
Electricians (Globe-Miami Area):					
Zone A					
Electricians	13.09	6%	3%+8%		1/2%
Cable Splicers	13.34	6%	3%+8%		1/2%
Zone B					
Electricians	13.79	6%	3%+8%		1/2%
Cable Splicers	14.04	6%	3%+8%		1/2%
Zone C					
Electricians	14.39	6%	3%+8%		1/2%
Cable Splicers	14.64	6%	3%+8%		1/2%
Zone D					
Electricians	15.09	6%	3%+8%		1/2%
Cable Splicers	15.34	6%	3%+8%		1/2%
Electricians (Yuma Area):					
Zone A					
Electricians	11.88	5.25%	3%+8.35%		
Cable Splicers	12.13	5.25%	3%+8.35%		
Zone B					
Electricians	12.58	5.25%	3%+8.35%		
Cable Splicers	12.83	5.25%	3%+8.35%		
Zone C					
Electricians	13.18	5.25%	3%+8.35%		
Cable Splicers	13.43	5.25%	3%+8.35%		
Zone D					
Electricians	13.88	5.25%	3%+8.35%		
Cable Splicers	14.13	5.25%	3%+8.35%		

DECISION NO. AZ77-5060 - Mod. #2
(42 FR 31070 - June 17, 1977)
Pima County, Arizona

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Electricians:					
Zone A	$ 9.39	8.4%	3%		1/2%
Zone B	9.89	8.4%	3%		1/2%
Zone C	10.39	8.4%	3%		1/2%
Zone D	10.89	8.4%	3%		1/2%

DECISION NO. AR77-4106 - Mod. #4
(42 FR 27563 - May 27, 1977)
Conway, Faulkner, Van Buren, Cleburne and Perry Counties, Arkansas

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
LABORERS:					
Group I	$6.00	.25	.52		
Group II	6.25	.25	.52		
Group III	6.40	.25	.52		
Group IV	6.50	.25	.52		
Group V	6.65	.25	.52		
Group VI	6.90	.25	.52		
Group VII	6.80	.25	.52		
ROOFERS	7.95		.10		

DECISION NO. AR77-4107 - Mod. #3
(42 FR 28757 - June 3, 1977)
Pulaski County, Arkansas

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
LABORERS:					
Group I	$6.00	.25	.52		
Group II	6.25	.25	.52		
Group III	6.40	.25	.52		
Group IV	6.50	.25	.52		
Group V	6.65	.25	.52		
Group VI	6.90	.25	.52		
Group VII	6.80	.25	.52		
ROOFERS	7.95		.10		

MODIFICATIONS P. 5

DECISION NO. AR77-4112 - Mod. #2
(42 FR 30104 - June 10, 1977)
Garland, Hot Springs and Clark Counties, Arkansas

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
LABORERS:					
Group I	$6.00	.25	.52		
Group II	6.25	.25	.52		
Group III	6.40	.25	.52		
Group IV	6.50	.25	.52		
Group V	6.65	.25	.52		
Group VI	6.90	.25	.52		
Group VII	6.80	.25	.52		
ROOFERS	7.95		.10		

DECISION NO. AR77-4114 - Mod. #3
(42 FR 30104 - June 10, 1977)
Sebastian, Crawford and Washington Counties, Arkansas

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
LABORERS:					
Group I	$6.00	.25	.52		
Group II	6.25	.25	.52		
Group III	6.40	.25	.52		
Group IV	6.50	.25	.52		
Group V	6.65	.25	.52		
Group VI	6.90	.25	.52		
Group VII	6.80	.25	.52		
ROOFERS	7.95		.10		

MODIFICATIONS P. 6

DECISION NO. AR77-4147 - Mod. #1
(42 FR 34155 - July 1, 1977)
Union & Ouachita Counties, Arkansas

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
LABORERS:					
Group I	$6.00	.25	.52		
Group II	6.25	.25	.52		
Group III	6.40	.25	.52		
Group IV	6.50	.25	.52		
Group V	6.80	.25	.52		
Group VI	6.90	.25	.52		
Group VII	6.75	.25	.52		
ROOFERS	7.95		.10		

DECISION NO. CA77-5039- Mod. #3
(42 FR 20991 - April 22, 1977)
Alameda, Alpine, Amador, Butte, Calaveras, Colusa, Contra Costa, Del Norte, El Dorado, Fresno, Glenn, Humboldt, Kings, Lake, Lassen, Madera, Marin, Mariposa, Mendocino, Merced, Modoc, Monterey, Napa, Nevada, Placer, Plumas, Sacramento, San Benito, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Shasta, Sierra, Siskiyou, Solano, Sonoma, Stanislaus, Sutter, Tehama, Trinity, Tulare, Tuolumne, Yolo and Yuba Counties, California

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Carpenters:					
Carpenters	$ 11.65	$ 1.22	$ 1.71	.85	.06
Hardwood Floor Layers; Power Saw Operators; Saw Filers; Shinglers; Steel Scaffold Erectors and/or Steel Shoring Erectors	11.80	1.22	1.71	.85	.06
Millwrights	12.15	1.22	1.71	.85	.06
Electricians:					
Lake, Marin, Mendocino and Sonoma Counties					
Electricians	12.35	1.11	3%+ .30		.02
Cable Splicers	13.61	1.11	3%+ .30		.02
Butte, Glenn, Lassen, Modoc, Plumas, Shasta, Siskiyou, Tehama and Trinity Counties					
Electricians	12.24	1.12	3%+ .70		.04
Cable Splicers	13.46	1.12	3%+ .70		.04
Tunnel:					
Electricians; Cable Splicers Helpers	12.85	1.12	3%+ .70		.04
Cable Splicers	14.14	1.12	3%+ .70		.04

DECISION NO. CA77-5039 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Lathers:					
San Benito and Santa Clara Counties	$ 12.69	$ .98	$ 1.75		
Plumbers; Steamfitters:					
Amador (Northern half of County), Sacramento, Yolo, El Dorado, Nevada, Placer, and Sierra Counties (excluding Lake Tahoe Area)	13.84	1.32	1.81		.14
Sheet Metal Workers:					
Amador, Butte, Colusa, El Dorado, Glenn, Lassen, Nevada, Placer, Plumas, Sacramento, Shasta, Sierra, Sutter, Tehama, Yolo and Yuba Counties	11.68	.73	1.65		.11
Add:					
Line Construction:					
Lake, Marin, Mendocino and Sonoma Counties					
Groundman	9.89	1.11	3%+ .80		.02
Line Equipment Operators	11.12	1.11	3%+ .80		.02
Linemen	12.35	1.11	3%+ .80		.02
Cable Splicers	13.61	1.11	3%+ .80		.02

MODIFICATIONS P. 9

DECISION NO. CA77-5040 - Mod. #3
(42 FR 21012 - April 22, 1977)
Alameda, Alpine, Amador, Calaveras, Contra Costa, Del Norte, El Dorado, Fresno, Humboldt, Marin, Mariposa, Merced, Monterey, Napa, Nevada, Placer, Sacramento, San Benito, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Solano, Sonoma, Sutter, Tehama, Tuolumne, Yolo and Yuba Counties, California

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Carpenters:					
Carpenters	$ 11.65	$ 1.22	$ 1.71	.85	.06
Hardwood Floor Layers; Power Saw Operators; Saw Filers; Shinglers; Steel Scaffold Erectors and/or Steel Shoring Erectors	11.80	1.22	1.71	.85	.06
Millwrights	12.15	1.22	1.71	.85	.06
Electricians:					
Marin and Sonoma Counties					
Electricians	12.35	1.11	3%+ .30		.02
Cable Splicers	13.61	1.11	3%+ .30		.02
Tehama County					
Electricians (4 stories):					
Electricians	12.24	1.12	3%+ .70		.04
Cable Splicers	13.46	1.12	3%+ .70		.04
Lathers:					
San Benito and Santa Clara Counties	12.69	.98	1.75		
Plumbers; Steamfitters:					
Amador (Northern half of County), Sacramento, Yolo, Eldorado, Nevada and Placer Counties (excluding Lake Tahoe Area)	13.84	1.32	1.81		.14
Sheet Metal Workers:					
Amador, El Dorado, Nevada, Placer, Sacramento, Sutter, Tehama, Yolo and Yuba Counties	11.68	.73	1.65		.11

MODIFICATIONS P. 10

DECISION NO. CT76-2173 - Mod. #2
(41 FR 56581 - December 28, 1976)
Hartford, Middlesex, New Haven, New London and Tolland Counties, Connecticut

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
ELECTRICIANS:					
Middlesex County:					
Centerbrook, Chester, Clinton, Cobalt, Deep River, Durham, E. Hampton, Essex, Haddam, Higganum, Ivoryton, Middle Haddam, Moodus, Old Saybrook, Rockfall and Westbrook	$10.36	1.20	1% +.40		
New Haven County:					
Ansonia, Branford, Cheshire, Derby, Guilford, Madison, Meriden, New Haven, N. Branford, N. Haven, Northford, Orange, South Britain and Wallingford	10.36	1.20	1%+.40		
New London County:					
Old Lyme and Waterford	10.36	1.20	1%+.40		

DECISION #MI76-7140 - Mod. #4
(41 FR 51318 - November 19, 1976)
Statewide, Michigan

CHANGE:

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Cement Masons:					
Zone 1					
Genesee, Livingston, Macomb, Monroe, Oakland, Saginaw, Washtenaw & Wayne Counties- Cement Masonry related to Highway, Road & Street Construction	$10.90	.50	.25		.02
Zone 2					
Remainder of State	10.55	.50	.25		.02
Power Equipment Operators:					
Zone 1 - Wayne, Monroe, Washtenaw, Oakland, Macomb & Genesee					
Class 1	9.45	.80	.85	10%	.05
Class 2	9.22	.80	.85	10%	.05
Class 3	8.76	.80	.85	10%	.05
Class 4	8.63	.80	.85	10%	.05
Zone 2 - Remainder of State					
Class 1	9.36	.80	.85	10%	.05
Class 2	9.10	.80	.85	10%	.05
Class 3	8.65	.80	.85	10%	.05
Class 4	8.39	.80	.85	10%	.05
Truck Drivers:					
Zone 1 - Genesee, Lapeer, Lenawee, Livingston, Macomb, Monroe, Oakland, St. Clair, Washtenaw & Wayne Counties					
Class 1	9.27	a27.50	a28.00	.40	
Class 2	9.37	a27.50	a28.00	.40	
Class 3	9.52	a27.50	a28.00	.40	
Zone 2 - Remainder of State					
Class 1	9.17	a27.50	a28.00	.40	
Class 2	9.27	a27.50	a28.00	.40	
Class 3	9.42	a27.50	a28.00	.40	

DECISION #MI76-7140 - Mod. #4 - Cont'd.

LABORERS	ZONE 1	ZONE 2	ZONE 2A	ZONE 3	ZONE 3A
	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates	Basic Hourly Rates
CLASS A	$ 8.78	$ 8.26	$ 8.01	$ 7.90	$ 7.75
CLASS B	8.56	8.03	7.78	7.60	7.45
CLASS B-1	8.43	8.12	7.87	7.88	7.73
CLASS B-2	8.24	7.93	7.68	7.70	7.55
CLASS C	8.35	7.87	7.62	7.55	7.40
CLASS D	8.24	7.71	7.46	7.35	7.20
CLASS E	8.18	7.65	7.40	7.25	7.10
CLASS F	8.15	7.57	7.32	7.20	7.05

FRINGE BENEFITS FOR ALL ZONES AND ALL CLASSIFICATIONS
.55 Health & Welfare
.35 Pension
.65 Vacation and Holiday
.04 Apprentice Training

ZONE DEFINITIONS

ZONE 1 - Genesee, Macomb, Monroe, Oakland, Washtenaw, & Wayne Counties.

ZONE 2 - Allegan, Barry, Bay, Berrien, Branch, Calhoun, Cass, Clair, Clinton, Eaton, Gratiot, Hillsdale, Huron, Ingham, Jackson, Kalamazoo, Lapeer, Lenawee, Livingston, Midland, Muskingum, St. Joseph, Saginaw, Sanilac, Shiawassee, Tuscola, & Van Buren.

ZONE 2A - Ionia, Kent, Montcalm, & Ottawa Counties.

ZONE 3 - Alcona, Alger, Alpena, Antrim, Arenac, Baraga, Benzie, Charlevoix, Cheboygan, Chippewa, Clare, Crawford, Delta, Dickinson, Emmet, Gladwin, Gogebic, Grand Traverse, Houghton, Iosco, Iron, Isabella, Kalkaska, Keweenaw, Lake, Leelanau, Luce, Mackinac, Manistee, Marquette, Mason,, Menominee, Missaukee, Montmorency, Newaygo, Oceana, Ogemaw, Ontonagon, Oscoda, Otsego, Presque Isle, Roscommon, Schoolcraft, and Wexford Counties.

ZONE 3A - Mecosta and Osceola Counties.

DECISION #MI76-2140 - Mod. #4 - Cont'd

LABORERS

CLASSIFICATION DEFINITIONS

CLASS A - Line form setter for curb or pavement.

CLASS B - Pipe layers, oxygen gun.

CLASS B-1 - Asphalt Raker.

CLASS B-2 - Asphalt tamper and asphalt raker helper.

CLASS C - Tunnel miner (Highway work only), finishers tenders, guard rail builder, highway and median barrier installer, fence erector, bottom man, powder man, wagon drill and air tractor operators, curb and side rail setters' helper, diamond and core drills.

CLASS D - Mixer Operator (less than 5 sacks), air or electric tool operator (jack hammer, etc.), spreader, bowman (asphalt, stone, gravel, etc.), concrete paddler, power chain saw operator, paving batch truck dumper, asphalt screed checker, grade checker and tunnel mucker (highway work only), concrete saw (under 40 h. p.), and dry pack machine.

CLASS E - Cement handler or dockman, topman, asphalt dust handler.

CLASS F - Asphalt shoveler or loader, asphlat plant misc., axle man, batch bin (no power), burlap man, carpenters helper, subgrade labor (hand tools), yard man, guard rail builder's helpers, highway and median barrier installer's helper, fence erector helper, dumper (wagon, truck, etc.), jetting labor, joint filling labor, misc. unskilled labor, powder monkey (helper), sprinkler labor, form setting labor, pavement reinforcing, handling and placing (e. g. wire mesh, steel mats, dowell bars, etc.), masons or bricklayer tender on manholes, headwalls, etc.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Decision # MS77-1030-Mod. # 3 (42 FR-16356 - March 25, 1977) Hancock, Harrison, Jackson, & Pearl River Counties, Mississippi.					
Change:					
Electricians:					
Electricians	9.40	5%	3%+.20		1/8 of 1%
Cable splicers	9.65	5%	3%+.20		1/8 of 1%
Ironworkers:					
Jackson Co. & eastern 1/3 of Harrison Co. (incl. Biloxi, Keesler AFB, & towns of Howison & Gocess)					
Structural, Ornamental, & Reinforcing	9.88	.40	.50		
Line Construction:					
Linemen	9.40	.25	3%+.20		1/8 of 1%
Cable splicers	9.65	.25	3%+.20		1/8 of 1%
Plumbers and steamfitters	10.14	.31	.50		.02
Sprinkler fitters	10.35	.65	.95		.08
Decision # MS77-1032 - Mod. # 2 (42 FR-16359 - March 25, 1977) Hinds County, Mississippi					
Change:					
Electricians					
Electricians	9.25	.35	3%+.50		.04
Cable splicers	9.50	.35	3%+.50		.04
Ironworkers	8.95	.30	.35		.04
Lathers	8.45				.01
Line Construction:					
Linemen	8.80		3%	c+2%	4%
Cable splicers	9.19		3%	c+2%	4%
Groundmen (over 1 yr.)	5.38		3%	c+2%	4%
Groundmen (under 1 yr.)	4.99		3%	c+2%	4%
Plasterers	7.60	.25	.50		.05
Roofers:					
Roofers	8.25		.20		
Kettlemen	6.50		.20		
Paper rollers	6.50		.20		
Helpers	5.10		.20		
Sprinkler fitters	10.35	.65	.95		.08

MODIFICATIONS P. 15

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #MO77-4162 - Mod. #1 (42 FR - July 15, 1977) Description of Work and Locations: Heavy and Highway Construction, Missouri					
Change:					
Ironworkers					
Zone 4	$10.10	.45	.65		.12
DECISION #NM77-2043 - Mod. #2 (42 FR 23390 - May 6, 1977) Anoka, Carver, Hennepin, Scott, Dakota, Ramsey & Washington Counties, Minnesota					
CHANGE:					
Bricklayers & Stonemasons	$10.01	.655	.53	.56	.05
Boilermakers	11.30	.85	1.00		.02
Cement Masons:					
Building, Site Preparation, Excavation & Incidental Paving	10.13	.60	.60		
Ironworkers	10.85	.75	.60		.02
Lathers:					
Anoka, Carver & Hennepin Counties	9.71	.45	.35		.01
Sprinkler Fitters	11.38	.65	.95		.08

MODIFICATIONS P. 16

DECISION #NV77-5061 - Mod. #2 (42 FR 31074 - June 17, 1977) Clark County (does not include the Nevada Test Site), Nevada	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Cement Masons:					
Cement Masons	$11.40	$1.00	.70		.08
Cement Floor Finishing Machine Color Work	11.65	1.00	.70		.08
Adds:					
Plasterer Tenders	11.12	.66	1.35		
Change:					
Plasterers	11.68	1.00	.70		.08
DECISION #NV77-5146 - Mod. #4 (42 FR 22082 - April 29, 1977) Statewide (does not include the Nevada Test Site and Tonopah Test Range, and does not include highway construction in Douglas County), Nevada					
Change:					
Bricklayers; Stonemasons:					
Remaining Counties and Nye County (north of Hwy. #6)	$11.45	.50	.60		.01
Carpenters:					
Clark, Esmeralda County (south of Hwy. #6), Lincoln, Nye County (south of Hwy. #6, including City of Tonopah): Zone 1: Area within the city limits of Henderson, Nevada, and Boulder City, Nevada; area within a 10-mile radius of Las Vegas, Nevada; area within a 5-mile radius of Tonopah, Nevada; present fenced area of Nellis Air Force Base, as well as that adjacent to Nellis Air Force base bounded on the north by the Nellis spur track and on the west by the train line of the Union Pacific Railroad:					
Carpenters	11.36	.65	.90	1.00	.10
Floor layers; Patent scaffold erectors; Power saw operators	11.51	.65	.90	1.00	.10
Piledrivermen	11.56	.65	.90	1.00	.10
Millwrights	12.06	.65	.90	1.00	.10

DECISION #NV77-5146 (Cont'd):

Change (Cont'd):	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Carpenters (Cont'd):					
Clark, Esmeralda County (south of Hwy. #6), Lincoln, Nye County (south of Hwy. #6, including City of Tonopah) (Cont'd):					
Zone 2: Area outside of Zone 1 and not more than 20 road miles from the communities described above:					
Carpenters	$11.86	.65	.90	$1.00	.10
Floor layers; Patent scaffold erectors; Power saw operators	12.01	.65	.90	1.00	.10
Piledrivermen	12.06	.65	.90	1.00	.10
Millwrights	12.36	.65	.90	1.00	.10
Zone 3: Area over 20 miles and not more than 40 miles from the communities described above:					
Carpenters	12.11	.65	.90	1.00	.10
Floor layers; Patent scaffold erectors; Power saw operators	12.26	.65	.90	1.00	.10
Piledrivermen	12.31	.65	.90	1.00	.10
Millwrights	12.81	.65	.90	1.00	.10
Zone 4: Area over 40 miles from the communities described above:					
Carpenters	13.36	.65	.90	1.00	.10
Floor layers; Patent scaffold erectors; Power saw operators	13.51	.65	.90	1.00	.10
Piledrivermen	13.56	.65	.90	1.00	.10
Millwrights	14.06	.65	.90	1.00	.10
Cement Masons:					
Clark, Lincoln, Nye Counties:					
Cement Masons	11.40	1.00	.70		.08
Cement Floor Finishing Machine and Color Work	11.65	1.00	.70		.08

DECISION #NV77-5146 (Cont'd):

Change (Cont'd):	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Glaziers:					
Clark, Esmeralda, Lincoln, Nye Counties	$13.50	.50	.40		.05
Ironworkers:					
Elko, Eureka, White Pine Counties:					
Fence Erectors; Machinery Movers; Ornamental; Reinforcing; Riggers; Structural	10.65	.65	1.15		.05
Laborers:					
Remaining Counties:					
Building construction:					
Zone 1: Area within 5 road miles of the following communities - Carson City, Elko, Fallon, Hawthorne, Lovelock, Minden, Tonopah, Winnemucca; also area within 10 road miles of Reno, Nevada; also the area within 2 road miles of Yerington, Nevada; also Washoe Valley between Reno, Nevada, and Carson City, Nevada, but not including any area further than the foot of the mountains to the east or west side of Washoe Valley; also the area of Stead Air Force Base; also the Tahoe Basin from the Summit to the Lake:					
Group 1	8.20	.70	.90		.10
Group 2	8.30	.70	.90		.10
Group 3	8.45	.70	.90		.10
Group 4	8.70	.70	.90		.10
Group 5	9.00	.70	.90		.10
Group 6-A	9.00	.70	.90		.10
Group 6-B	8.70	.70	.90		.10
Group 6-C	8.35	.70	.90		.10

DECISION #NV77-5146 (Cont'd):

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change (Cont'd):					
Laborers (Cont'd):					
Remaining Counties (Cont'd):					
Building construction (Cont'd):					
Zone 2: Area outside of Zone 1 and not more than 20 road miles from the above communities:					
Group 1	$8.80	.70	.90		.10
Group 2	8.90	.70	.90		.10
Group 3	9.05	.70	.90		.10
Group 4	9.30	.70	.90		.10
Group 5	9.60	.70	.90		.10
Group 6-A	9.60	.70	.90		.10
Group 6-B	9.30	.70	.90		.10
Group 6-C	8.95	.70	.90		.10
Zone 3: Area over 20 and not more than 40 road miles from the above communities:					
Group 1	9.00	.70	.90		.10
Group 2	9.10	.70	.90		.10
Group 3	9.25	.70	.90		.10
Group 4	9.50	.70	.90		.10
Group 5	9.80	.70	.90		.10
Group 6-A	9.80	.70	.90		.10
Group 6-B	9.50	.70	.90		.10
Group 6-C	9.15	.70	.90		.10
Zone 4: Area over 40 road miles from the above communities:					
Group 1	9.70	.70	.90		.10
Group 2	9.80	.70	.90		.10
Group 3	9.95	.70	.90		.10
Group 4	10.20	.70	.90		.10
Group 5	10.50	.70	.90		.10
Group 6-A	10.50	.70	.90		.10
Group 6-B	10.20	.70	.90		.101
Group 6-C	9.85	.70	.90		.10

DECISION #NV77-5146 (Cont'd):

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change (Cont'd):					
Laborers (Cont'd):					
Remaining Counties (Cont'd):					
Heavy and Highway construction:					
Area 1:					
Group 1	$8.20	.70	.90		.10
Group 2	8.30	.70	.90		.10
Group 3	8.45	.70	.90		.10
Group 4	8.70	.70	.90		.10
Group 5	9.00	.70	.90		.10
Group 6-A	9.00	.70	.90		.10
Group 6-B	8.70	.70	.90		.10
Group 6-C	8.35	.70	.90		.10
Area 2:					
Group 1	9.35	.70	.90		.10
Group 2	9.45	.70	.90		.10
Group 3	9.60	.70	.90		.10
Group 4	9.85	.70	.90		.10
Group 5	10.15	.70	.90		.10
Group 6-A	10.15	.70	.90		.10
Group 6-B	9.85	.70	.90		.10
Group 6-C	9.50	.70	.90		.10
Add:					
Marble Masons:					
Remaining Counties and Nye County (north half)	11.45	.50	.60		.01
Plasterer Tenders:					
Clark, Esmeralda, Lincoln, Nye Counties	11.12	.66	1.35		
Change:					
Plasterers:					
Clark, Lincoln, Nye Counties	11.68	1.00	.70		.08
Roofers:					
Remaining Counties and Nye County (north half)	11.60	.70	.50		.02
Sheet Metal Workers:					
Remaining Counties and Nye County (north half)	10.34	1.04	2.13		.05
Soft Floor Layers:					
Clark, Esmeralda, Lincoln, Nye Counties	12.67	.65			.15
Terrazzo Workers; Tile Setters:					
Remaining Counties and Nye County (south half)	11.45	.50	.60		.01

MODIFICATIONS P. 21

DECISION NO. NM77-4116 - Mod. #3
(42 FR 31094 - June 17, 1977)
Statewide, New Mexico

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE - LABORERS CLASSIFICATION DEFINITIONS FOR BUILDING, HEAVY CONSTRUCTION AND RESIDENTIAL CONSTRUCTION GROUP III TO READ "Air power tool operator, asphalt rakers, cutting torch operators, demolition, gunite rebound men, fog machine operators, power buggy operators, rodmen, sandblasters (potmen), window washers, wagon, core and diamond driller tenders outside."					
CHANGE:					
LABORERS (BUILDING & HEAVY CONST.):					
Group I	$ 6.31	.53	.67		.05
Group II	6.61	.53	.67		.05
Group III	6.61	.53	.67		.05
Group IV	6.91	.53	.67		.05
Group V	7.06	.53	.67		.05
LABORERS (RESIDENTIAL CONSTRUCTION):					
Group I	5.02	.53	.67		.05
Group II	5.32	.53	.67		.05
Group III	5.42	.53	.67		.05
Group IV	5.62	.53	.67		.05
SOUND INSTALLERS:					
SOUNDMEN					
Zone 1	10.10	.60	3%		1/2%
Zone 2	11.36	.60	3%		1/2%
Zone 3	13.89	.60	3%		1/2%
TECHNICIAN					
Zone 1	8.08	.60	3%		1/2%
Zone 2	9.34	.60	3%		1/2%
Zone 3	11.87	.60	3%		1/2%
SOUND INSTALLERS					
Zone 1	6.57	.60	3%		1/2%
Zone 2	7.83	.60	3%		1/2%
Zone 3	10.36	.60	3%		1/2%

MODIFICATIONS P. 22

DECISION NO. NM77-4116

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
PLUMBERS-PIPEFITTERS:					
Area I	$10.85	.63	1.42		.16
Area II	11.35	.63	1.42		.16
Area III	12.60	.63	1.42		.16
Specific Area	11.48	.63	1.42		.16
Residential	6.50	.63	1.42		.16
ADD:					
LATHERS (ZONE III)					
Dona Ana & Otero Counties	8.55				.01

DECISION #PA77-3032 - Mod. # 3 (42 FR 16373 - March 25, 1977) Lycoming County, Pennsylvania	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Asbestos workers	$10.70	.65	.60		.01
Electricians	9.48	.50	3%+.50	.60	.02
Ironworkers	11.28	.84	1.36		.03
Plasterers	10.20				
Plumbers & Steamfitters	10.56	.69	.50	.20	.05
DECISION #PA77-3033 - Mod. # 4 (42 FR 10268 - February 18, 1977) Northampton County, Pennsylvania					
Change:					
Laborers:					
Laborers &Window Cleaners	$7.45	.35	.45		
Operator of jackhammer, paving breaking and other pneumatic and mechanical tools coming under the jurisdiction of laborers, laying of all clay, terra cotta, ironstone, vitrified concrete or non-metallic pipe and the making of joints for the zone and cofferdams (below 10')	7.70	.35	.45		
Wagon drills and men handling burning torches in the wrecking of buildings	8.20	.35	.45		
Plaster and mason tenders, scaffold builders and handling of all materials to be used by plasterers and masons, brick and block loaded on pallets, cement finisher tenders, gunniting and molded-D and sandblaster helpers, power buggies, all floor hardner and "cure" application shall be the work of the mason tender. All pump such as the concrete, plaster, mortar and water, installing plastic or other non-solid refractory materials in connection with the boiler work	7.85	.35	.45		
Barko Tamper Operator	8.47	.35	.45		
Sprinkler Fitters	11.86	.65	.95		.08

DECISION #PA77-3043 - Mod. # 2 (42 FR 18783 - April 8, 1977) Carbon, Monroe County, including Tobyhanna Army Depot, and Pike County, Pennsylvania	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Asbestos workers	$10.70	.65	.60		.01
Bricklayers & Stonemasons					
Zone 1	10.30	.60	1.15		.01
Zone 5	10.05	.55	.30		
AREA COVERED BY BRICKLAYERS & STONEMASONS ZONE TO READ					
ZONE - 1 Remainder of Carbon County					
Cement Masons					
Zone 1	11.25				
Electricians					
Zone 1	10.90	.35	3%+.80		.02
Zone 2	10.37	.55	3%+.25	a	b
Zone 3	11.20	6%	3%+1+100		.02
Laborers:					
Zone 2					
Class 1	7.45	.35	.45		
Class 2	7.70	.35	.45		
Class 3	7.85	.35	.45		
Class 4	8.47	.35	.45		
Glaziers					
Zone 2	9.65	.40	.70		
Ironworkers					
Zone 1	11.45	.84	1.21		
Marble Setters					
Zone 1	8.70	.80	1.15		
Lathers					
Zone 2	10.21	.40	.25		.01
Piledrivermen	10.77	2.13	1.30	g	.12
Plumbers					
Zone 2	11.49	.50	.50		.01
Soft floor layers					
Zone 1	8.88	.40	.50		.03
Terrazzo Workers					
Zone 1	8.95	.80	1.15		
Tile Setters					
Zone 1	8.70	.80	1.15		

MODIFICATIONS P. 25

DECISION NO. PA77-3043 - Mod. # 2, Cont'd.	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
UNIT:					
Bricklayers & Stonemasons					
Zone 3	$8.90	.60	.95		
ADD:					
Laborers					
Zone 2					
Class 5, to read:					
Wagon drills and men handling burning torches in the wrecking of buildings	8.20	.35	.45		
DECISION #PA77-3056 - Mod. # 2 (42 FR 24693 - May 13, 1977) Lehigh County, Pennsylvania					
Change:					
Laborers:					
Laborers & window cleaners	$7.45	.35	.45		
Operator of jackhammer, paving breaking and other pneumatic and mechanical tools coming under the jurisdiction of laborers, laying of all clay, terra cotta, ironstone, vitrified concrete or non-metallic pipe and the making of joints for same and cofferdams (below 10')	7.70	.35	.45		
Wagon drills and men handling burning torches in the wrecking of buildings	8.20	.35	.45		
Plaster and mason tenders, scaffold builders and handling of all materials to be used by plasterers and masons, brick and block loaded on pallets, cement finisher tenders, gunnitting and moldeo-D and sandblaster helpers, power buggies, all floor hardner and "cure" application shall be the work of the mason tender, all pumps such as the concrete, plaster, mortar and water, installing plastic or other non-solid refractory materials in connection with the boiler work	7.85	.35	.45		
Barko Tamper Operator	8.47	.35	.45		
Sprinkler Fitters	11.86	.65	.95		.08

MODIFICATIONS P. 26

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
Decision # TN77-1052 - Mod. # 1. (42 FR 35603 - July 8, 1977) Knox and Monroe Counties, and that portion of Anderson and Roane Counties which comprise the Oak Ridge S.R.D.A. site, Tennessee.					
Delete:					
Roofers helpers					
DECISION #TX77-4097 - Mod. #2 (42 FR 23429 - May 6, 1977) Collin, Dallas, Denton, Ellis, Grayson, Hood, Hunt, Johnson, Kaufman, Palo Pinto, Rockwall, Tarrant & Wise Counties, Texas					
Change:					
Carpenters:					
Zone 1:					
Carpenters	$ 9.825	.30	.30		.005
Millwrights	10.225	.30	.30		.005
Piledriverman	10.325	.30	.30		.005
Line Construction:					
Linemen; Lineman operators	11.52		3%		1/2%
Cable splicers	12.67		3%		1/2%
Groundman, 1st 6 months	6.91		3%		1/2%
Groundman, 2nd 6 months	7.49		3%		1/2%
Groundman, 1 year & over	8.06		3%		1/2%
DECISION #TX77-4102 - Mod. #6 (42 FR 24707 - May 13, 1977) Galveston & Harris Cos., Texas					
Change:					
Glaziers	11.17	.60	.425		.01
Sheet metal workers:					
Harris County	10.48	.275	.645	.42	.06

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #TX77-4151 - Mod. #1 (42 FR 35605 - July 8, 1977) Bell, Bosque, Coryell, Falls, Hill & McLennan Cos., Texas					
Change:					
Building Construction:					
Asbestos workers:					
Zone 1	$10.35	.60	.60		.08
Line Construction:					
Lineman; Lineman operators	11.52		3%		1/2%
Cable splicers	12.67		3%		1/2%
Groundman, 1st 6 months	6.91		3%		1/2%
Groundman, 2nd 6 months	7.49		3%		1/2%
Groundman, 1 year & over	8.06		3%		1/2%
DECISION #TX77-4152 - Mod. #1 (42 FR 35609 - July 8, 1977) Armstrong, Carson, Castro, Childress, Collingsworth, Dallam, Deaf Smith, Donley, Gray, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Potter, Randall, Roberts, Sherman, Swisher & Wheeler Counties, Texas					
Change:					
Line Construction:					
Zone 2:					
Lineman; Operator	11.52		3%		1/2%
Cable splicer	12.67		3%		1/2%
Groundman, 1st 6 months	6.91		3%		1/2%
Groundman, 2nd 6 months	7.49		3%		1/2%
Groundman, 1 year & over	8.06		3%		1/2%

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #TX77-4153 - Mod. #1 (42 FR 35612 - July 8, 1977) Brazos County, Texas					
Change:					
Glaziers	$11.17	.60	.425		.01
Line Construction:					
Lineman & cable splicer	11.62	.40	3%		1/2%
Groundman (1st 6 months)	4.07	.40	3%		1/2%
Groundman (2nd 6 months)	4.88	.40	3%		1/2%
Groundman	6.74	.40	3%		1/2%
Sheet metal workers	10.48	.275	.645	.42	.06
DECISION #TX77-4155 - Mod. #1 (42 FR 35615 - July 8, 1977) Lubbock County, Texas					
Change:					
Painters:					
Brush	6.95	.30	.20		.04
Spray	7.70	.30	.20		.04
DECISION #TX77-4158 - Mod. #1 (42 FR 35618 - July 8, 1977) Travis County, Texas					
Change:					
Asbestos workers	10.35	.60	.60		.08
Line Construction:					
Lineman	10.30	.40	3%		1/2%
Groundmen	5.67	.40	3%		1/2%
Groundmen (1st year)	5.15	.40	3%		1/2%

MODIFICATIONS P. 29

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #TX77-4159 - Mod. #1 (42 FR 35620 - July 8, 1977) Wichita County, Texas					
Change:					
Line Construction:					
Lineman; Lineman Operator	$11.52		3%		1/2%
Cable splicer	12.67		3%		1/2%
Groundman, 1st 6 months	6.91		3%		1/2%
Groundman, 2nd 6 months	7.49		3%		1/2%
Groundman, 1 year & over	8.06		3%		1/2%

STATE: Alabama COUNTY: Mobile
DECISION NUMBER: AL77-1085 DATE: Date of Publication
Supersedes Decision No.: AL77-1039 dated April 22, 1977, in 42 FR 20980
DESCRIPTION OF WORK: Building Construction (does not include residential construction consisting of single family homes and garden type apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asbestos workers	10.35	.495	1.00	a	.02
Boilermakers	9.50	.75	1.00		.02
Bricklayer, caulkers, cleaners, marble setters, pointers, stonemasons, terrazzo workers, & tile setters	10.11		1.70		
Marble, tile & terrazzo helpers	6.22	.30	.40		
Carpenters:					
Carpenters & soft floor layers	9.97	.40	.50		
Carpenters on creosote material, power saw operator	10.22	.40	.50		
Piledrivermen	10.24	.40	.50		
Piledrivermen on creosote material	10.49	.40	.50		
Millwrights	10.52	.40	.50		
Cement masons	9.24	.40	.50		
Electricians:					
Electricians	10.49	.30	3%+.25	.475	1/10%+.05
Cable splicers	10.74	.30	3%+.25	.475	1/10%+.05
Elevator constructors	9.69	.495	.32	4%+b+c	.02
Elevator constructors' helpers	70%JR	.495	.32	4%+b+c	.02
Elevator constructors' helpers (prob.)	50%JR				
Glaziers	6.70	.30	.15		
Ironworkers	10.38	.40	.50		
Lathers	9.08	.35	.35		.01
Line Construction:					
Linemen	10.49	.30	3%+.25	.475	1/10%+.05
Cable splicers	10.74	.30	3%+.25	.475	1/10%+.05
Painters:					
Brush	9.91	.40	.35		.01
Industrial	10.16	.40	.35		.01
Hazardous	10.41	.40	.35		.01
Spraying bituminous coatings	10.26	.30	.25		.01
Plasterers	10.47	.40	.50		
Plumbers, steamfitters	10.40	.30	.45	d	.03
Roofers	8.84		.30	e	
Sheet metal workers	10.28	.45	.55		.04
Sprinkler fitters	10.35	.65	.95		.08
Welders - rate for craft.					

PAID HOLIDAYS:
A-New Year's Day, B-Memorial Day, C-Independence Day, D-Labor Day, E-Thanksgiving Day, F-Christmas Day.

FOOTNOTES:

A. 2 Paid Holidays: D and E, providing the employee works at least one day out of the 3 work days prior to the paid holidays, and the first work day after the paid holidays.

B. 6 Paid Holidays: A through E.

C. Employer contributes 4% basic hourly rate to Vacation Pay Credit for employee who has worked in business more than 5 years. Employer contributes 2% basic hourly rate to Vacation Pay Credit for employee who has worked in business less than 5 years.

D. 8 Paid Holidays: A,C,D,E,F,Day after Thanksgiving Day, Christmas Eve, and Mardi Gras.

E. 40 hours paid vacation after 1 year of employment, 2 paid holidays: A & C.

AL77-1085 - (Cont'd)

LABORERS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP A	6.45	.40	.50		
GROUP B	6.67	.40	.50		
GROUP C	6.95	.40	.50		
GROUP D	7.84	.40	.50		
GROUP E	8.11	.40	.50		
GROUP F	7.55	.40	.50		
GROUP G	7.31	.40	.50		
GROUP H	6.87	.40	.50		
GROUP I	7.01	.40	.50		
GROUP J	7.68	.40	.50		
GROUP K	7.04	.40	.50		
GROUP L	7.55	.40	.50		
GROUP M	7.01	.40	.50		

GROUP A - General Building Construction Laborers

GROUP B - Mortar mixers (any method), hod carriers, paving breakers, breaking & chipping concrete (any method), air operating tools (elec. or gas), mason and plaster tenders, tile setter & terrazzo helpers, handling creosote or coppertox materials, glass wool and all types insulation, kettle man, asphalt raker & tamper, drills, vibrators, concrete dump bucketman, All concrete rollers, wheel barrows, Georgia buggies, pipe cleaners & pipe layers (of clay, terra cotta, ironstone, vitrified concrete or nonmetallic pipe for main & side sewers and drainage only), pipe wipers (inside and out).

GROUP C -Gunnite or pressure concrete workers, nozzleman, gunman, rodman, power driven buggy mobiles, height: all work performed 40 ft. on scaffolds, inside and out (except where scaffolds are solid from wall to wall inside)

GROUP D - Cofferdam or tunnel workers (underground)

GROUP E - Blasting (powderman)

GROUP F - Concrete sawman

GROUP G - Form setters, roadways, runways, highways

GROUP H - Track laborer

GROUP I - Brick washers (laborers)

GROUP J - Burners on dismantling (anything not to be reused)

GROUP K - Stack laborers

GROUP L - Stack laborers (over 40 ft.)

Group M - Tank cleaners (caustic chemical)

AL77-1085 - (Cont'd)

BUILDING CONSTRUCTION - POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP A	10.42	.40	.50		
GROUP B	10.09	.40	.50		
GROUP C	9.48	.40	.50		

GROUP A: HEAVY EQUIPMENT
Heavy duty mechanic, crane, shovel, derrick operator (2 or more drums), draglines, pile driver operator, hoist operator (2 or more drums), cableways, excavators, front end loaders, backhoe, rubber tired backhoe, dredges, leverman, welders, mounted rotary drill machines, cherry pickers, side boom tractors, paving machines, motor patrols, pumpcrete machines, gradalls, johnson mixers, hydro-lift trucks, all batch plant and header house operators, panel board (ready-mix), hydro hammers on demolition work, concrete plants, asphalt plants, helicopter pilots and concrete paving trains, tugboats

GROUP B: MEDIUM EQUIPMENT:
Dozer scrapers, turnapull, one drum hoist, self-propelled rollers, construction elevators, locomotive engineer, elevating grader tractors with power control attachments, winch truck, mixers, asphalt spreaders, drilling machines, form graders, asphalt distributors, fork-lift, well point & dewatering systems, subgraders, finishing machines, motorized compactors, wagonmobiles and push carts, riding trenching & ditching machines.

GROUP C: LIGHT EQUIPMENT:
Light plants, generators, welding machines, air compressors, pumps, conveyors, motor boats under 30 feet, tow tractors, and pile driver hammers (diesel, gas, air or electric) fireman outboard, motor boat operators and brakemen.

AL77-1085 - (Cont'd)

TRUCK DRIVERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP A	6.46	.40	.50		
GROUP B	7.25	.40	.50		
GROUP C	7.57	.40	.50		
GROUP D	7.84	.40	.50		
GROUP E	8.15	.40	.50		
GROUP F	8.36	.40	.50		
GROUP G	9.15	.40	.50		
GROUP H	9.87	.40	.50		

GROUP A: Truck helpers

GROUP B: Truck helpers when unloading creosote or coppertox materials; Drivers-trucks up to but not including 1½ tons; Stations wagons; Jeeps and automobiles; Truck spotters; General warehousemen.

GROUP C: Mechanic helper; Filling station attendant; Tire repairmen; Grease and wash rack man

GROUP D: Drivers 1½ tons up to but not including 5 tons

GROUP E: Receiving and issuing clerk

GROUP F: Scalemen

GROUP G: Truck drivers on rated 5 tons or 6 yard and over, including heavy equipment such as pole trucks; midd or corning wagons; dumpsters; semi-drivers; agitators; ross carriers; dempsey dumps; euclid trucks; fork lift trucks in warehouse and similar equipment such as tractors; 10 wheelers; jeeps or dump trucks or pickup trucks pulling of four wheel trailers; hauling equipment.

GROUP H: Truck & automobile mechanics

SUPERSEDEAS DECISION

STATE: Massachusetts COUNTY: Barnstable
DECISION NO.: MA77-3062 DATE: Date of Publication
Supersedeas Decision No. MA76-2095, dated August 13, 1976 in 41 FR 34501.
DESCRIPTION OF WORK: Building Construction (excluding single family home and garden type apartments up to and including 4 stories), heavy, highway & marine construction.

BUILDING, HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
Barnstable, Bourne, Falmouth, Mashpee & Sandwich	$10.28	1.00	1.18		
Remainder of County	10.26	.80	.80		.01
BOILERMAKERS	10.00	.60	10%		.01
BRICKLAYERS; CEMENT MASONS; CEMENT FINISHERS; PLASTERERS; STONEMASONS	10.25	.80	.80		.06
CARPENTERS AND SOFT FLOOR LAYERS:					
All work over $1½ million including residential	9.30	.50	.65		.02
Work from $1 million - 1½ million	8.93	.50	.65		.02
Work from $500,000 - 1 million	8.37	.50	.65		.02
Work from $200,000	6.97	.50	.65		.02
Residential up to 4 stories & commercial up to $200,000	6.97	.50	.65		.02
ELECTRICIANS:					
Repair, jobbing & commercial, remodel, rewiring jobs & electrical contracts under $25,000	7.85	.11	.11		a
All other commercial	10.00	.55	1%+.70		a
ELEVATOR CONSTRUCTORS	11.445	.545	.35	4%+b+c	.02
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.545	.35	4%+b+c	.02
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR				
GLAZIERS	8.88	.52	1.03		.01
IRONWORKERS	9.43	.70	1.50		.05
LABORERS (BUILDING):					
Laborers; carpenter tenders; wrecking laborers	7.50	.60	.70		.10
Jackhammer op., pavement breakers; asphalt rakers; carbide core drilling machine, chain saw op.; pipelayer; Barco type jumping tampers; laser beam; concrete pump; mason tenders; mortar tar mixers; ride-on motorized buggy, fence & beam rail erectors & plasterer's tenders	7.75	.60	.70		.10

DECISION NO. MA77-3062

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS (CONT'D)					
Air track; block pavers, tampers curb setters	8.00	.60	.70		.10
Blasters; powdermen	8.25	.60	.70		.10
Open air caisson; cylindrical work & boring crew					
Laborer; Top man	7.50	.60	.70		.10
Helper	7.62	.60	.70		.10
Bottom man	8.25	.60	.70		.10
Driller	8.37	.60	.70		.10
LATHERS	9.45	.65	.55		.01
LEADBURNERS	9.25	.35		d	.01
LINE CONSTRUCTION:					
Linemen	11.50	.65	1%+.50	e	3/8 of 1%
Driver - Groundman	8.53	.65	1%+.50	e	3/8 of 1%
Groundmen	7.18	.65	1%+.50	e	3/8 of 1%
Equipment Operators	10.78	.65	1%+.50	e	3/8 of 1%
MARBLE & TILE SETTERS; TERRAZZO WORKERS	9.80	.85	1.10		
MARBLE SETTERS' HELPERS	8.71	.85	.25		
MILLWRIGHTS	10.00	.60	1.00		.07
PAINTERS:					
Brush, roller, tapers, steel on ground	8.55	.60	.45		
Sandblasting, chipping hammer, power brush	10.05	.60	.45		
Structural steel	11.80	.60	.45		
Spray	9.80	.60	.45		
Paperhangers and vinyl installers	9.05	.60	.45		
PILEDRIVERMEN	10.15	.60	1.00		
PLUMBERS & STEAMFITTERS					
Bourne & Sandwich	10.95	.80	.80		.05
Remainder of County	9.15	.76	1.16		.15
ROOFERS:					
Roofers, kettlemen & waterproofers	9.20	.60	.20		
Roofers' helpers, Class A	8.50	.60	.20		
Roofers' helpers, Class B	5.52	.60	.20		
Mechanic on shingle work	7.36	.60	.20		

DECISION NO. MA77-3062

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
SHEET MATAL WORKERS	9.48	.95	.45		
SPRINKLER FITTERS	11.63	.65	.95		.08
TERRAZZO WORKERS' HELPERS	9.95		.25		.05
TILE SETTERS' HELPERS	8.71	.85	.25		

Welders - Rate For Craft

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Employer contributes $1.00 per journeyman Electricians per week.

b. Employer contributes 4% basic hourly rate for 5 years or more of service of 2% basic hourly rate for 6 months to 5 years' service as vacation pay credit.

c. Holidays: A through F.

d. Holidays: A through F, Washington's Birthday, Good Friday and Christmas Eve, provided the employee has worked 45 days during 120 calendar days prior to the holiday & the regular scheduled days immediately preceding and following the holiday.

e. Holidays: A through F, and Bunker Hill Day, provided the employee has been employed 10 working days prior to the holiday.

DECISION NO. MA77-3062

HEAVY & HIGHWAY CONSTRUCTION

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
CLASS I	7.50	.60	.70		.10
CLASS II	7.75	.60	.70		.10
CLASS III	8.00	.60	.70		.10
CLASS IV	8.25	.60	.70		.10

CLASSIFICATIONS

CLASS I
Carpenter tenders, cement finisher tenders, laborers, wrecking laborers

CLASS II
Asphalt rakers, fence and guard rail erectors, laser beam op., mason tender, pipelayer, pneumatic drill op., pneumatic tool op., wagon drill op

CLASS III
Air track op., block pavers, rammers, curb setters

CLASS IV
Blasters, powdermen

DECISION NO. MA77-3062

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
CLASS I	10.61	1.10	.80	a	.02
CLASS II	10.49	1.10	.80	a	.02
CLASS III	8.86	1.10	.80	a	.02
CLASS IV	9.67	1.10	.80	a	.02
CLASS V	7.84	1.10	.80	a	.02
CLASS VI	8.32	1.10	.80	a	.02

CLASSIFICATIONS

CLASS I Cranes, shovels, truck cranes, cherry pickers, draglines, trench hoes, backhoes, three drum machines, derricks, pile drivers, elevator towers, hoists, gradalls, shovel dozers, front end loaders, fork lifts, augers, boring machines, rotary drills,post hole hammers, post hole diggers, pumpcrete machines, asphalt plant (on site), concrete batching and/or mixing plant (on site), crusher plant (on site), paving concrete mixers, timber jacks, Boom over 150; including jib additional $.35 per hour; Boom over 185' including jib - additional $.70 per hour; Boom 210' including jib - additional $1.00 per hour; Boom over 250' including jib - additional $1.50 per hour Boom over 295' including jib - additional $2.00 per hour

CLASS II Sonic or vibratory hammers, graders, tandem scrapers, concrete pumps, bulldozers, tractors, york rakes, mulching machines, portable steam boiler, portable steam generators, rollers, spreaders, tampers (self propelled or tractor drawn), asphalt pavers, mechanics maintenance, paving screed machines, stationary steam boilers, paving concrete finishing machines, cal trucks, ballast regulators, switch tampers, rail anchor machinery, tire trucks (when operated by the employer on the job site)

CLASS III Pumps (1-3 grouped), compressors, welding machines (1-3 grouped), generators, concrete vibrators, lighting plants, heaters (power driven 1-5), well-point systems (operating and installing), syphones-pulsometers, concrete mixers, values controlling permanent plant air or steam, conveyors, Jackson type tampers, single diaphragn pump, lighting plants

CLASS IV Assistant engineers (firemen)

CLASS V Oilers and apprentices (other than truck cranes and gradalls)

CLASS VI Oilers and apprentices on truck cranes and gradalls

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTE:

a. Holidays: A through F, Washington's Birthday, Columbus Day, Veterans Day and Patriots Day.

DECISION NO. MA77-3062

HEAVY & HIGHWAY CONSTRUCTION:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS					
GROUP 1	10.61	1.10	.80	a	.02
Hourly premium for boom lengths including jib					
Over 150 feet + $ .45					
Over 185 feet + .80					
Over 210 feet + 1.15					
Over 250 feet + 1.75					
Over 295 feet + 2.50					
GROUP 2	10.49	1.10	.80	a	.02
GROUP 3	8.86	1.10	.80	a	.02
GROUP 4	9.67	1.10	.80	a	.02
GROUP 5	7.84	1.10	.80	a	.02
GROUP 6	8.32	1.10	.80	a	.02

CLASSIFICATIONS

GROUP 1 Power shovels, cranes, truck cranes, derricks, pile drivers, trenching machines, mechanical boist pavement breakers, cement concrete pavers, draglines, hoisting engines,three drum machines, pumpcrete machines, uke loaders, shovel dozers, front end loaders, mucking machines, shaft hoists, steam engines, backhoe, gradalls, cable ways, fork lifts, cherry pickers, boring machines, rotary drills, post hole hammers, port hole diggers, asphalt plant on job site, concrete batching and/or mixing plant on job site, crusher plant on job site, paving concrete mixers, timber jacks

GROUP 2 Sonic or vibratory hammers, graders, scrapers, tandem scrapers, bulldozer, tractors, mechanic maintenance, York rakes, mulching machines paving screed machines, stationary steam boilers, paving concrete finishing machine, grout pumps, portable steam boilers, portable steam generators, rollers, spreaders, asphalt pavers, locomotives or machines used in place thereof, tampers, self propelled or tractor drawn, cal tracks, ballast regulatocs, rail anchor machines, switch tampers

GROUP 3 Pump (1-3 grouped), compressors, welding machine (1-3 grouped), generators lighting plants, heaters (power driven) (1-5), syphons-pulsometers, concrete mixers, valves controlling permanent plant air steam, conveyors, wellpoint system (operating and installing)

DECISION NO. MA77-3062

CLASSIFICATIONS CONT'D

GROUP 4 Assistant engineers (firemen)

GROUP 5 Oilers (other than truck cranes & gradalls)

GROUP 6 Oilers (on truck cranes & gradalls)

FOOTNOTES:

a. Holidays - New Years' Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day, Washington's Birthday, Columbus Day, Veterans Day and Patriots Day

DECISION NO. MA77-3062

MARINE CONSTRUCTION

POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	10.61	1.10	.80	a	.02
GROUP II	11.61	1.10	.80	a	.02
GROUP III	10.56	1.10	.80	a	.02
GROUP IV	10.49	1.10	.80	a	.02
GROUP V	8.86	1.10	.80	a	.02
GROUP VI	9.67	1.10	.80	a	.02
GROUP VII	7.84	1.10	.80	a	.02
GROUP VIII	8.32	1.10	.80	a	.02

CLASSIFICATIONS

GROUP I - Shovels, cranes, truck cranes, cherry pickers, derricks, pile drivers two or more drum machines, lighters, derricks boats, trenching, mechanics hoist pavement breakers, cement concrete pavers, draglines, hoisting engines, pump-crete machines, elevating graders, shovel dozers, front end loaders, backhoes, gradalls, cable ways, boring machines, rotary drills, post hole hammers, post hole diggers, fork lifts, timber jacks, asphalt plant (on site), concrete batching &/or mixing plant (on site), crusher plant, (on site, paving concrete mixers; Booms over 150' including jib - additional $.45 per hour - booms over 185' including jib - additional $.80 per hour; Booms over 210' including jib - additional $1.15 per hour; Booms over 250' including jib - additional $1.75 per hour; Booms over 295' including jib additional $2.50 per hour

GROUP II - Master Mechanic

GROUP III - Swinger ENgines

GROUP IV - Portable steam boilers, portable steam generators, sonic or vibratory hammers, graders, scrapers, tandem scrapers, concrete pumps, bulldozers, tractors york rakes, mulching machines, rollers, spreaders, tampers self-propelled or tractor drawn, asphalt pavers, concrete mixers with side loaders, mechanics - maintenance, cal tracks, ballast, regulator, switch tampers, rail anchor machines, tire trucks

GROUP V - Pumps, compressors, welding machines, heaters (power driven), valves controlling permanent plan air or steam, well point systems, augers - powered by independence engines & attached to pile drivers, hydraulic saws, generators, lighting plants, syphons-pulsometers, concrete mixers, conveyors

GROUP VI - Assistant engineers (firemen)

DECISION NO. MA77-3062

CLASSIFICATIONS CONT'D

GROUP VII - Oilers (other than truck cranes and gradalls)

GROUP VIII - Oilers on truck cranes and gradalls

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:

a. 10 paid holidays: A through F; Washington's Birthday; Patriots' Day; Columbus Day & Veterans' Day

DECISION NO. MA77-3062

BUILDING, HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS:					
CLASS I	7.24	.545	.575	a+b	
CLASS II	7.39	.545	.575	a+b	
CLASS III	7.44	.545	.575	a+b	
CLASS IV	7.54	.545	.575	a+b	
CLASS V	7.64	.545	.575	a+b	
CLASS VI	7.89	.545	.575	a+b	
CLASS VII	8.14	.545	.575	a+b	

CLASSIFICATIONS

CLASS I Station wagons, panel trucks and pickup trucks

CLASS II Two axle equipment; helpers on low bed when assigned at the discretion of the employer, warehousemen, forklift operators

CLASS III Three axle equipment and tiremen

CLASS IV Four and five axle equipment

CLASS V Specialized earth moving equipment under 35 tons othe than conventional type trucks, low bed, vachual, mechanics, paving restoration equipment, mechanics

CLASS VI Specialized earth moving equipment over 35 tons

CLASS VII Trailers for earth moving equipment, (double hookup)

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:

a. One half day's pay each month in which an employee has worked 15 days provided he has been employed for 4 months.

b. Holidays: A through F, Washington's Birthday, Columbus Day, Veteran's Day and Patriots' Day provided an employee works two days of the calendar week in which the holiday falls.

STATE: Massachusetts COUNTY: Hampden
DECISION NO.: MA77-3067 DATE: Date of Publication
Supersedeas Decision No. MA76-2100, dated August 13, 1976 in 41 FR 34522
DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories), Heavy and highway construction

DECISION NO. MA77-3067

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$ 9.95	.94	1.25		.01
BOILERMAKERS	10.00	.60	10%		.01
BRICKLAYERS:					
Cement masons, Marble masons, Plasterers, Stone masons, Terrazzo workers, and Tile setters	9.55	.55	.80		.06
CARPENTERS & SOFT FLOOR LAYERS	9.65	.45	.65		.02
ELECTRICIANS:					
Chester, Holyoke & that portion of Chicopee Township north of the following line: McKinstry Avenue from the Connecticut River to Gratten Street, South on Gratten to Lafayette Street, east on Lafayette to York Street, north on York to McKinstry, east on McKinstry to Grady Road & projects to the Westover Air Force fence & that area north of West over field:					
Contracts 75,000 & over	10.51	.70	1%+.40		.02
Contracts under $75,000	8.60	.70	1%+.40		.02
Shaft & tunnel work	11.01	.70	1%+.40		.02
Remainder of County	9.85	.70	1%+.30	.43	.03
ELEVATOR CONSTRUCTORS	9.71	.445	.29	3%+a+b	.02
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.445	.29	3%+a+b	.02
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR				
GLAZIERS	9.45	.47	.45		
IRONWORKERS:					
Ornamental, Reinforcing and Structural	10.05	.70	1.75		.09
LABORERS (Building)					
Laborers, Wrecking, laborers and carpenter tenders	7.50	.60	.70		.10
Asphalt rakers, Carbide Core Driller Ops., Saw Ops., Pipelayers, Jackhammer & Paving Breaker Op., Barco-type jumping tampers, Laser Beams op., concrete pump ops., & wagon drill ops., mason tenders, mortar mixers & ride-on motorized buggy ops. and plasterers tenders	7.75	.60	.70		.10
Air track op., Block pavers, Rammers & curb setters	8.00	.60	.70		.10
Blasters & powdermen	8.25	.60	.70		.10
Open air caison, cylindrical work & boring crew:					
Botton man	8.25	.60	.70		.10
Top man	7.50	.60	.70		.10
Test Boring:					
Driller	8.37	.60	.70		.10
Helper	7.62	.60	.70		.10
LATHERS	9.40	.45	.25		.01
Drywall	8.30	.45	.25		.01
LEADBURNERS	9.25	.35		d	.01
LINE CONSTRUCTION:					
Linemen	10.16	.40	1%	e	3/8 of 1%
Groundmen, Driver	7.32	.40	1%	e	3/8 of 1%
Equipment Operator	9.48	.40	1%	e	3/8 of 1%
MARBLE, MOSAIC & TERRAZZO WORKERS' HELPERS	8.95				
MILLWRIGHTS	10.20	.60	1.00		.07
PAINTERS:					
Brush & roller	8.92	.65	.40		.03
Spray	11.8933	.8666	.5333		.04
Swing stage under 40' steel	9.107	.65	.40		.03
Swing stage over 40' steel	9.42	.65	.40		.03
PILEDRIVERMEN	10.15	.60	1.00		
PLUMBERS	9.85	.96	1.00	g	.10
ROOFERS:					
Composition, damp & waterproofing	9.165	.82	1.06		
Slate, tile, precast concrete	9.82	.82	1.06		
SHEET METAL WORKERS	9.41	.85	1.16		.03
SPRINKLER FITTERS	11.38	.60	.90		.08
STEAMFITTERS	10.68	.57	.95	.08	.03

DECISION NO. MA77-3067

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

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. 6 paid holidays: A through F.

d. 9 paid holidays: A through F, Washington's Birthday, Good Friday & Christmas Eve, provided the employee has worked 45 full days during the 120 calendar days prior to the holiday and the regular scheduled work days immediately preceding and following the holiday.

e. 9 paid holidays: A through F, provided the employee has been employed for at least 5 days prior to the holiday and is available for work the day before and after the holiday, plus one floating holiday, Washington's Birthday, and Patiots Day.

f. 1 paid holiday: Fourth of July

g. 1 paid holiday: Independence Day & Labor Day provided the employee has been employed 7 days prior to the holiday for the same employer.

DECISION NO. MA77-3067

HEAVY & HIGHWAY CONSTRUCTION

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
CLASS I	7.50	.60	.70		.10
CLASS II	7.75	.60	.70		.10
CLASS III	8.00	.60	.70		.10
CLASS IV	8.25	.60	.70		.10

CLASSIFICATIONS

CLASS I
Carpenter tenders, cement finisher tenders, laborers, wrecking laborers

CLASS II
Asphalt rakers, fence and guard rail erectors, laser beam op., mason tender, pipelayer, pneumatic drill op., pneumatic tool op., wagon drill op

CLASS III
Air track op., block pavers, rammers, curb setters

CLASS IV
Blasters, powdermen

DECISION NO. MA77-3067
BUILDING CONSTRUCTION

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
CLASS I	9.73	.85	.75	a	.07
CLASS II	9.53	.85	.75	a	.07
CLASS III	9.33	.85	.75	a	.07
CLASS IV	8.96	.85	.75	a	.07
CLASS V	8.24	.85	.75	a	.07
CLASS VI	7.78	.85	.75	a	.07
CLASS VII	7.03	.85	.75	a	.07

CLASSIFICATIONS

CLASS I Shovels, Cranes, Hydraulic Cranes 10 ton capacity or over, Draglines, Derricks, Elevators with Chicago Boom, Bakcboes, Gradalls, Elevating Graders, Pile Driving Rigs, Concrete Road Pavers, three drum Hoisting and Trenching Machines, Belt-type Loaders, Front End Loader-5¼ yards or over, Dual Drum Paver, Automatic Grader (i.e. C.M.I.) Combination Back Hoe-Loader-3/4 yard hoe or over

CLASS II Rotary Drill (with mounted compressor), compressor house (3 to 6 compressors), Rock and Earth Boring Machines (excluding McCarthy and similar drills), Graders, Front End Loaders-4 yards to 5¼ yards, two Drum Hoists, High Fork Lifts with capacity of 15 feet and over, Scrapers-21 yards and over (struck load), Sonic Hammer Console

CLASS III Combination Backhoe-Loader-up to 3/4 hoe, Bulldozers, Push Cats, Scraper-up to 21 yards (Struck Load)-self propelled or tractor drawn, Tireman, Front End Loaders-up to 4 yards, Asphalt Paver, Asphalt Roller-10 ton or over, Well Drillers, Mechanics, Welders, Pumpcrete Machines, Concrete Pumps and similar type pumps, Engineer or Fireman on High Pressure Boiler (on job), Self-Loading Batch Plant, Well Point, Electric Pumps used in Well Point System, Pumps-12 inches and over (total discharge), compressor (one or two) 900 cu. ft. and over, Powered Grease Truck, Automatic Elevators, (manually or remote controls), Grout Pumps, Boom Truck, Hydraulic Cranes-under 10 ton

CLASS IV Asphalt Roller-under 10 ton

DECISION NO. MA77-3067

CLASSIFICATIONS CONT'D

CLASS V Single Drum Hoist, Self-Propelled Roller, Self-Propelled Compactors Power Pavement Breakers, Concrete Pavement Finishing Machines, Two Bag Mixers with Skip, McCarthy and similar drills, Batch Plants (not self-loading) Bulk Cement Plants, Self-Propelled Material Spreaders, A Frame Trucks, Fork Lifts ip to 15 feet

CLASS VI Compressors (one or two) 315 cu. ft. to 900 cu. ft., Pumps-4 inches to 12 inches (total discharge), Tractor (without blade or bucket) Drawing Rollers, Rubber, Tire Roller, Compactors or other machines used for pulverizing, Grading or Seeding

CLASS VII Compressors (up to 315 cu. ft.), Small Mixers, Pumps (up to 4 inches), Power Heaters, Welding Machines, Conveyors, Oiler, Helpers on Grease Truck, and Grease Trucks with hand greasing equipment

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:
a. Holidays: A through F, Veterans' Day and Columbus Day

DECISION NO. MA77-3067

HEAVY & HIGHWAY CONSTRUCTION

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
CLASS I	9.73	.85	.75	a	.07
CLASS II	9.53	.85	.75	a	.07
CLASS III	9.33	.85	.75	a	.07
CLASS IV	8.96	.85	.75	a	.07
CLASS V	8.24	.85	.75	a	.07
CLASS VI	7.78	.85	.75	a	.07
CLASS VII	7.03	.85	.75	a	.07
* The Above Rates Are For Contracts $175,000.00 and Above					
POWER EQUIPMENT OPERATORS:					
CLASS I	9.45	.85	.75	a	.07
CLASS II	9.25	.85	.75	a	.07
CLASS III	9.05	.85	.75	a	.07
CLASS IV	8.68	.85	.75	a	.07
CLASS V	8.00	.85	.75	a	.07
CLASS VI	7.55	.85	.75	a	.07
CLASS VII	6.82	.85	.75	a	.07
* The Above Rates Are for Contracts Under $175,000.00					

CLASSIFICATIONS

CLASS I Shovels, Crawler and Truck Cranes, Derricks, Backhoes, Trenching Machines, Elevating Graders, Belt-type Loaders, Gradalls, Pile Drivers, Concrete Pavers, on site Processing Plant (Engineer in charge), Dragline, Clam Shell, Cableways, Shaft Hoists, Mucking Machines, Front End Loader-5⅛ yards and over, Tower Cranes, Self-propelled Hydraulic Cranes-10 tons and over, Dual Pavers, Automatic Graders-Excavator (C.M.I. or equal), Scrapers towing pan or wagon, Tandem Dozers or Push Cats (2 units in tandem), Welder using semi automatic Welding Machine, Shotcrete Machine, Tunnel Boring Machine

CLASS II Rotary Drill (with mounted Compressor), Compressor House 3 to 6 Compressors), Rock and Earth Boring Machines (excluding McCarthy and similar drills), Grader, Front End Loaders-4 yards to 5⅛ yards, Scraper-21 yards and over (Struck Load), Forklifts-7 ft. lift and over or 3 ton capacity and over, Sonic Hammer Console

DECISION NO. MA77-3067

CLASSIFICATIONS CONT'D

CLASS III Bulldozer, Push Cats, Scrapers-up to 21 yards (struck load) self-propelled or Tractor Drawn, Self-powered Asphalt Paver, Front End Loaders-up to 4 yards, Mechanics, Welders, Well Driller, Pumpcrete Machine, Engineer or Fireman on High Pressure Boiler (on job), Self-loading Batch Plant (on job), Well Point Operators, Electric Pumps used in Well Point system, Tiremen, Pumps-16 inches or over total discharge, Compressors (1 or 2) (}) cu. ft. and over, Powered Grease Truck, Asphalt Roller-10 ton and over, Tunnel Locomotives and Dinkys, Grout Pumps, Hydraulic Jacks (jacking pipe, slip forms, etc.), Boom Truck Self-Propelled Hydraulic Cranes-up to 10 ton

CLASS IV Asphalt Roller-up to 10 ton

CLASS V Hoists, Conveyors, Self-powered Rollers and Compactors, Power Pavement Breaker, Self-propelled Material Spreader, Self-powered Concrete Finishing Machine, Two Bag Mixer with skip, McCarthy and similar Drills, Batch Plant (not self-loading), Bulk Cement Plant

CLASS VI Compressor (315 cu. ft. to 900 cu. ft., 1 or 2), Pumps 4" to 16" total discharge, Tractor without blade drawing sheeps-foot toller, Rubber tired roller or other type of compactors including machines for pulverizing and aerating soil

CLASS VII Compressor (up to 315 cu. ft.), Small Mixers with skip, Oiler, Pumps up to 4", Grease Truck, Helper on powered Grease Truck, Power Heaters, Welding Machines, A-Frame Trucks, Forklifts-up to 7 ft. lift and up to 3 ton capacity, Hydro Broom, Parts Man (in repair shop), Power Safety Boat

FOOTNOTES:

a. Holidays: New Year's Day; Washington's Birthday; Memorial Day; Independence Day; Labor Day; Columbus Day; Veterans' Day; Thanksgiving Day and Christmas Day

DECISION NO. MA77-3067

BUILDING, HEAVY AND HIGHWAY CONSTRUCTION

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS:					
CLASS I	7.24	.545	.575	a+b	
CLASS II	7.39	.545	.575	a+b	
CLASS III	7.44	.545	.575	a+b	
CLASS IV	7.54	.545	.575	a+b	
CLASS V	7.64	.545	.575	a+b	
CLASS VI	7.89	.545	.575	a+b	
CLASS VII	8.14	.545	.575	a+b	

CLASSIFICATIONS

CLASS I Station wagons, panel trucks and pickup trucks

CLASS II Two axle equipment; helpers on low bed when assigned at the discretion of the employer, warehousemen, forklift operators

CLASS III Three axle equipment and tiremen

CLASS IV Four and five axle equipment

CLASS V Specialized earth moving equipment under 35 tons othe than conventional type trucks, low bed, vachual, mechanics, paving restoration equipment, mechanics

CLASS VI Specialized earth moving equipment over 35 tons

CLASS VII Trailers for earth moving equipment, (double hookup)

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:
a. One half day's pay each month in which an employee has worked 15 days provided he has been employed for 4 months.

b. Holidays: A through F, Washington's Birthday, Columbus Day, Veteran's Day and Patriots' Day provided an employee works two days of the calendar week in which the holiday falls.

SUPERSEDEAS DECISION

STATE: Massachusetts COUNTY: Norfolk
DECISION NO.: MA77-3070 DATE: Date of Publication
Supersedes Decision No. MA76-2103, dated August 20, 1976 in 41 FR 35373.
DESCRIPTION OF WORK: Building Construction, (Including Residential), heavy and highway construction.

BUILDING, HEAVY & HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
Bellingham, Franklin, Plainville & Wrentham	$10.28	1.00	1.18		
Remainder of County	10.26	.80	.80		.01
BOILERMAKERS	10.00	.60	10%		.01
BRICKLAYERS; CEMENT MASONS; PLASTERERS & STONEMASONS:					
Dover, Needham & Wellesley	10.10	.60	1.15		.08
Medfield, Medway & Mills	9.65	1.20	1.00		.08
Avon, Holbrook, Randolph & Stoughton	9.85	.85	1.15		.06
Bellingham, Canton, Dedham, Foxboro, Franklin, Norfolk, Norwood, Plainville, Sharon, Walpole, Westwood & Wrentham	9.95	1.10	.80		.06
Braintree, Cohasset, N. Weymouth, Quincy, S. Weymouth & Weymouth	10.15	.85	.85		.06
BRICKLAYERS & STONE MASONS:					
Brookline & Milton	9.90	.85	1.10		.05
CARPENTERS AND SOFT FLOOR LAYERS:					
Avon, Holbrook, Randolph and Stoughton	9.30	.50	.65		.02
Remainder of County	10.20	.60	1.00		.07
CEMENT MASONS:					
Brookline & Milton	10.45	.95	.50		.10
ELECTRICIANS:					
Avon, Holbrook, Randolph & Stoughton					
Electrical contracts under $40,000	9.15	6%	5%	2%	.5%
Electrical contracts $40,000 or over	11.05	6%	5%	2%	.5%
Residential	6.60	.50	5%	2%	.5%
Plainville	9.40	.48	1%+1.40		.02
Residential	5.75	.37	1%		.02
Remainder of County	11.25	.75	1%+1.55		.05
ELEVATOR CONSTRUCTORS	11.445	.545	.35	4%+a+b	.02
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.545	.35	4%+a+b	.02
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR				

DECISION NO. MA77-3070

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GLAZIERS:					
S. Bellingham	8.88	.52	1.03		.01
Remainder of County	10.40	.57	.64		.03
IRONWORKERS:					
Plainville & Cape Cod	9.43	.70	1.50		.05
Remainder of County	10.49	.70	1.50		.06
LABORERS (BUILDING):					
Laborers, carpenter tenders, wrecking laborers	7.50	.60	.70		.10
Jackhammer op., pavement breaker, asphalt rakers, carbide core drilling machine, chain saw op.,pipelayer, barco type jumping tamper, laser beam concrete pump, mason tender, mortar mixer, ride-on buggy, fence and beam rail erectors and plasterers' tenders	7.75	.60	.70		.10
Air track, block paver, rammer, curb setter	8.00	.60	.70		.10
Blasters, powdermen	8.25	.60	.70		.10
Open air caisson, cylindrical work & boring crew:					
Laborer, top man	7.50	.60	.70		.10
Helper	7.62	.60	.70		.10
Bottom men	8.25	.60	.70		.10
Driller	8.37	.60	.70		.10
LATHERS	9.25	.45	.55		
LEADBURNERS	9.25	.35		c	.01
LINE CONSTRUCTION:					
Linemen	11.50	.65	1%+.50	d	3/8 of 1%
Equipment Operator	10.78	.65	1%+.50	d	3/8 of 1%
Driver Groundman	8.53	.65	1%+.50	d	3/8 of 1%
Groundman	7.18	.65	1%+.50	d	3/8 of 1%
MARBLE & TILE SETTERS, TERRAZZO WORKERS	9.80	.85	1.10		
MARBLE SETTERS' HELPERS	8.71	.85	.25		
MILLWRIGHTS	10.20	.60	1.00		.07

DECISION NO. MA77-3070

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS:					
Bellingham:					
Brush	9.05	.55	.90		
Steel & Steam cleaning	9.30	.55	.90		
Spray & Pottar	10.15	.55	.90		
Dover, Medfield, Medway, Mills Needham & Wellesley					
Brush	7.85	.35	.35		
Steel	8.10	.35	.35		
Spray	8.80	.35	.35		
Remainder of County:					
New Construction					
Brush, Taper	9.76	.72	1.05		.04
Steel	11.88	.72	1.05		.04
Spray	10.76	.72	1.05		.04
Repaint, Alternations & Residential					
Brush	8.61	.72	1.05		.04
Steel	11.88	.72	1.05		.04
Spray	9.61	.72	1.05		.04
PILEDRIVERMEN	10.15	.60	1.03		
PLASTERERS:					
Brookline & Milton	9.25	.45	1.30		.02
Veneer Plasterers	8.85	.45	.30		.02
PLASTERER'S TENDERS	7.75	.60	.70		.10
PLUMBERS & STEAMFITTERS:					
Avon, Holbrook, Randolph & Stoughton	9.50	.45	.70		.05
Dover, Medfield, Medway, Wellesley	11.22	.98	.85		.05
PLUMBERS & GASFITTERS:					
Bellingham, Braintree, Brookline, Canton, Cohasset, Dedham, Foxboro, Franklin, Millis, Milton, Needham, Norfolk, N. Wymouth, Norwood, Plainville, Quincy, Sharon, S. Weymouth, Walpole, Westwood, Weymouth & Wrentham	11.20	1.02	1.28		.05
ROOFERS	9.75	.70	1.20		.05
Reroofing and repair	9.20	.70	1.20		.05
Pitch work	10.75	.70	1.20		.05
SHEET METAL WORKERS	10.23	1.16	1.10		.06

DECISION NO. MA77-3070

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
SPRINKLER FITTERS	11.63	.65	.95		.08
STEAMFITTERS:					
Bellingham, Brookline, Canton, Dedham, Foxboro, Franklin, Medway, Milton, Needham, Norfolk, Norwood, Plainville, Quincy, Sharon, Walpole, Westwood & Wrentham	11.76	.94	1.20		.07
TERRAZZO WORKERS' HELPERS	9.95		.25		.05
TILE SETTERS' HELPERS	8.71	.85	.25		

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Employer contributes 4% basic hourly rate for 5 years or more of service or 2% of basic hourly rate for 6 months or 5 years of service as VAcation Pay Credit.

b. Holidays: A through F.

c. Holidays: A through F, Washington's Birthday, Good Friday and Christmas Eve, provided the employee has worked 45 full days during the 120 calendar days prior to the holiday and the regular scheduled work days immediately preceding the following holiday.

d. Holidays: A through F and Buncker Hill Day provided the employee has been employed 10 working days prior to the listed holidays.

e. Employer pays $5.00 per day extra above the brush rate.

DECISION NO. MA77-3070

HEAVY & HIGHWAY CONSTRUCTION

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
CLASS I	7.50	.60	.70		.10
CLASS II	7.75	.60	.70		.10
CLASS III	8.00	.60	.70		.10
CLASS IV	8.25	.60	.70		.10

CLASSIFICATIONS

CLASS I
Carpenter tenders, cement finisher tenders, laborers, wrecking laborers

CLASS II
Asphalt rakers, fence and guard rail erectors, laser beam op., mason tender, pipelayer, pneumatic drill op., pneumatic tool op., wagon drill op

CLASS III
Air track op., block pavers, rammers, curb setters

CLASS IV
Blasters, powdermen

DECISION NO. MA77-3070

BUILDING CONSTRUCTION

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
CLASS I	10.61	1.10	.80	a	.02
CLASS II	10.49	1.10	.80	a	.02
CLASS III	8.86	1.10	.80	a	.02
CLASS IV	9.67	1.10	.80	a	.02
CLASS V	7.84	1.10	.80	a	.02
CLASS VI	8.32	1.10	.80	a	.02

CLASSIFICATIONS

CLASS I Cranes, shovels, truck cranes, cherry pickers, draglines, trench hoes, backhoes, three drum machines, derricks, pile drivers, elevator towers, hoists, gradalls, shovel dozers, front end loaders, fork lifts, augers, boring machines, rotary drills,post hole hammers, post hole diggers, pumpcrete machines, asphalt plant (on site), concrete batching and/or mixing plant (on site), crusher plant (on site), paving concrete mixers, timber jacks, Boom over 150, including jib additional $.35 per hour; Boom over 185' including jib - additional $.70 per hour; Boom 210' including jib - additional $1.00 per hour; Boom over 250' including jib - additional $1.50 per hour Boom over 295' including jib - additional $2.00 per hour
CLASS II Sonic or vibratory hammers, graders, tandem scrapers, concrete pumps, bulldozers, tractors, york rakes, mulching machines, portable steam boiler, portable steam generators, rollers, spreaders, tampers (self propelled or tractor drawn), asphalt pavers, mechanics maintenance, paving screed machines, stationary steam boilers, paving concrete finishing machines, cal trucks, ballast regulators, switch tampers, rail anchor machinery, tire trucks (when operated by the employer on the job site)
CLASS III Pumps (1-3 grouped), compressors, welding machines (1-3 grouped), generators, concrete vibrators, lighting plants, heaters (power driven 1-5), well-point systems (operating and installing), syphones-pullsometers, concrete mixers, values controlling permanent plant air or steam, conveyors, Jackson type tampers, single diaphragm pump, lighting plants
CLASS IV Assistant engineers (firemen)
CLASS V Oilers and apprentices (other than truck cranes and gradalls)
CLASS VI Oilers and apprentices on truck cranes and gradalls

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTE:

a. Holidays: A through F, Washington's Birthday, Columbus Day, Veterans Day and Patriots Day.

DECISION NO. MA77-3070

HEAVY & HIGHWAY CONSTRUCTION:

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS					
GROUP 1	10.61	1.10	.80	a	.02
Hourly premium for boom lengths including jib					
Over 150 feet + $ .45					
Over 185 feet + .80					
Over 210 feet + 1.15					
Over 250 feet + 1.75					
Over 295 feet + 2.50					
GROUP 2	10.49	1.10	.80	a	.02
GROUP 3	8.86	1.10	.80	a	.02
GROUP 4	9.57	1.10	.80	a	.02
GROUP 5	7.84	1.10	.80	a	.02
GROUP 6	8.32	1.10	.80	a	.02

CLASSIFICATIONS

GROUP 1 Power shovels, cranes, truck cranes, derricks, pile drivers, trenching machines, mechanical hoist pavement breakers, cement concrete pavers, draglines, hoisting engines,three drum machines, pumpcrete machines, uke loaders, shovel dozers, front end loaders, mucking machines, shaft hoists, steam engines, backhoe, gradalls, cable ways, fork lifts, cherry pickers, boring machines, rotary drills, post hole hammers, port hole diggers, asphalt plant on job site, concrete batching and/or mixing plant on job site, crusher plant on job site, paving concrete mixers, timber jacks

GROUP 2 Sonic or vibratory hammers, graders, scrapers, tandem scrapers, bulldozer, tractors, mechanic maintenance, York rakes, mulching machines paving screed machines, stationary steam boilers, paving concrete finishing machine, grout pumps, portable steam boilers, portable steam generators, rollers, spreaders. asphalt pavers, locomotives or machines used in place thereof, tampers, self propelled or tractor drawn, cal tracks, ballast regulators, rail anchor machines, switch tampers

GROUP 3 Pump (1-3 grouped), compressors, welding machine (1-3 grouped), generators lighting plants, heaters (power driven) (1-5), syphons-pulsometers, concrete mixers, valves controlling permanent plant air steam, conveyors, wellpoint system (operating and installing)

DECISION NO. MA77-3070

CLASSIFICATIONS CONT'D

GROUP 4 Assistant engineers (firemen)

GROUP 5 Oilers (other than truck cranes & gradalls)

GROUP 6 Oilers (on truck cranes & gradalls)

FOOTNOTES:

a. Holidays - New Years' Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day, Washington's Birthday, Columbus Day, Veterans Day and Patriots Day

DECISION NO. MA77-3070

BUILDING, HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS:					
CLASS I	7.24	.545	.575	a+b	
CLASS II	7.39	.545	.575	a+b	
CLASS III	7.44	.545	.575	a+b	
CLASS IV	7.54	.545	.575	a+b	
CLASS V	7.64	.545	.575	a+b	
CLASS VI	7.89	.545	.575	a+b	
CLASS VII	8.14	.545	.575	a+b	

CLASSIFICATIONS

CLASS I Station wagons, panel trucks and pickup trucks

CLASS II Two axle equipment; helpers on low bed when assigned at the discretion of the employer, warehousemen, forklift operators

CLASS III Three axle equipment and tiremen

CLASS IV Four and five axle equipment

CLASS V Specialized earth moving equipment under 35 tons othe than conventional type trucks, low bed, vachual, mechanics, paving restoration equipment, mechanics

CLASS VI Specialized earth moving equipment over 35 tons

CLASS VII Trailers for earth moving equipment, (double hookup)

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:

a. One half day's pay each month in which an employee has worked 15 days provided he has been employed for 4 months.

b. Holidays: A through F, Washington's Birthday, Columbus Day, Veteran's Day and Patriots' Day provided an employee works two days of the calendar week in which the holiday falls.

SUPERSEDEAS DECISION

STATE: Massachusetts
DECISION NO.: MA77-3071
COUNTY: Plymouth
DATE: Date of Publication
Supersedes Decision No. MA76-2104, dated September 3, 1976 in 41 FR 37485
DESCRIPTION OF WORK: Building Construction, (including Residential), heavy and highway construction.

DECISION NO. MA77-3071

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
Lakeville, Mattapoisett, Middleboro, Rochester & Wareham	10.28	1.00	1.18		
Remainder of County	10.26	.80	.80		.01
BOILERMAKERS	10.00	.60	10%		.01
BRICKLAYERS; CEMENT MASONS & STONEMASONS:					
Abington, Bridgewater, Brocton Carver, Duxbury, E. Bridgewater, Halifax, Hanover, Hanson, Kingston, Marshfield, Middleboro, Norwell, Pembroke, Plymouth, Rockland, W. Bridgewater & Whitman	9.85	.85	1.15		.06
BRICKLAYERS; CEMENT MASONS; PLASTERERS & STONEMASONS:					
Bingham, Hull, Scituate & the Islands of Quincy	10.15	.85	.85		.06
Lakeville	9.95	1.10	.80		.06
Marion, Mattapoisett, Rochester & Wareham	10.25	.80	.80		.06
CARPENTERS; SOFT FLOOR LAYERS:					
Duxbury, Hanover, Hingham, Hull, Marshfield, Norwell, Pembroke, Rockland & Scituate	10.20	.60	1.00		.07
Remainder of County:					
All work over 1½ Million including Residential	9.30	.60	1.00		.02
Work from $1 million 1½ million	8.83	.60	1.00		.02
Work from $500,000 - 1 million	8.37	.60	1.00		.02
Work from $200,00-500,000	7.44	.60	1.00		.02
Residential up to 4 stories & commercial up to $200,000	6.97	.60	1.00		.02
ELECTRICIANS:					
Bingham, Hull	11.25	.75	1%+1.55		.05
Mattapoisett, Rochester & Wareham:					
Repair, jobbing & commercial, remodel, rewiring on jobs with electrical contracts under $25,000	7.85	.55	1%+.70		a
All other commercial	10.00	.55	1%+.70		a
ELECTRICIANS (CONT'D):					
Residential	5.70	.40	1%+.50		a
Lakeville & Middleboro	11.00	.75	1%		.1%
Residential	8.10	.50	1%		.1%
Remainder of County:					
Electrical contracts $40,000 or more	11.05	6%	5%	2%	.5%
Electrical contracts under $40,000	9.15	6%	5%	2%	.5%
Residential	6.60	.50	5%	2%	.5%
ELEVATOR CONSTRUCTORS	11.445	.545	.35	4%+b+c	.02
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.545	.35	4%+b+c	.02
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR				
GLAZIERS:					
Carver, Lakeville, Middleboro, Marion, Mattapoisett, Rochester and Wareham	8.88	.52	1.03		.01
Remainder of County	10.40	.57	.64		.03
IRONWORKERS:					
Bridgewater, Brockton, Hanover, Hanson, Marfield, Norwell, Pembroke, Rockland, Scituate, W. Bridgewater & Whitman	10.49	.70	1.50		.06
Lakeville, Marion, Mattapoisett, Middleboro, Rochester & Wareham	9.43	.70	1.50		.06
LABORERS (BUILDING):					
Laborers, carpenter tenders, and wrecking laborers	7.50	.60	.70		.10
Jackhammer op; pavement breakers, asphalt rakers, carbide core drilling machine; chain saw ops; pipelayer; barco type jumping tampers; laser beam ops, concrete pumps ops, mason tenders, mortar mixers, ride-on motorized buggy ops, fence & beam erectors	7.75	.60	.70		.10
Air track, block pavers, rammers, curb setters	8.00	.60	.70		.10
Blasters, powdermen	8.25	.60	.70		.10

DECISION NO. MA77-3071

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS (CONT'D):					
Open air caisson, cylindrical work & boring crew:					
Laborer, Top man	7.50	.60	.70		.10
Helper	7.62	.60	.70		.10
Bottom man	8.25	.60	.70		.10
Driller	8.37	.60	.70		.10
LATHERS	9.25	.45	.55		
LEADBURNERS	8.75	.30		d	.01
LINE CONSTRUCTION:					
Linemen	11.50	.65	1%+.50	e	3/8 of 1%
Equipment Operator	10.78	.65	1%+.50	e	3/8 of 1%
Groundmen	7.18	.65	1%+.50	e	3/8 of 1%
Driver Groundman	8.53	.65	1%+.50	e	3/8 of 1%
MARBLE & TILE SETTERS & TERRAZZO WORKERS	9.80	.85	1.10		
MARBLE SETTERS' HELPERS	8.71	.85	.25		
MILLWRIGHTS	10.00	.60	1.00		.07
PAINTERS:					
Marion, Mattapoisett, Rochester and Wareham:					
Brush, rollers and taping	8.55	.60	.45		
Spray	9.80	.60	.45		
Steel	11.80	.60	.45		
Sandblasting, chipping hammer, power brush	10.05	.60	.45		
Paperhangers and vinyl installers	9.05	.60	.45		
Remainder of County:					
Brush, taper (New Construction)	9.76	.72	1.05		.04
Steel (New Construction)	11.88	.72	1.05		.04
Spray (New Construction)	10.76	.72	1.05		.04
Brush (repaint, alterations, residential)	8.61	.72	1.05		.04
Steel (repaint, alterations, residential	11.88	.72	1.05		.04
Spray (repaint, alterations, residential)	9.61	.72	1.05		.04
PILEDRIVERMEN:					
Marion, Mattapoisett, Rochester & Wareham	8.75	.50	.50		.02
Remainder of County:	10.15	.60	1.00		

DECISION NO. MA77-3071

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLASTERERS:					
Norwell	9.25	.45	1.30		.02
Veneer plasterers	8.85	.45	.30		.02
Abington, Bridgewater, Brockton, Carver, Duxbury, E. Bridgewater, Halifax, Hanover, Hanson, Kingston, Marshfield, Middleboro, Pembroke, Plymouth, Plympton, Rockland, W. Bridgewater & Whitman	8.45	.55	.45		.02
PLASTERERS' TENDERS:					
Abington, Bridgewater, Brockton Carver, Duxbury, E. Bridgewater Halifax, Hanover, Hanson, Hingham, Hull, Kingston, Marshfield Norwell, Pembroke, Plymouth, Plympton, Rockland, Scituate, W. Bridgewater & Whitman	7.75	.60	.70		.10
PLUMBERS:					
Marion, Mattapoisett, Rochester & Wareham	9.90	.76	1.16		.15
Residential	8.91	.76	1.16		.15
Abington, Bridgewater, Brockton, Carver, Duxbury, E. Bridgewater, Halifax, Hanover, Hanson, Kingston, Marshfield, Norwell, Pembroke, Plymouth, Plympton, Rockland, W. Bridgewater & Whitman	10.95	.80	.80		.05
PLUMBERS, GASFITTERS:					
Hingham, Hull & Scituate	10.25	.70	.60		.03
PLUMBERS, STEAMFITTERS:					
Lakeville, Middleboro	8.97	.60	.73		
ROOFERS:					
Abington, Bridgewater, E. Bridgewater, Halifax, Hanover, Hanson, Marshfield, Norwell, Pembroke, Plympton, Rockland, Scituate, W. Bridgewater	9.75	.70	1.20		.05
Reroofing and repair	9.20	.70	1.20		.05

DECISION NO. MA77-3071

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS (Cont'd)					
Pitch work	10.75	.70	1.20		.05
Brockton	8.50				
Carver, Lakeville, Marion, Mattapoisett, Middleboro, Rochester, Wareham & Bingham					
Roofers and kettlemen	9.20	.60	.20		
Helpers, Class "A"	8.50	.60	.20		
Helpers, Class "B"	5.52	.60	.20		
Mechanic on shingle work	7.36	.60	.20		
SHEET METAL WORKERS:					
Marion, Mattapoisett, Rochester & Wareham	9.48	.95	.45		
Remainder of County	10.23	1.16	1.10		.06
SPRINKLER FITTERS	11.63	.65	.95		.08
STEAMFITTERS:					
Marshfield, Bingham, Hull, Scituate	11.96	.94	1.00		.07
TERRAZZO WORKERS' HELPERS	9.95		.25		.05
TILE SETTERS' HELPERS	7.94	.40	.25		

PAID HOLIDAYS:
A-New Year's Day; B- Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F- Christmas Day

FOOTNOTES:

a. Employer contribution of $1.00 per journeyman electricians per week.

b. Employer contibutes 4% of basic hourly rate for 5 years or more of service or 2% of basic hourly rate for 6 months to 5 years of service vacation pay credit.

c. Holidays: A through F.

d. Holidays: A through F, Washington's Birthday, Good Friday & Christmas Eve, provided the employee has worked at least 45 full days during the 120 calendar days immediately prior to the holiday and the regular scheduled work days immediately preceding and following the holiday.

e. Holidays: A through F, and Bunker Hill Day, provided the employee has been employed 5 working days prior to any one of the listed holidays.

DECISION NO. MA77-3071
HEAVY & HIGHWAY CONSTRUCTION

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
CLASS I	7.50	.60	.70		.10
CLASS II	7.75	.60	.70		.10
CLASS III	8.00	.60	.70		.10
CLASS IV	8.25	.60	.70		.10

CLASSIFICATIONS

CLASS I
Carpenter tenders, cement finisher tenders, laborers, wrecking laborers

CLASS II
Asphalt rakers, fence and guard rail erectors, laser beam op., mason tender, pipelayer, pneumatic drill op., pneumatic tool op., wagon drill op

CLASS III
Air track op., block pavers, rammers, curb setters

CLASS IV
Blasters, powdermen

BUILDING CONSTRUCTION

DECISION NO. MA77-3071
BUILDING, HEAVY AND HIGHWAY CONSTRUCTION

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS:					
CLASS I	7.24	.545	.575	a+b	
CLASS II	7.39	.545	.575	a+b	
CLASS III	7.44	.545	.575	a+b	
CLASS IV	7.54	.545	.575	a+b	
CLASS V	7.64	.545	.575	a+b	
CLASS VI	7.89	.545	.575	a+b	
CLASS VII	8.14	.545	.575	a+b	

CLASSIFICATIONS

CLASS I Station wagons, panel trucks and pickup trucks

CLASS II Two axle equipment; helpers on low bed when assigned at the discretion of the employer, warehousemen, forklift operators

CLASS III Three axle equipment and tiremen

CLASS IV Four and five axle equipment

CLASS V Specialized earth moving equipment under 35 tons othe than conventional type trucks, low bed, vachual, mechanics, paving restoration equipment, mechanics

CLASS VI Specialized earth moving equipment over 35 tons

CLASS VII Trailers for earth moving equipment, (double hookup)

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:
a. One half day's pay each month in which an employee has worked 15 days provided he has been employed for 4 months.

b. Holidays: A through F, Washington's Birthday, Columbus Day, Veteran's Day and Patriots' Day provided an employee works two days of the calendar week in which the holiday falls.

DECISION NO. MA77-3071
BUILDING CONSTRUCTION

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
CLASS I	10.61	1.10	.80	a	.02
CLASS II	10.49	1.10	.80	a	.02
CLASS III	8.86	1.10	.80	a	.02
CLASS IV	9.67	1.10	.80	a	.02
CLASS V	7.84	1.10	.80	a	.02
CLASS VI	8.32	1.10	.80	a	.02

CLASSIFICATIONS

CLASS I Cranes, shovels, truck cranes, cherry pickers, draglines, trench hoes, backhoes, three drum machines, derricks, pile drivers, elevator towers, hoists, gradalls, shovel dozers, front end loaders, fork lifts, augers, boring machines, rotary drills,post hole hammers, post hole diggers, pumpcrete machines, asphalt plant (on site), concrete batching and/or mixing plant (on site), crusher plant (on site), paving concrete mixers, timber jacks, Boom over 150, including jib additional $.35 per hour; Boom over 185' including jib - additional $.70 per hour; Boom 210' including jib - additional $1.00 per hour; Boom over 250' including jib - additional $1.50 per hour Boom over 295' including jib - additional $2.00 per hour
CLASS II Sonic or vibratory hammers, graders, tandem scrapers, concrete pumps, bulldozers, tractors, york rakes, mulching machines, portable steam boiler, portable steam generators, rollers, spreaders, tampers (self propelled or tractor drawn), asphalt pavers, mechanics maintenance, paying screed machines, stationary steam boilers, paving concrete finishing machines, cal trucks, ballast regulators, switch tampers, rail anchor machinery, tire trucks (when operated by the employer on the job site)
CLASS III Pumps (1-3 grouped), compressors, welding machines (1-3 grouped), generators, concrete vibrators, lighting plants, heaters (power driven 1-5), well-point systems (operating and installing), syphones-pullsometers, concrete mixers, values controlling permanent plant air or steam, conveyors, Jackson type tampers, single disphragm pump, lighting plants
CLASS IV Assistant engineers (firemen)
CLASS V Oilers and apprentices (other than truck cranes and gradalls)
CLASS VI Oilers and apprentices on truck cranes and gradalls

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTE:

a. Holidays: A through F, Washington's Birthday, Columbus Day, Veterans Day and Patriots Day.

DECISION NO. MA77-3071

HEAVY & HIGHWAY CONSTRUCTION:

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS					
GROUP 1	10.61	1.10	.80	a	.02
Hourly premium for boom lengths including jib					
Over 150 feet + $ .45					
Over 185 feet + .80					
Over 210 feet + 1.15					
Over 250 feet + 1.75					
Over 295 feet + 2.50					
GROUP 2	10.49	1.10	.80	a	.02
GROUP 3	8.86	1.10	.80	a	.02
GROUP 4	9.67	1.10	.80	a	.02
GROUP 5	7.84	1.10	.80	a	.02
GROUP 6	8.32	1.10	.80	a	.02

CLASSIFICATIONS

GROUP 1 Power shovels, cranes, truck cranes, derricks, pile drivers, trenching machines, mechanical hoist pavement breakers, cement concrete pavers, draglines, hoisting engines,three drum machines, pumpcrete machines, uke loaders, shovel dozers, front end loaders, mucking machines, shaft hoists, steam engines, backhoe, gradalls, cable ways, fork lifts, cherry pickers, boring machines, rotary drills, post hole hammers, port hole diggers, asphalt plant on job site, concrete batching and/or mixing plant on job site, crusher plant on job site, paving concrete mixers, timber jacks

GROUP 2 Sonic or vibratory hammers, graders, scrapers, tandem scrapers, bulldozer, tractors, mechanic maintenance, York rakes, mulching machines paving screed machines, stationary steam boilers, paving concrete finishing machine, grout pumps, portable steam boilers, portable steam generators, rollers, spreaders. asphalt pavers, locomotives or machines used in place thereof, tampers, self propelled or tractor drawn, cal tracks, ballast regulators, rail anchor machines, switch tampers

GROUP 3 Pump (1-3 grouped), compressors, welding machine (1-3 grouped), generators lighting plants, heaters (power driven) (1-5), syphons-pulsometers, concrete mixers, valves controlling permanent plant air steam, conveyors, wellpoint system (operating and installing)

DECISION NO. MA77-3071

CLASSIFICATIONS CONT'D

GROUP 4 Assistant engineers (firemen)

GROUP 5 Oilers (other than truck cranes & gradalls)

GROUP 6 Oilers (on truck cranes & gradalls)

FOOTNOTES:

a. Holidays - New Years' Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day, Washington's Birthday, Columbus Day, Veterans Day and Patriots Day

SUPERSEDEAS DECISION

STATE: Montana COUNTIES: Statewide
DECISION NUMBER: MT77-5073 DATE: Date of Publication
Supersedes Decision No. MT77-5021 dated March 4, 1977, in 42 FR 12631
DESCRIPTION OF WORK: Building Construction (does 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	$ 11.60	.44	$ 1.10		
BOILERMAKERS	10.30	.85	1.00		.02
BRICKLAYERS:					
Beaverhead, Deer Lodge, Granite, Jefferson (except Northern Tip of County), Madison, Powell and Silver Bow Counties	10.65		.55		
Gallatin and Park Counties	10.05				
Big Horn, Carbon, Carter, Custer, Dawson, Fallon, McCone, Powder River, Prairie, Richland, Rosebud, Sweet Grass, Steelwater, Treasure, Wibaux Yellowstone Counties	10.60		.35		.02
Broadwater, Lewis and Clark and Meagher Counties	9.75	.30			
Cascade, Chouteau, Glacier, Pondera and Teton Counties	10.40	.60	.55		
Blaine, Daniels, Hill, Liberty, Phillips, Roosevelt, Sheridan, Toole and Valley Counties	10.50	.55	.55		.05
Flathead, Lake, Lincoln, Mineral, Missoula, Ravalli and Sanders Counties	9.50	.40	.25		
CARPENTERS:					
Cascade, Chouteau, Fergus, Glacier, Judith-Basin, Liberty, Meagher, Pondera, Teton and Toole Counties					
Carpenters	8.64	.45	.75		.02
Piledrivermen; Saw Filers; Sawmen	8.89	.45	.75		.02
Millwrights	9.14	.45	.75		.02
Blaine and Hill Counties					
Carpenters	6.36	.30	.45		.02
Broadwater, Lewis and Clark and Jefferson Counties					
Carpenters	8.27	.45	.75		.02
Piledrivermen	8.42	.45	.75		.02
Millwrights	8.52	.45	.75		.02

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS: (Cont'd)					
Deer Lodge, Granite (all area lying south of a line running due east from the N.W. corner of Granite County to the N.E. corner of Granite County) and Powell (area lying south of the N.E. corner of Granite County) Counties					
Carpenters	$ 8.76	.45	.75		.02
Piledrivers	9.26	.45	.75		.02
Millwrights	9.01	.45	.75		.02
Granite (area lying north of a line running due east from the N.W. corner of Granite County to the N.E. corner of Granite County) Lake (southern area, south of and including the Town of Ravalli), Mineral (area southeast of Southeast City limits of the Town of Superior), Missoula, Powell (area lying north of the N.E. corner of Granite County), Ravalli and Sander (Southeastern portion) Counties					
Carpenters	8.01	.45	.75		.02
Millwrights; Piledriver	8.26	.45	.75		.02
Carter, Custer, Daniels, Dawson, Fallon, McCone, Phillips, Powder River, Prairie, Richland, Roosevelt, Sheridan, Valley and Wibaux Counties					
Carpenters	7.84	.45	.75		.02
Piledrivermen	8.09	.45	.75		.02
Millwrights	8.34	.45	.75		.02

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS: (Cont'd)					
Flathead, Lincoln, Lake (Northern area including Town of Ravalli from a point where Hwy. #10A and Hwy. #93 intersect), Mineral (Northern area including the Town of Superior), Sanders (except S.E. corner portion) Counties					
Carpenters	$ 8.22	.45	.75		.02
Sawmen; Filers, Piledrivers; carpenters working burned, charred, creosoted or similary treated material	8.42	.45	.75		.02
Millwrights and Machine Erectors	8.57	.45	.75		.02
Big Horn, Carbon, Garfield, Golden Valley, Musselshell, Petroleum, Rosebud, Stillwater, Treasure, Wheatland and Yellowstone Counties					
Carpenters	8.18	.45	.75		.02
Floor Sander; Sawmen	8.33	.45	.75		.02
Piledrivermen	8.33	.45	.75		.02
Millwrights	8.68	.45	.75		.02
Beaverhead and Silver Bow Co:					
Carpenters	8.56	.55	1.00	.75	.02
Millwrights and Piledrivermen	8.81	.55	1.00	.75	.02
Gallatin, Madison, Park and Sweetgrass Counties					
Carpenters	8.06	.45	.75		.02
Millwrights and Piledrivermen	8.31	.45	.75		.02
CEMENT MASONS:					
Flathead, Glacier, Lake (North of the City of Ronan), Lincoln and Sanders (North of the City of Plains) Counties	6.95	.37			

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CEMENT MASONS: (Cont'd)					
Granite (Northern half), Lake (Southern area, including the City of Pablo), Mineral, Missoula, Powell (Northern area including the City of Helmsville), Ravalli and Sanders (South portion including the City of Paradise) Counties	$ 8.0775	.50	.35		
Big Horn, Carbon, Golden Valley, Stillwater, Treasure, Wheatland and Yellowstone Counties	7.33	.40			
Gallatin, Park and Sweet Grass Counties	6.50	.35	.25		
Carter, Custer, Dawson, Fallon, Powder River, Prairie, Richland Rosebud and Wibaux Counties	7.50	.50	.25		
Beaverhead, Deer Lodge, Granite (Southern half), Jefferson (Southern area including Town of Wickes), Madison, Powell (South portion including the Town of Deer Lodge) and Silver Bow Counties	8.95	.50	.25		
Broadwater, Jefferson (Area north of a line running E-W established south of the Town of Wickes and north of the Town of Basin), Lewis and Clark and Meagher Counties	6.22				
Blaine, Cascade, Chouteau, Hill, Liberty, Pondera, Teton and Toole Counties	8.35	.44			
ELECTRICIANS:					
Beaverhead, Deer Lodge, Granite, Jefferson, Madison, Silver Bow and Powell Counties	9.90	.50	3%+.35		1/2%
Gallatin County	10.35	.40	3%		1/2%
Broadwater, Lewis and Clark and Meagher Counties Electricians	9.55	.55	3%+.50		1/2%

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS: (Cont'd)					
Blaine, Hill, Liberty and Phillips Counties					
Electricians	$ 10.35		3%+.50		1/2%
Cascade, Chouteau, Glacier, Judith-Basin, Pondera, Teton and Toole Counties					
Electricians	10.75	.55	3%+.75		1/2%
Cable Splicers	11.00	.55	3%+.75		1/2%
Flathead, Lake, Lincoln, Mineral, Missoula, Ravalli and Sanders Counties					
Electricians	10.68	.42	3%		1/2%
Cable Splicers	11.18	.42	3%		1/2%
Big Horn, Carbon, Golden Valley, Musselshell, Powder River, Rosebud, Stillwater, Treasure and Yellowstone Counties					
Electricians	9.97	.40	3%+.50		1/2%
Cable Splicers	10.42	.40	3%+.50		1/2%
Fergus, Petroleum and Wheatland Counties					
(Electrical contracts less than $20,000)	6.75	.20	3%		1/2%
(Electrical contracts $20,000 or more)	9.75	.20	3%		1/2%
Park and Sweet Grass Counties	8.95	.40	3%+.50		1/2%
Carter, Daniels, Dawson, Fallon, McCone, Prairie, Richland, Roosevelt, Sheridan, Valley and Wibaux Counties	9.20	.55	3%+.75		1/2%
Custer and Garfield Counties	9.08		3%		1/2%
ELEVATOR CONSTRUCTORS	10.20	.495	.35	3%+a	.02
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.495	.35	3%+a	.02
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	50%JR				

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
IRONWORKERS:					
Beaverhead, Broadwater, Deer Lodge, Gallatin, Granite, Jefferson, Lewis and Clark, (Southern half including Wolf Creek), Madison, Park, Powell, Ravalli and Silver Bow Cos.	$10.66	.65	$ 1.15		.05
Flathead, Glacier, Lake, Lincoln, Mineral, Missoula and Sanders Counties	11.15	.58	1.00		.05
Remaining Counties (including Northern half of Lewis and Clark County)	10.66	.65	1.15		.05
MARBLE MASONS:					
Flathead, Lake, Lincoln, Mineral, Missoula, Ravalli and Sanders Counties	9.50	.40	.25		
Big Horn, Carbon, Carter, Custer, Dawson, Fallon, McCone, Powder River, Prairie, Richland, Rosebud, Stillwater, Sweet Grass, Treasure, Wibaux and Yellowstone Counties	10.60		.35		.02
Gallatin and Park Counties	10.05				
Broadwater, Lewis and Clark, Meagher and Jefferson (northern area) Counties	9.75	.30			
Cascade, Chouteau, Glacier, Pondera Teton Counties	10.40	.60	.55		.05
Blaine, Daniels, Hill, Liberty, Phillips, Roosevelt, Sheridan, Toole and Valley Counties	10.50	.55	.55		.05
PAINTERS:					
Beaverhead, Jefferson (Southern area, south of the City of Boulder), Madison (west of a line running north-south through the west limits of Harrison and Silver Bow Cos.					
Painter, brush	7.60	.15	.10		
Power taping machine	7.87	.25	.10		
Paint mitts and work over 30 feet	8.12	.25	.10		
Application of cold tar; Spray work; Pressure Roller; Sand blasting and steam cleaning; Stacks and steeples	10.40	.25	.10		

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS: (Cont'd)					
Big Horn, Carbon, Carter, Custer, Dawson, Fallon, Golden Valley, Musselshell, Powder River, Prairie, Rosebud, Stillwater, Sweet Grass, Treasure, Wheatland, (South of the City of Harlowtown), Wibaux and Yellowstone Counties					
Brush	$ 8.13	.49	.20		
Steel	8.38	.49	.20		
Spray	9.11	.49	.20		
Cascade, Chouteau (south of a line running East and West through the Southern limits of Big Sandy), Daniels, Fergus, Glacier (excluding Glacier National Park), Garfield, Judith-Basin, Lewis and Clark, (Northern portion from a line running East and West through the northern limits of Craig), McCone, Phillips, Pondera, Petroleum, Richland, Roosevelt, Sheridan, Teton, Toole, Valley and Wheatland(northern area from a line running East and West thru the southern limits of Harlowtown) Counties					
Painter brush, Preparatory work, Pot tender, Parking lot and related work, Roller up to 9 inches	8.94	.49	.40		1/2%
Paperhanger, Brush on steel	9.44	.49	.40		1/2%
Water and Sandblasting, Application of cold tar products, Epoxies, Polyurethanes and acid resistant paints, Spraying and airless spray	11.19	.49	.40		1/2%
Roller over 9" long	12.54	.49	.40		1/2%
Taper	9.34	.49	.40		1/2%

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS: (Cont'd)					
Deer Lodge County and the southern part of Granite County from a line east-west through the southern limits of Phillipsburg					
Painter and prefataper	$ 7.60				
Paint mitts	8.12				
Application of cold tar products, epoxies, polyurethanes and acid resistant paints; Water sandblasting and steam cleaning; Stacks and steeples; Brushing of steel; Spraying and airless spraying; Work over 30 feet	10.40				
Broadwater, Gallatin, Jefferson (northern area from a line running east and west five miles south of the southern city limits of Boulder), Lewis and Clark (Southern portion from a line tunning east and west through the southern limits of Craig), Madison (east of the west city limits of Harrison), Meagher, Park, Powell (northern area from a line running east and west through the southern city limits of Helmsville)					
Parking lot striping and related work	8.69	.25	.20		.03
Paper Hanger	9.19	.25	.20		.03
Perfataper:					
Hand	9.19	.25	.20		.03
Spray	9.69	.25	.20		.03
Machine	9.94	.25	.20		.03
Blaine, Hill, Liberty and Chouteau (north of the Southern limits of the City of Big Sandy) Counties	6.76				

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS: (Cont'd)					
Flathead, Granite (northern area north limits of Phillipsburg), Lake (Southern area including City of Ronan), Lincoln, Mineral, Missoula, Powell (northern area through south limits of Helmsville), Ravalli and Sanders Counties	$ 9.35	.44	.40		.04
PLASTERERS:					
Big Horn, Carbon, Golden Valley, Stillwater, Treasure, Wheatland and Yellowstone Counties	7.38	.40			
Carter, Custer, Dawson, Fallon, Powder River, Prairie, Richland, Rosebud and Wibaux Counties	7.50	.50	.25		
Gallatin, Park and Sweet Grass Counties	6.50	.35	.25		
Granite, Lake (Southern area, including the City of Pablo), Mineral, Missoula, Powell (Northern area including the City of Helmsville), Ravalli and Sanders (south portion, including the City of Paradise), Counties	7.85	.40	.25		
Beaverhead, Deer Lodge, Jefferson (Southern area, including the Town of Wickes), Madison, Powell (South of a line running E-W north of the Town of Deer Lodge) and Silver Bow Counties	8.95	.50	.25		
Flathead, Glacier, Lake (Northern area, including the City of Ronan), Lincoln and Sanders (north of the City of Plains) Counties	6.45	.20			

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLUMBERS:					
Flathead, Lake, Lincoln, Mineral, Missoula and Sanders Counties	$ 10.53	.35	.70		.05
Blaine, Cascade, Chouteau, Fergus, Glacier, Hill, Judith-Basin, Liberty, McCone, Meagher, Phillips, Pondera, Roosevelt, Teton, Toole and Valley Cos.	11.60	.65	.95		14
Beaverhead, Broadwater, Deer Lodge, Gallatin, Granite, Jefferson, Lewis and Clark, Madison, Park, Powell, Silver Bow and Sweet Grass Counties	11.70	.60	.75		.10
Big Horn, Carbon, Carter, Custer, Daniels, Dawson, Fallon, Garfield, Golden Valley, Musselshell, Petroleum, Powder River, Prairie, Richland, Rosebud, Sheridan, Stillwater, Treasure, Wheatland, Wibaux and Yellowstone Counties	11.25	.40	.80		.10
ROOFERS:					
Big Horn, Carbon, Carter, Custer, Dawson, Fallon, Golden Valley, Musselshell, Powder River, Prairie, Richland, Rosebud, Stillwater, Treasure, Wibaux and Yellowstone Counties	8.79		.25		
Blaine, Cascade, Chouteau, Daniels, Fergus, Garfield, Glacier, Hill, Judith-Basin, Liberty, Lewis and Clark, McCone, Petroleum, Phillips, Pondera, Roosevelt, Sheridan, Teton, Toole and Valley Cos.	9.20				
Beaverhead, Deer Lodge, Jefferson, Madison, Powell and Silver Bow Counties	8.49	.50	.40	.75	

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS: (Cont'd)					
Flathead, Granite, Lake, Lincoln, Mineral, Missoula, Ravalli and Sanders Counties	$ 8.49	.60			.01
Broadwater, Gallatin, Meagher, Park, Sweet Grass and Wheatland Counties	8.50	.47			
SHEET METAL WORKERS:					
Broadwater, Jefferson (including North half of the City of Boulder), Lewis and Clark and Meagher Counties	10.31	.77	.25		.10
Flathead, Lake, Lincoln, Mineral, Missoula, Ravalli and Sanders Counties	10.23	.82	.25		.10
Big Horn, Carbon, Carter, Custer, Daniels, Dawson, Fallon, Fergus, Gallatin, Garfield, Golden Valley, McCone, Musselshell, Petroleum, Phillips, Powder River, Park, Prairie, Richland, Roosevelt, Rosebud, Sheridan, Stillwater, Sweet Grass, Valley, Wheatland, Wibaux, Treasure and Yellowstone Counties	9.39	.37	3%+.45		.10
Blaine, Cascade, Chouteau, Glacier, Hill, Judith-Basin, Liberty, Pondera, Teton and Toole Counties	10.27	.66	.25		.07
Beaverhead, Deer Lodge, Granite, Jefferson (S½), Madison, Powell, and Silver Bow Counties	9.15	.37	.40	1.00	.02
SPRINKLER FITTERS	10.42	.65	.95		.08
TERRAZZO WORKERS & TILE SETTERS:					
Broadwater, Lewis and Clark, Meagher and Jefferson (Northern area north of Boulder Hill) Counties	9.75	.30			
Big Horn, Carbon, Carter, Custer, Dawson, Fallon, McCone, Powder River, Prairie, Richland, Rosebud, Sweet Grass, Stillwater, Treasure, Wibaux and Yellowstone Counties	10.60		.35		.02

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TERRAZZO WORKERS & TILE SETTERS: (Cont'd)					
Flathead, Lake, Lincoln, Mineral, Missoula, Ravalli and Sanders Counties	$ 9.50	.40	.25		
Gallatin and Park Counties	10.05				
Cascade, Chouteau, Glacier, Pondera and Teton Counties	8.25	.60	.55		

FOOTNOTE:
a. Employer contributes 4% of basic hourly rate for 5 years' service and 2% basic hourly rate for 6 months to 5 years' service as Vacation Pay Credit. Six Paid Holidays: A through F.

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day;
D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

LABORERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Beaverhead, Deer Lodge, Jefferson, Madison, Powell (excluding S.E. portion) and Silver Bow Counties					
Group 1	$ 6.88	.50	.40	.75	.03
Group 2	6.95	.50	.40	.75	.03
Group 3	6.96	.50	.40	.75	.03
Group 4	6.97	.50	.40	.75	.03
Group 5	6.98	.50	.40	.75	.03
Group 6	7.00	.50	.40	.75	.03
Group 7	7.04	.50	.40	.75	.03
Group 8	7.05	.50	.40	.75	.03
Group 9	7.06	.50	.40	.75	.03
Group 10	7.10	.50	.40	.75	.03
Group 11	7.13	.50	.40	.75	.03
Group 12	7.15	.50	.40	.75	.03
Group 13	7.16	.50	.40	.75	.03
Group 14	7.23	.50	.40	.75	.03
Group 15	7.26	.50	.40	.75	.03
Group 16	7.28	.50	.40	.75	.03
Group 17	7.38	.50	.40	.75	.03
Group 18	7.48	.50	.40	.75	.03
Group 19	7.13	.50	.40	.75	.03
Group 20	7.12	.50	.40	.75	.03
Group 21	7.00	.50	.40	.75	.03
Broadwater (northern area), Lewis and Clark, Meagher, Powell (that portion lying east of a N-S line at the west edge of the Town of Elliston) Counties					
Group 1	7.52	.50	.40		.03
Group 2	7.68	.50	.40		.03
Group 3	7.77	.50	.40		.03

LABORERS
Beaverhead, Deer Lodge, Jefferson, Madison, Powell (excluding SE portion) and Silver Bow Counties

Group 1: General Laborers; Axeman; Carpenter Tender; Car and Truck Loaders, Scissorman; Chuck Tender and Nipper (above ground); Conmolene, applying and removing; Fence Erector and Installer including the installation and erection of fences, guard rails, median rails, reference posts, guide posts and right-of-way markers); Form Stripper; Form Setter; Landscape Laborer; Nozzleman - air and water, gunnite and place machine; Pilot Car; Riprap Helper; Scaleman; Sod Cutter (hand operated) (General Laborer); Stake Jumper for equipment; Tool Checker, Toolhouseman

Group 2: Riprapper; Sandblaster; Sandblaster Tailhouseman; Pot Tender

Group 3: Hand Faller

Group 4: Post Hole Digger (power Auger)

Group 5: Concrete or asphalt saws; Tar Pot Operator

Group 6: Powderman Helper

Group 7: Caisson Workers (free air); Choker Setter; Spike Driver, single or dual or hand

Group 8: Drills, Air-tract, self-propelled car or truck mount air operated drills; Jackhammer, Pavement Breaker, Wagon Driller, mechanical Tamper, Vibrating Roller hand steered and other power tools; Pipe Wrapper, Power Saw (bucking)

Group 9: Asphalt raker; Dumpman (grademan)

Group 10: High Pressure Machine Nozzleman

Group 11: Pipelayer (all types); Cutting Torch Operator

Group 12: Powderman

Group 13: Grade Setter

LABORERS (Cont'd)
Beaverhead, Deer Lodge, Jefferson, Madison, Powell (excluding SE portion) and Silver Bow Counties

Group 14: High Scaler

Group 15: Dumpman (spotter)

Group 16: Power Saw (falling)

Group 17: Rigger

Group 18: Core Drill Operator

Group 19: Concrete Worker, wet or dry; Tending Masons when pouring and finishing concrete

Group 20: Vibrator Operator; Tending Stonesetters, Marble Setters, Tile Setters, Skagiola and Terrazzo Workers; Tending brick masons or brick or stone work; Tending Plasterers or stuccoing or plastering; (this does not include rubbing down of foundation or concrete walls), Surekete, Stonehard and Rubberslate; Concrete Conveyor Swinger Operator

Group 21: Power Driven Concrete Buggies

Broadwater (Northern area), Lewis and Clark, Meagher, Powell (that portion lying east of a N-S line at the west edge of the Town of Elliston) Counties

Group 1: General Laborer; Car and truck loader; Concrete Handler; Form Stripper; Fence Erector and Installer

Group 2: Concrete Buggy; Vibrator; Jackhammer; Wagon Driller; Barco Tamper; Pavement Breaker; Powderman Helper

Group 3: All power tools; Rodder and Spreader; Non-metallic Pipe Layers; Pipe Wrappers; Sandblasters; Pot Tenders; Curb Form Setter; Concrete Tenders

Group 4: Mortar Mixer; Powderman

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS (Cont'd)					
Broadwater (Southern portion including the City of Townsend), Gallatin, Park, Sweet Grass and Wheatland Counties					
Group 1	$ 6.70	.50	.40		.03
Group 2	6.95	.50	.40		.03
Flathead, Glacier National Park, Lincoln and that area of Lake and Sanders Counties lying 5 miles north of the 5th Parallel					
Group 1	7.47	.50	.40		.03
Group 2	7.64	.50	.40		.03
Group 3	7.81	.50	.40		.03
Carter, Custer, Dawson, Fallon, Powder River, Prairie and Wibaux Counties					
Group 1	7.55	.55	.45		.05
Group 2	7.77	.55	.45		.05
Group 3	7.80	.55	.45		.05
Big Horn, Carbon, Golden Valley, Musselshell, Rosebud, Stillwater, Treasure and Yellowstone Counties					
Group 1	7.70	.55	.45		.05
Group 2	7.92	.55	.45		.05
Group 3	7.95	.55	.45		.05

LABORERS (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Granite, Lake (Southern area), Mineral, Missoula, Ravalli and Sanders (Southern area) Counties					
Group 1	$ 7.335	.50	.40		.03
Group 2	7.585	.50	.40		.03
Group 3	7.735	.50	.40		.03
Cascade, Chouteau, Fergus, Glacier (excluding Glacier National Park), Judith-Basin, Pondera, Teton and Toole Counties					
Group 1	7.52	.50	.40		.03
Group 2	7.67	.50	.40		.03
Group 3	7.87	.50	.40		.03
Group 4	7.92	.50	.40		.03
Group 5	8.02	.50	.40		.03
Group 6	8.27	.50	.40		.03
Group 7	8.12	.50	.40		.03
Blaine, Daniels, Garfield, Hill, Liberty, McCone, Petroleum, Phillips, Richland, Roosevelt, Sheridan and Valley Cos.					
Group 1	7.52	.50	.40		.03
Group 2	7.62	.50	.40		.03
Group 3	7.77	.50	.40		.03
Group 4	7.92	.50	.40		.03
Group 5	8.02	.50	.40		.03
Group 6	8.27	.50	.40		.03

LABORERS (Cont'd)

Broadwater (Southern portion including the City of Townsend), Gallatin, Park, Sweet Grass and Wheatland Counties

Group 1: Common Laborers

Group 2: Semi-skilled; Hod Carriers; Jackhammer Operator; Vibrator; Mixer Operator; Concrete pump tender; Nozzleman; Concrete machine; Curb form setter

Flathead, Glacier National Park, Lincoln, and that portion of Lake and Sanders Counties lying 5 miles north of the 5th Parallel

Group 1: General Laborers; Scaleman; Form Strippers; Car and Truck Loaders

Group 2: Concrete handlers, conveying and handling concrete, Nozzlemen (air or water); Sand blast tail hose man; Powderman helper; Power driven wheelbarrow; Rodder and spreader; Form Setters (paving); Bucketman; Small air tool operators, including blow pipes and small power tool operators; Chuck Tenders; Asphalt rakers, Dumpman; Rip rapping; Pipe wrapper; Pot tender; Concrete pumper hosman; Jackhammer; Pavement Breaker; Vibrator; Mechanical tamper and other air tools; Cement handlers (sack or bulk); Burning bar

Group 3: Pipe Layers (non-metallic); Metal culvert pipe layers; Mason and plaster tenders; Cement finisher tender; Small concrete mixer operator; Shoring and lagging open ditches; Powderman; Drills, Air-trac, wagon drill, cat or truck mounted air operated drills, Sand blaster (wet or dry); Gunite Nozzleman; Barco tamper

Carter, Custer, Dawson, Fallon, Powder River, Prairie and Wibaux Counties

Group 1: General Laborers

Group 2: Jackhammer operator; Mechanical tampers; Pipelayers (all types); Pavement breakers; Pneumatic and electric tools operator; Pipewrappers

Group 3: Mason and plasterer's tenders

LABORERS (Cont'd)
Big Horn, Carbon, Golden Valley, Musselshell, Rosebud, Stillwater, Treasure and Yellowstone Counties

Group 1: General Laborers; Concrete Laborers; Chuck tenders and nippers

Group 2: Cement Handler (sack or bulk; Jackhammer Operator; Mortarman; Pipelayer (all types); Pipewrapper; Primerhouseman

Group 3: Mason and Plasterer's tenders

Granite, Lake (Southern area), Mineral, Missoula, Ravalli and Sanders (Southern area) Counties

Group 1: Laborers

Group 2: All power tools, creosote workers; Jackhammer; Marble and tile setters' tenders; Pipelayers; Pipewrappers; Pot tenders; Small concrete mixers; Vibrators

Group 3: Cement Masons and plasterer's tenders; Mason tenders; pumpcrete, gunnite and plaster pump

Cascade, Chouteau, Fergus, Glacier (excluding Glacier National Park, Judith-Basin, Pondera, Teton and Toole Counties

Group 1: General and building laborers' and Scale Men; Concrete Laborers (wet or dry breaking of concrete requiring sledge hammer); Dumpman (spotter) and Flagman; Fence Erectors and Installers, including the installation and erection of fences, guardrials, median rails, reference posts, guide posts and right-of-way markers; Vibrators, under 1½" in diameter; Small Air Tools such as Chippers, Clay Spades, etc.; Stake Setters; Stake Jumper, Rodder and Spreader; Form Stripper; Caisson Workers (free air); Vibrator 1½" to 2½" in diameter

Group 2: Concrete or Asphalt Saws; Creosote material handler; Curb Machine form setter (slab steel forms); Diamond drills up through 3 inches in diameter; Jackhammer, pavement breaker, Wagon driller, cat or truck mounted air operated drills, and other air tools; Diesel Tamper, Wacker, Jay, Turtle, Pogo Sticks, etc., Mechanical tampers; Nozzlemen, air and water, gunite and Placo, Machine (grout); Pipe layer (all types); Power saw (bucking and falling); Power driven wheelborrow; Chuck Tenders, Muckers and Nippers, Primeman

Group 3: Sand Blaster

Group 4: Vibrators, 2½" to 4" in diameter; Brick tenders; Dumpmen (grade); Small Concrete Mixers

LABORERS (Cont'd)
Cascade, Chouteau, Fergus, Glacier (excluding Glacier National Park), Judith Basin, Pondera, Teton and Toole Counties

Group 5: Diamond drills up through 6 inches in diameter; Hod Carriers and plaster tenders (1-one mixerman per crew); Asphalt raker and tamper; High scaler; Powderman helper; Concrete nozzleman; Miners; Barco Tamper; Air-trac

Group 6: Diamond drill, over 6 inches in diameter; Self-propelled drills, with the exception of size differential, such as Mustang drills or twin stack drills; Core drill operator; Laser equipment and tools, excluding transit; Powderman

Group 7: Concrete Vibrator, 4" and over

Blaine, Daniels, Garfield, Hill, Liberty, McCone, Petroleum, Phillips, Richland, Roosevelt, Sheridan and Valley Counties

Group 1: General and building laborers' and scale men; Form stripper and Carpenter tender; Car and truck loaders; Concrete laborers (wet or dry breaking of concrete requiring sledge hammer); Dumpmen (spotter and flagman); Small power tools, Chippers, Clay Spaders, Pogo Stick, etc.; Fence erectors and Installers, installation and erection of fences, guard rails, median rails, reference posts, guide posts, and right-of-way markers

Group 2: Dumpmen (grade)

Group 3: Power driven concrete buggies or power driven wheelbarrows; Pipe layers (non-metallic); Sandblaster, Concrete nozzleman, Place operator, Jackhammer, Pavement breaker, Vibrator (2½ inches and over) Barco Tamper, Vibrator Turtle; Small concrete mixers, concrete saw; Nozzleman (air and water); Sandblaster, tailhoseman, pot tender, tar pot tender; Gunite nozzleman; Caisson workers (free air); Tunnels and shafts (free air); Bull gang, pot tender; Chuck tender, muckers and nippers, Primerhouseman

Group 4: Brick tenders handling bricks and blocks only)

Group 5: Hod carriers and plaster tenders (men carrying motor either by hod, pail or barrow); High scaler; Wagon driller, cat or truck mounted air operated drills; Asphalt rakers and tampers, Gunite, Form Setter (slab steel forms); Stake setter, Stake jumper, Rodder and spreader, Grademan; Concrete nozzleman; Miners

Group 6: Powdermen; Laser Tools and Equipment

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
A-Frame Truck Crane, Winch Truck and similar	$ 9.85	.55	.55	.35	.05
Air Compressor, single	9.54	.55	.55	.35	.05
Air Compressor, two or more	9.06	.55	.55	.35	.05
Air Doctor	10.01	.55	.55	.35	.05
Asphalt Paving Machine	10.01	.55	.55	.35	.05
Asphalt Paving Machine Screed	10.01	.55	.55	.35	.05
Automatic Finegrader, Gurries and other similar types	10.14	.55	.55	.35	.05
Belt Finish Machine	9.71	.55	.55	.35	.05
Bit Grinder	10.01	.55	.55	.35	.05
Bituminous Mixer Paving, Travel Plant	10.01	.55	.55	.35	.05
Boring Machine (small), Jeep, Pickup or Farm Tractor mounted	9.60	.55	.55	.35	.05
Boring Machine (large)	10.01	.55	.55	.35	.05
Broom, Self-propelled	9.68	.55	.55	.35	.05
Cableway Highline	10.52	.55	.55	.35	.05
Cement Silo	9.80	.55	.55	.35	.05
Central Mixing Plants, Concrete dam and stationary	10.26	.55	.55	.35	.05
Chain Bucket Loader	9.73	.55	.55	.35	.05
Chip or Gravel Spreader, Self-propelled	9.73	.55	.55	.35	.05
Concrete Batch Plant, one and two mixers	10.01	.55	.55	.35	.05
Concrete Batch plant, three and four mixers	10.21	.55	.55	.35	.05
Concrete Batch Plant, five mixers and over	10.41	.55	.55	.35	.05
Concrete Batch Plant Oiler, up to and including two mixers	9.53	.55	.55	.35	.05
Concrete Batch Plant Oiler, three mixers and over	9.84	.55	.55	.35	.05
Concrete Bucket Dispatcher	10.01	.55	.55	.35	.05
Concrete Curing Machine	10.01	.55	.55	.35	.05
Concrete Finish Machine Paving	10.01	.55	.55	.35	.05
Concrete Float-Spreader	10.01	.55	.55	.35	.05
Concrete Mixer, three bags and under	9.60	.55	.55	.35	.05
Concrete Mixer, four bags and over	9.77	.55	.55	.35	.05

POWER EQUIPMENT OPERATORS (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Concrete Power Saw, self-propelled	$ 10.01	.55	.55	.35	.05
Concrete Travel Batcher	10.01	.55	.55	.35	.05
Concrete Conveyor under 40 ft.	9.59	.55	.55	.35	.05
Concrete Conveyor over 40 ft.	10.34	.55	.55	.35	.05
Concrete Pump	10.34	.55	.55	.35	.05
Conveyor Loader Operator, up to and including 42" belt	9.59	.55	.55	.35	.05
Conveyor Loader Operator over 42" belt	9.71	.55	.55	.35	.05
Crane, to and including 80' boom	10.17	.55	.55	.35	.05
Crane, 81' to 130' boom	10.32	.55	.55	.35	.05
Crane, 131' to 150' boom	10.37	.55	.55	.35	.05
Crane, 151' boom and over	10.42	.55	.55	.35	.05
Crane Oiler	9.58	.55	.55	.35	.05
Crane with jibs an additional $.15 per hour					
Crusher	10.01	.55	.55	.35	.05
Crusher Oiler and Helper	9.50	.55	.55	.35	.05
Crusher Conveyor, when required	9.47	.55	.55	.35	.05
Distributor	10.01	.55	.55	.35	.05
DW 10, 15, or 20 Tractor pulling Roller	9.73	.55	.55	.35	.05
Electric Overhead Cranes	10.19	.55	.55	.35	.05
Elevating Grader	10.01	.55	.55	.35	.05
Farm type Tractor, up to and including 50 HP engine	9.47	.55	.55	.35	.05
Farm type Tractor, over 50 HP engine	9.55	.55	.55	.35	.05
Field Equipment Serviceman	9.93	.55	.55	.35	.05
Field Equipment Serviceman Helper	9.50	.55	.55	.35	.05
Fireman	9.60	.55	.55	.35	.05
Forklift, on construction job site	9.82	.55	.55	.35	.05
Form Grader	9.78	.55	.55	.35	.05
Gradall	10.01	.55	.55	.35	.05
Grade Setter	9.47	.55	.55	.35	.05

POWER EQUIPMENT OPERATORS (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Heavy Duty Drill, all types	$ 10.01	.55	.55	.35	.05
Heavy Duty Driller Helper	9.60	.55	.55	.35	.05
Herman-Nelson Heaters and similar type	9.55	.55	.55	.35	.05
Hoist, two or more drums	10.01	.55	.55	.35	.05
Helicopter Hoist	10.51	.55	.55	.35	.05
Hot Plant	10.01	.55	.55	.35	.05
Hot Plant Fireman, when in operation	10.01	.55	.55	.35	.05
Hot plant Oiler, 100 ton per hour or over	9.50	.55	.55	.35	.05
Hydra lift and similar types	9.91	.55	.55	.35	.05
Industrial Locomotive all classes	10.01	.55	.55	.35	.05
Mechanic and/or Welder on job	10.11	.55	.55	.35	.05
Mechanic and/or Welder Helper on job	9.50	.55	.55	.35	.05
Mechanic, Shop (Dec. 1 to April 1)	9.71	.55	.55	.35	.05
Mechanic Helper, Shop (Dec. 1 to April 1)	9.17	.55	.55	.35	.05
Mixermobile	10.09	.55	.55	.35	.05
Motor Patrol	10.14	.55	.55	.35	.05
Mountain Logger or similar type	10.01	.55	.55	.35	.05
Mucking Machine	10.01	.55	.55	.35	.05
Oiler-Driver, Rubber Tired Cranes	9.58	.55	.55	.35	.05
Oilers, other than shovels and cranes	9.50	.55	.55	.35	.05
Oiler, hoist house, dams	9.91	.55	.55	.35	.05
Pavement Breaker, Emsco and similar	10.01	.55	.55	.35	.05
Paving and Mixing Machine	10.14	.55	.55	.35	.05
Power Auger, Large Truck or Tractor mounted and Punch	10.01	.55	.55	.35	.05
Power Mixer, single or double drum	10.02	.55	.55	.35	.05
Power Saw, multiple cut, self-propelled	10.01	.55	.55	.35	.05
Pumporete or Grout Machine	10.01	.55	.55	.35	.05
Pumpman	9.45	.55	.55	.35	.05
Push Tractor	10.01	.55	.55	.35	.05

POWER EQUIPMENT OPERATORS (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Quad Cat	$ 10.31	.55	.55	.35	.05
Quad Loader and similar type	10.59	.55	.55	.35	.05
Radiator Repairman	9.82	.55	.55	.35	.05
Raygo Gaint	10.59	.55	.55	.35	.05
Refrigeration Plant	10.01	.55	.55	.35	.05
Retort	9.60	.55	.55	.35	.05
Roller, on blade or hot mix oil paving	10.01	.55	.55	.35	.05
Roller, on other blade or hot Mix paving	9.71	.55	.55	.35	.05
Roller, 25 ton or over	10.01	.55	.55	.35	.05
Ross and similar type carriers, on construction site	10.01	.55	.55	.35	.05
Rubber-tried Dozer	10.01	.55	.55	.35	.05
Rubber-tired Front End Loader, 1 yard and under	9.72	.55	.55	.35	.05
Rubber-tired Front End Loader, 1 yard to and including 3 yds.	10.01	.55	.55	.35	.05
Rubber-tired Front End Loader, over 3 yards to and including 5 yards	10.13	.55	.55	.35	.05
Rubber-tired Front End Loader, over 5 yards to and including 10 yards	10.23	.55	.55	.35	.05
Rubber-tired Front End Loader, over 10 yards to and including 15 yards	10.33	.55	.55	.35	.05
Rubber-tired Front End Loader, over 15 yards	10.43	.55	.55	.35	.05
Scraper, DW 15, 20, 21 and similar type if power unit is not used	10.01	.55	.55	.35	.05
Scraper, single or twin engine pulling belly dump trailer	10.39	.55	.55	.35	.05
Scraper, single engine	10.14	.55	.55	.35	.05
Scraper, twin engine	10.24	.55	.55	.35	.05
Scraper, tandem engine or 3 engine	10.59	.55	.55	.35	.05
Self-propelled Sheepfoot and similar type	10.01	.55	.55	.35	.05

POWER EQUIPMENT OPERATORS (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Shovels, including all attachments, under 1 cu. yd.	$ 10.01	.55	.55	.35	.05
Shovels, including all attachments, 1 cu. yd. to and including 3 cu. yds.	10.19	.55	.55	.35	.05
Shovels, including all attachments, over 3 cu. yds. to and including 5 cu. yds.	10.46	.55	.55	.35	.05
Shovels, including all attachments, over 5 cu. yds.	10.59	.55	.55	.35	.05
Shovel Oiler, 3 yards and under	9.50	.55	.55	.35	.05
Shovel Oiler, over 3 cu. yds.	9.91	.55	.55	.35	.05
Slip Form Paver	10.14	.55	.55	.35	.05
Stiff Leg Derrick and Guy Derrick	10.46	.55	.55	.35	.05
Track-type Front End Loaders, up to and including 5 cu. yds.	10.01	.55	.55	.35	.05
Track-type Front End Loaders, over 5 cu. yds. to and including 10 cu. yds.	10.24	.55	.55	.35	.05
Track-type Front End Loaders, over 10 cu. yds. to and including 15 cu. yds.	10.34	.55	.55	.35	.05
Track-type Front End Loaders, over 15 cu. yds.	10.44	.55	.55	.35	.05
Track-type Tractor w/wo attachments	10.01	.55	.55	.35	.05
Track-type Tractor, on Euclid Loader	10.19	.55	.55	.35	.05
Trenching Machine	10.01	.55	.55	.35	.05
Turnhead Conveyor, or Head Tower on Batch Plant	10.01	.55	.55	.35	.05
Wagner Roller and similar type	10.01	.55	.55	.25	.05
Whirley Crane	10.54	.55	.55	.35	.05
Whirley Crane Oiler	9.91	.55	.55	.35	.05
Water Pull when used for compaction	10.01	.55	.55	.35	.05
Washing and Screening Plant	10.01	.55	.55	.35	.05
Washing and Screening Plant Oiler	9.50	.55	.55	.35	.05
Yo-Yo Cat, both ends	9.56	.55	.55	.35	.05

TRUCK DRIVERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Statewide, except Gallatin, Park, Sweet Grass, Broadwater (south of U. S. Highway #12) Counties					
COMBINATION TRUCK; Concrete Mixer and Transit Mixer:					
To and including 4 cu. yds.	$ 9.01	.65	.50		
Over 4 cu. yds. to and including 6 cu. yds.	9.09	.65	.50		
Over 6 cu. yds. to and including 8 cu. yds.	9.17	.65	.50		
Over 8 cu. yds. to and including 10 cu. yds.	9.25	.65	.50		
Over 10 cu. yds. - additional $.08 per hour each additional 2 cu. yds. increment					
DISTRIBUTOR DRIVER and HELPER	8.99	.65	.50		
DRY BATCH TRUCKS:					
3 Batch or under	8.76	.65	.50		
Over 3 Batch to and including 5 Batch	8.89	.65	.50		
Over 5 Batch to and including 10 Batch	9.05	.65	.50		
Over 10 Batch to and including 15 Batch	9.21	.65	.50		
Over 15 Batch - addtional $.15 per hour each additional 5 Batch increment					
PICKUP DRIVER, HAULING MATERIALS	8.86	.65	.50		
DUMPMAN, GRAVEL SPREADER BOX OPERATOR; Pilot Car Driver, Teamsters and Helpers	8.76	.65	.50		

TRUCK DRIVERS (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
WAREHOUSEMEN, Partsmen, Cardex Men, Warehouse Expediter	$ 8.69	.66	.50		
DUMP TRUCKS AND SIMILAR EQUIPMENT DW 20, DW 21, or EUCLID TRACTORS, Pulling P.R. 21 or similar Dump Wagons:					
Water Level Capacity, including Sideboards					
7 cu. yds. or less	8.76	.65	.50		
Over 7 cu. yds. to and including 10 cu. yds.	8.89	.65	.50		
Over 10 cu. yds. to and including 15 cu. yds.	9.05	.65	.50		
Over 15 cu. yds. to and including 20 cu. yds.	9.19	.65	.50		
Over 20 cu. yds. to and including 25 cu. yds.	9.25	.65	.50		
Over 25 cu. yds. to and including 30 cu. yds.	9.31	.65	.50		
Over 30 cu. yds. to and including 35 cu. yds.	9.37	.65	.50		
Over 35 cu. yds. to and including 40 cu. yds.	9.43	.65	.50		
Over 40 cu. yds. to and including 45 cu. yds.	9.45	.65	.50		
Over 45 cu. yds. - additional $.10 per hour each additional 5 cu. yds. increment					
DUMPSTERS	8.89	.65	.50		
SERVICEMEN	9.60	.65	.50		
POWER TRUCK DRIVER (bulk unloader type)	8.94	.65	.50		
FLAT TRUCKS:					
To and including 3 tons	8.91	.65	.50		
over 3 tons Factory rating	9.11	.65	.50		

TRUCK DRIVERS (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
SERVICE TRUCK DRIVERS; FUEL TRUCK DRIVERS; TIREMEN	$ 9.35	.65	.50		
LOWBOYS, FOUR-WHEEL TRAILER, FLOAT SEMI-TRAILER	9.11	.65	.50		
LUMBER CARRIERS, LIFT TRUCKS AND FORK LIFTS	9.01	.65	.50		
POWER BROOM	8.85	.65	.50		
WATER TANK DRIVERS, PETROLEUM PRODUCTS DRIVERS:					
2,500 gallons and under	8.76	.65	.50		
Over 2,500 gallons to and including 4,500 gallons	9.05	.65	.50		
Over 4,500 gallons to and including 6,000 gallons	9.25	.65	.50		
Over 6,000 gallons to and including 8,000 gallons	9.31	.65	.50		
Over 8,000 gallons to and including 10,000 gallons	9.39	.65	.50		
Over 10,000 gallons - additional $.10 per hour each additional 2,000 gallons increment					
TRUCK WITH POWER EQUIPMENT IF UNDER TEAMSTERS JURISDICTION, SUCH AS:					
Winch, A-frame, Swedish Crane, Hydra-lift, Groutcrete, and Combination mulching, seeding and fertilizing	9.01	.65	.50		
TRUCK MECHANIC	9.75	.65	.50		

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS (Cont'd)					
Gallatin, Park, Sweet Grass, Broadwater (South of U. S. Highway #12)					
DUMP, 7 yards or less; Pickup; hauling materials; Flat trucks less than 2 ton; Service and A-Frame Trailers	$ 7.08	.60	.30		
HOUSE MOVERS	7.12	.60	.30		
DUMP, over 7 yards to and including yards; Flat trucks 5-8 tons; Semi and four wheel trailers	7.33	.60	.30		
DUMP, over 10 yards to and including 15 yards	7.49	.60	.30		
DUMP, over 15 yards to and including 20 yards	7.63	.60	.30		

MONTANA LINE CONSTRUCTION

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION					
Flathead, Lake and Lincoln Counties					
All construction of "H" fixtures and steel tower transmission lines wihth capacity of 69 K.V. voltages and over, Switch yard and substation rated at 5000 K.V.A. and all work not covered by schedule "B".					
SCHEDULE "A"					
Lineman	$10.29	.45	1%		1/2%
Cable Splicer	11.44	.45	1%		1/2%
Powderman, Jackhammer, Compressorman	7.60	.45	1%		1/2%
Line Equipment Operators	8.76	.45	1%		1/2%
Groundman	6.15	.45	1%		1/2%
Groundman (Experienced)	7.13	.45	1%		1/2%
All work for power utilities except work covered under Schedule "A", all highway lighting, street lighting and motor traffic controlling.					
SCHEDULE "B"					
Lineman	9.19	.45	1%		1/2%
Cable Splicers	10.22	.45	1%		1/2%
Pole Sprayer	9.08	.45	1%		1/2%
Line Equipment Operators	7.97	.45	1%		1/2%
Powderman, Jackhammer, Compressorman	6.94	.45	1%		1/2%
Groundman	6.52	.45	1%		1/2%
Tree Trimmer	9.44	.45	1%		1/2%

MONTANA LINE CONSTRUCTION

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION (Cont'd)					
Remaining Counties					
Jobs over 69,000 volts:					
Lineman, Pole Sprayer	$ 9.41	.45	3%+.25		1/2%
Cable Splicer	10.27	.45	3%+.25		1/2%
Line Equipment Operator; Powderman	8.89	.45	3%+.25		1/2%
Groundman	7.27	.45	3%+.25		1/2%
Jobs 69,000 volts or less:					
Lineman	9.08	.45	3%+.25		1/2%
Cable Splicer	10.07	.45	3%+.25		1/2%
Line Equipment Operators; Powderman	8.88	.45	3%+.25		1/2%
Groundman	6.11	.45	3%+.25		1/2%
Experienced Groundman (1000 hours); Truck Drivers	6.93	.45	3%+.25		1/2%

SUPERSEDEAS DECISION

STATE: PENNSYLVANIA
DECISION NO.: PA77-3102

COUNTIES: CLINTON, CENTRE, HUNTINGDON, FULTON & MIFFLIN
DATE: DATE OF PUBLICATION

SUPERSEDES DECISION NO. PA77-3039, dated April 8, 1977, IN 42 FR 18778.
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					
ZONE 1	$10.70	.65	.60		.01
ZONE 2	10.11	.52	.70		.01

AREA COVERED BY ASBESTOS WORKERS ZONES

ZONE - 1 Clinton County
ZONE - 2 Centre, Huntingdon, Fulton and Mifflin Counties

BOILERMAKERS	12.05	.75	1.00		.02
BRICKLAYERS & STONEMASONS					
ZONE I	9.55	.60	.80		.03
ZONE II	9.50	.55	.65		
ZONE III	9.60	.45	.50		.025
ZONE IV	10.55	.60	.80		.03

AREA COVERED BY BRICKLAYERS AND STONEMASONS ZONES

ZONE - 1 Fulton and Huntingdon Counties
ZONE - 2 Mifflin County
ZONE - 3 Clinton County in its entirety, and the Remainder of Centre County
ZONE - 4 Townships in Centre County, Rush, Halfmoon, Taylor, Patton, Worth and Huston

CARPENTERS & SOFT FLOOR LAYERS	9.80	6%	8%	6%	.40 of 1%
CEMENT MASONS					
ZONE 1	10.39				
ZONE 2	9.25	12%	6%		
ZONE 3	10.035	.55	.40		

AREA COVERED BY CEMENT MASONS ZONES

ZONE - 1 Centre, Clinton and Mifflin Counties
ZONE - 2 Huntingdon County
ZONE - 3 Fulton County

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS					
ZONE- 1	$11.35	.35	.20+3%	.60	.10
ZONE- 2	10.36	.65	3%+.31		3/4 of 1%
ZONE- 3	9.23	.40	3%+.35	.60	.02

AREA COVERED BY ELECTRICIANS ZONES

ZONE - 1 Fulton, Huntingdon and Remainder of Centre County
ZONE - 2 Mifflin County
ZONE - 3 Clinton Countyin its entirety; Townships in Centre County; Burnside, Curtin, Liberty, Howard, Marion, Walker, Miles and Haines

ELEVATOR CONSTRUCTORS	10.20	.545	.35	4%+a+b	.02
ELEVATOR CONSTRUCTORS HELPERS	70% of JR	.545	.35	4%+a+b	.02
ELEVATOR CONSTRUCTORS HELPERS (PROB)	50 of JR				
IRONWORKERS					
ZONE- 1	10.835	.70	1.155		.07
ZONE- 2	11.28	.84	1.36		.03
ZONE- 3	10.24	.60	.90		

AREA COVERED BY IRONWORKERS ZONES

ZONE - 1 Centre and Clinton Counties
ZONE - 2 Huntingdon and Mifflin Counties
ZONE - 3 Fulton County

LABORERS					
ZONE - 1					
Unskilled laborers	7.70	10%	8%		
Plasterers Tenders	7.75	10%	8%		
ZONE - 2					
Unskilled laborers	7.55	10%	8%		
Plasterers Tenders	7.60	10%	8%		

AREA COVERED BY LABORERS ZONES

ZONE - 1 Clinton, Centre and Mifflin Counties
ZONE - 2 Fulton and Huntingdon Counties

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
LATHERS					
ZONE - 1	$8.97		.20		.01
AREA COVERED BY LATHERS ZONES					
ZONE - 1 Centre, Clinton and Huntingdon Counties					
LEAD BURNERS	10.75	.40	.25	c	.01
LINE CONSTRUCTION					
Zone - 1					
Lineman	12.04	.40	3%		3/8%
Groundman	7.20	.40	3%		3/8%
Winch truck operators	8.41	.40	3%		3/8%
ZONE - 2					
Lineman, dynamite man, heavy equipment operators	10.30	.35	3%		3/8%
Groundman	6.97	.35	3%		3/8%
Winch truck operator	7.28	.35	3%		3/8%
ZONE - 3					
Lineman	10.81	.40	3%		3/8%
Winch truck operators	7.54	.40	3%		3/8%
Groundman	6.45	.40	3%		3/8%
AREA COVERED BY LINE CONSTRUCTION ZONES					
ZONE - 1 Centre, Fulton and Huntingdon Counties					
ZONE - 2 Clinton County					
ZONE - 3 Mifflin County					
MILLWRIGHTS	9.86	6%	6%	22%	1/2%
PAINTERS					
ZONE - 1					
Brush	8.65	.40	.30		.05
Tapers	8.91	.40	.30		.05
Hazardous	9.91	.40	.30		.05
ZONE - 2					
Connercial					
Brush & Roller	8.59	.75	.45		.12
Spray	9.09	.75	.45		.12
Industrial					
Brush, Steel & Tank	9.44	.75	.45		.12
Spray	9.94	.75	.45		.12

	Basic Hourly Rates	Fringe Benefits Payments: H & W	Pensions	Vacation	Education and/or Appr. Tr.
AREA COVERED BY PAINTERS ZONES					
ZONE - 1 Centre, Fulton, Huntingdon, Mifflin Counties					
ZONE - 2 Clinton County					
PILEDRIVERMEN	11.15	5.5%	10%		.50%
PLUMBERS & STEAMFITTERS					
ZONE - 1	10.56	.69	.50	.20	.05
ZONE - 2	11.20	.78	1.03		.22
ZONE - 3	10.85	.30	.65		.12
AREA COVERED BY PLUMBERS AND STEAMFITTERS ZONES					
ZONE - 1 Clinton County					
ZONE - 2 Huntingdon County					
ZONE - 3 Centre, Fulton & Mifflin Counties					
ROOFERS					
ZONE- 1					
Composition, damp and waterproof workers	7.90	.35	.40		
Slate and tile roofers	8.35	.35	.40		
ZONE - 2					
Composition & kettleman	9.20	.75	.70		
ZONE 3					
Composition roofers	11.41	.77	1.50		.06
ZONE 4					
Composition roofers	9.71	.60	.55		
AREA COVERED BY ROOFERS ZONES					
ZONE - 1 Fulton County					
ZONE - 2 Clinton County					
ZONE - 3 Huntingdon County					
ZONE - 4 Centre & Mifflin Counties					
SHEET METAL WORKERS					
ZONE - 1	11.12	.50	.50		.02
ZONE - 2	9.76	1.17	1.03		.03
AREA COVERED BY SHEET METAL WORKERS ZONES					
ZONE - 1 Clinton County					
ZONE - 2 Centre, Huntingdon, Fulton, Mifflin Counties					

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
SPRINKLER FITTERS	$11.86	.65	.95		.08
TRUCK DRIVERS:					
ZONE - 1					
Service, dump, flat top, jeep, fuel & water	6.96	d	e		
Transit mix, dump trailer, winch truck	7.04	d	e		
Euclids & tractor trailer	7.11	d	e		
Helpers	6.86	d	e		
ZONE - 2					
Pick-ups, dump, service trucks, flat trucks to and including 2 license plates	7.99	f	g		
Transit-mix, winch trucks, tractor, all types euclids, ross lumber & trucks over 2 plates	8.24	f	g		
ZONE - 3	7.20				

AREA COVERED BY TRUCK DRIVERS ZONES

ZONE - 1 Centre, Huntingdon, Fulton Counties
ZONE - 2 Mifflin County
ZONE - 3 Clinton County

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 and F-Christmas Day.

Footnotes:

a. Employer contributes 4% basic hourly rate for 5 years or more of service or 2% basic hourly rate for 6 months to 5 years of service as vacation pay credit.

b. Paid Holidays: A through F.

c. 8 paid holidays, A through F and Washington's Birthday, Good Friday and Christmas Eve, provided the employee has worked 45 full days for the employer during the 120 days prior to the holiday and is available for work the days preceding and following the holiday.

d. $59.90 per month.

e. $14.00 per week.

f. $71.37 per month per employee who have worked sixty (60) hours during the month.

g. $41.95 per month for employee who have worked sixty (60) hours or more during the month.

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS					
CLASS 1	$11.875	.65	.80		.09
CLASS 1 - A	12.125	.65	.80		.09
CLASS 1 - B	12.375	.65	.80		.09
CLASS 1 - C	12.625	.65	.80		.09
CLASS 2 -	11.725	.65	.80		.09
CLASS 3	10.10	.65	.80		.09
CLASS 3 A	10.60	.65	.80		.09
CLASS 4	9.45	.65	.80		.09
CLASS 5	8.40	.65	.80		.09
CLASS 6	8.70	.65	.80		.09
CLASS 6 - A	8.80	.65	.80		.09
CLASS 6 - B	8.95	.65	.80		.09
CLASS 6 - C	9.45	.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 feeding 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

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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, mucking 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)

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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 & pl ing), (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

SUPERSEDES DECISION

STATE: Pennsylvania COUNTIES: Bradford, Tioga & Union
DECISION NO.: PA77-3103 DATE: Date of Publication
Supersedes Decision No.: PA76-3208, dated July 2, 1976, in 41 FR 27535.
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	$10.70	.65	.60		.01
Boilermaker	12.05	.75	1.00		.02
Bricklayers & Stonemasons	9.60	.45	.50		.025
Carpenters	10.14	.40	.50		.03
Cement Masons	9.45				
Electricians					
ZONE I	9.48	.50	3%+.50	.60	.02
ZONE II	10.95	.35	3%+.20		.05
ZONE III	10.20	.50	3%+.50		.10

AREA COVERED BY ELECTRICIANS ZONES

ZONE I - Tioga County; Remainder of Union and Bradford Counties

ZONE II - E. Buffalo, Union & Lewisburg Borough in Union County

ZONE III - Town of Towanda, that portion of the County last of the Susquehanna River South of Towanda and last of U. S. Highway 309, North of Towanda

Elevator Constructors	10.20	.545	.35	4%+a+b	.02
Elevator Constructors Helpers	70% of JR	.545	.35	4%+a+b	.02
Elevator Constructors Helpers (Prob.)	50% of JR				
Glaziers					
ZONE I	9.65	.40	.70		
ZONE II	9.39	.40	.40		.01

Area Covered By Glaziers Zones

ZONE I - Bradford & Tioga Counties

ZONE II - Union County

DECISION NO. PA77-3103

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Ironworkers	$11.28	.64	1.36		.03
Laborers					
CLASS I	7.20	.40	.35		
CLASS II	7.35	.40	.35		

LABORER CLASSIFICATION DEFINITIONS

CLASS I - Unskilled laborers, scaffold builders, wrecking, window cleaners & demolition

CLASS II - Operator of jackhammers, paving breakers, vibrators & other pneumatic & mechanical tools coming under the jurisdiction of laborers, wagon drill operators, excavating for caisson, under pinning & pier holes (below 12'), non-metallic pipe layers, plaster tenders, mortar men (mixed by hand), handling & using cutting or burning torches in the wrecking of buildings & mason tenders

Lead Burners	10.75	.40	.25	c	.01
Line Construction:					
Lineman, dynamite man, heavy equipment operator	$10.30	.35	3%		3/8 of 1%
Winch truck drivers	7.28	.35	3%		3/8 of 1%
Groundman	6.97	.35	3%		3/8 of 1%
Millwrights	11.29	.40	.50		.03
Painters:					
Brush	8.65	.40	.30		.05
Tapers	8.91	.40	.30		.05
Hazardous	9.91	.40	.30		.05
Piledrivermen	10.77	2.13	1.30	d	.12
Piledrivermen	10.77	2.13	1.30	d	.12
Plasterers					
ZONE I	9.30	.40	.40		
ZONE II	10.20				

AREA COVERED BY PLASTERERS ZONES

ZONE I - East of Susquehanna River in Bradford County

ZONE II - Tioga, Union and Remainder of Bradford County

DECISION NO. PA77-3103

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Plumbers & Steamfitters					
ZONE I	$10.56	.69	.50		.05
ZONE II	10.74	.40	.75		.04

AREA COVERED BY PLUMBERS AND STEAMFITTERS ZONES

ZONE I - Tioga & Union Counties and Eastern half of Bradford County

ZONE II - Western half of Bradford County

Power Equipment Operators					
GROUP 1	12.29	5.5%	9.5%	a	1.2%
GROUP 2	12.00	5.5%	9.5%	a	1.2%
GROUP 3	11.13	5.5%	9.5%	a	1.2%
GROUP 4	10.36	5.5%	9.5%	a	1.2%
GROUP 5	9.89	5.5%	9.5%	a	1.2%
GROUP 6	8.98	5.5%	9.5%	a	1.2%
GROUP 7	12.54	5.5%	9.5%	a	1.2%
GROUP 7-A	12.79	5.5%	9.5%	a	1.2%
GROUP 7-B	13.03	5.5%	9.5%	a	1.2%

DECISION NO. PA77-3103

CLASSIFICATIONS DEFINITIONS

GROUP 1: Machines doing hook work, any machine handling machinery, cable spinning machines, helicopters, machines similar to the above

GROUP 2: All types of cranes, all types of backhoes, cableways, draglines, keystones, all types of shovels, derricks, trench shovels, trenching machines, hoist with two towers, pavers 21E and over all types overhead cranes, building hoists (double drum) gradalls, mucking machines in tunnel, all front end loaders 3-½ c.y. and over, tandem scrapers, pippin type backhoes, boat Captains, batch plant operators (concrete) drills, self-contained rotary drills, fork lift, 20 ft lift and over machine to the above

GROUP 3: Conveyors, building hoists (single drum) scrapers and tournapulls, spreaders, high or low pressure boilers, concrete pumps, well drillers, bulldozers and tractors, asphalt plant engineers, roller (high grade finishing), ditch witch type trencher, all loaders under 3-½ cu. yds., mechanic-welders, motor patrols, drill helper-self contained rotary drills, core drill operator, forklift trucks under 20 ft lift, machines similar to the above

GROUP 4: Welding machines, well oints, compressors, pumps, heaters, farm tractors, form line graders, fine grade machines, road finishing machines, concrete breaking machines, rollers, seaman pulverizing mixer, power broom, seeding spreader, tireman (for power equipment), machines similar to the above

GROUP 5: Fireman, grease truck

GROUP 6: Oilers and deck hands (personnel boats), core driller helper

GROUP 7: All machines with booms (including jib, masts, leads, etc.): 100 ft and over

GROUP 7A: 150 ft. and over

GROUP 7B: 200 ft. and over

FOOTNOTE:
a. Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Daym and Christmas Day, provided the employee works the day before and after the holiday.

DECISION NO. PA77-3103

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Roofers					
Composition & Kettleman	$9.20	.75	.70		
Sheet Metal Workers	11.12	.73	.40		.02
Soft Floor Layers	8.88	.40	.50		.03
Sprinkler Fitters	11.86	.65	.95		.08
Truck Drivers					
ZONE I	7.20				
ZONE II					
CLASS 1	7.20	.20	.20		
CLASS 2	7.30	.20	.20		
CLASS 3	7.40	.20	.20		
CLASS 4	7.50	.20	.20		
CLASS 5	7.35	.20	.20		
CLASS 6	7.70	.20	.20		
CLASS 7	7.80	.20	.20		
CLASS 8	7.45	.20	.20		

TRUCK DRIVERS CLASSIFICATIONS DEFINITIONS

CLASS 1 - Trucks up to 30,000 lbs. (includes pickups, fuel and water trucks), warehousemen

CLASS 2 - Trucks over 30,000 lbs. (includes fuel and water trucks)

CLASS 3 - Tri-Axle Trucks over 30,000 lbs. (includes fuel and water trucks, Semi trailer

CLASS 4 - Low Boy

CLASS 5 - Concrete mixer trucks

CLASS 6 - Earth moving equipment up to 35 ton (belly dump, side dump, end dump, etc.), distributor truck (oil, jar, asphalt, etc.)

CLASS 7 - Earth moving equipment over 35 ton (belly dump, side dump, end dump, etc.)

CLASS 8 - A-frame and winch trucks (when used for hauling material on bed of truck), concrete, mixer trucks (tri-axle)

DECISION NO. PA77-3103

AREA COVERED BY TRUCK DRIVERS ZONES

ZONE 1 - Union County

ZONE 2 - Tioga County

Welders - receive rate prescribed for craft performing operation to which welding is incidental

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. Employer contributes 4% basic hourly rate for 5 years or more of service or 2% basic hourly rate for 6 months to 5 years of service as vacation pay credit.

b. Six Paid Holidays: A through F.

c. Nine Paid Holidays: A through F and Washington's Birthday, Good Friday and Christmas Eve provided the employee has worked 45 full days for the employer during the 120 days prior to to the holiday and is available for work the days preceding and following the holiday.

d. Paid Holidays: Washington's Birthday, Good Friday, Memorial Day, Labor Day, Presidential Election Day, Veterans Day and Thanksgiving Day.

SUPERSEDEAS DECISION

STATE: Pennsylvania COUNTY: Lancaster
DECISION NO.: PA77-3104 DATE: Date of Publication
Supersedes Decision No.: PA77-3026, dated February 4, 1977, in 42 FR 7066.
DESCRIPTION OF WORK: Building construction, (does not include single family homes and garden type apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asbestos workers	$10.11	.52	.70		.01
Boilermakers	12.05	.75	.100		.02
Bricklayers	9.55	.45	.45		.01
Carpenters	10.14	.40	.50		.03
Cement masons	9.59	.35	.25		.01
Electricians:					
W. Calico, E. Calico, Brecknock, E. Carl, & Caernarvon Twps.	10.49	.73	3%		.03
Remainder of County	9.70	.45	3%		1/8 of 1%
Elevator Constructors	10.20	.545	.35	4%+a+b	.02
Elevator Constructors' Helpers	70% of JR	.545	.35	4%+a+b	.02
Elevator Constructors' Helper (Prob)	50% of JR				
Glaziers	8.89	.40	.30		.01
Ironworkers	11.28	.84	1.36		.03
Laborers:					
General Laborers	6.70	.40	.45		
Operators of Jackhammer	6.90	.40	.45		
Wagon drill	7.00	.40	.45		
Handling of all materials	6.85	.40	.45		
Laborers assisting tile	6.75	.40	.45		
Handling & using dynamite	7.03	.40	.45		
Caisson Work (Top Men)	6.95	.40	.45		
Caisson Work (Bottom Men)	7.15	.40	.45		
Mixer Men	7.10	.40	.45		
Lathers	9.01	.25	.25		.01
Lead burners	10.75	.40	.25	c	.01
Line Construction:					
Linemen	11.51	.40	3%		3/4 of 1%
Cable splicers	11.51	.40	3%		3/4 of 1%
Groundman	6.87	.40	3%		3/4 of 1%
Winch truck operators	8.03	.40	3%		3/4 of 1%
Marble setters	8.00	.45	.45		.03
Millwrights	11.29	.40	.50		.03

DECISION #PA77-3104

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Painters:					
Elizabeth Dowetal Township					
Brush	$8.23	.26	.24		
Steel	8.68	.26	.24		
Spray	8.98	.26	.24		
Remainder of County					
Brush	8.95	.70	.55		
Steel	10.00	.70	.55		
Spray	10.00	.70	.55		
Roller	8.95	.70	.55		
Piledrivermen	10.77	2.13	1.30	e	.12
Plasterers	8.60	.35	.25		.01
Plumbers	10.85	.30	.65		.12
Roofers:					
Composition, damp & waterproofing	10.60	.45	.25	d	
Slate, tile & Asbestos	11.15	.45	.25	d	
Roofers, precast slab	11.40	.45	.25	d	
Sheet metal workers	9.76	1.17	1.03		.05
Sprinkler fitters	11.86	.65	.95		.08
Soft floor layers	8.88	.40	.50		.03
Steamfitters	10.85	.30	.65		.12
Stonemasons	9.55	.45	.45		.01
Terrazzo workers	8.00	.45	.45		
Tile setters	8.00	.45	.45		
Welders - Receive rate prescribed for craft performing operation to which welding is incidental.					

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:
a. Employer contributes 4% basic hourly rate for 5 years or more of service or 2% basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.
b. Six (6) paid holidays: A through F
c. Nine paid holidays: A through F and Washington's Birthday, Good Friday and Christmas Eve provided the employee has worked 45 full days for the employer during the 120 days prior to the holiday and is available for work the days preceding and following the holidays.
d. Paid Holidays: C
e. Paid Holiday: Washington's Birthday; Good Friday; Memorial Day; Labor Day; Presidential Election Day; Veterans Day and Thanksgiving Day.

POWER EQUIPMENT OPERATORS

	Basic Hourly Rates	Fringe Benefit Payments			
		H & W	Pensions	Vacation	App. Tr.
GROUP 1	$12.29	5.5%	9.5%	a	1.2%
GROUP 2	12.00	5.5%	9.5%	a	1.2%
GROUP 3	11.13	5.5%	9.5%	a	1.2%
GROUP 4	10.36	5.5%	9.5%	a	1.2%
GROUP 5	9.89	5.5%	9.5%	a	1.2%
GROUP 6	8.98	5.5%	9.5%	a	1.2%
GROUP 7	12.54	5.5%	9.5%	a	1.2%
GROUP 7-A	12.79	5.5%	9.5%	a	1.2%
GROUP 7-B	13.03	5.5%	9.5%	a	1.2%

GROUP 1: Machines doing hook work, any machine handling machinery, cable spinning machines, helicopters, machines similar to the above

GROUP 2: All types of cranes, all types of backhoes, cableways, draglines, keystones, all types of shovels, derricks, trench shovels, trenching machines, hoist with two towers, pavers 21E and over, all types overhead cranes, building hoists (double drum) gradalls, mucking machines in tunnel, all front end loaders 3-½ c.y. and over, tandem scrapers, pippin type backhoes, boat Captains, batch plant operators (concrete) drills, self-contained rotary drills, fork lifts, 20 ft. lift and over machine to the above

GROUP 3: Conveyors, building hoists (single drum) scrapers and tournapulls, spreaders, high or low pressure boilers, concrete pumps, well drillers, bulldozers and tractors, asphalt plant engineers, roller (high grade finishing), ditch witch type trencher, all loaders under 3-½ cu. yds., mechanic-welders, motor patrols, drill helper-self contained rotary drills, core drill operator, forklift trucks under 20 ft. lift, machines similar to the above

GROUP 4: Welding machines, well points, compressors, pumps, heaters, farm tractors, form line graders, fine grade machines, road finishing machines, concrete breaking machines, rollers, seaman pulverizing mixer, power broom, seeding spreader, fireman (for power equipment), machines similar to above

GROUP 5: Fireman, grease truck

GROUP 6: Oilers and deck hands (personnel boats), core drill helper

GROUP 7: All machines with booms (including jib, masts, leads, etc.): 100 ft. and over

GROUP 7-A: 150 ft. and over

GROUP 7-B: 200 ft. and over

FOOTNOTE:
a. Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day, provided the employee works the day before and after the holiday.

STATE: Tennessee COUNTIES: *See below
DECISION NO.: TN77-1080 DATE: Date of Publication
Supersedes Decision No.: TN77-1038 dated April 1, 1977 in 42 FR-17782
DESCRIPTION OF WORK: Building Construction (does not include single family homes and garden type apartments of 4 stories or less), and Heavy Construction.

*Counties: Hamilton (Building and Heavy Construction); Bradley, Marion, Meigs, Polk & Rhea (Building Construction ONLY).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asbestos workers	10.00	.45	.20		.01
Boilermakers	9.50	.75	1.00		.02
Bricklayers; Concrete block-layers; Marble setters; Stone-masons; Terrazzo workers; Tile setters	9.85	.45	.30		
Carpenters:					
Carpenters, soft floor layers	8.68	.45	.40		.03
Piledrivermen	8.505	.45	.40		.03
Millwrights	9.13	.45	.40		.03
Cement masons:					
Cement masons	8.70				
Power machine operator, Swing ing scaffold & bos'n chair	8.90				
Electricians:					
Electricians	9.35	.65	1%+.45		1%
Cable splicers	9.60	.65	1%+.45		1%
Elevator constructors	9.095	.545	.35	4%+a+b	.02
Elevator constructors' helpers	70%JR	.545	.35	4%+a+b	.02
Elevator constructors' helpers (prob.)	50%JR				
Glaziers	8.14			c	
Ironworkers	8.61	.55	.50		1%
Lathers	8.95				.01
Leadburners	10.25	.35		d	.01
Painters:					
Commercial	7.50		.25		
Industrial	7.75		.25		
Sandblasting	8.00		.25		
Plasterers	9.05				
Plumbers, steamfitters	9.40	.35	.40	.20+f	.08
Roofers:					
Composition, damp & water-proofers	8.80		.10		
Slate and tile	9.00		.10		
Kettlemen	8.40		.10		
Sheet metal workers	9.34	.47	.50		.04
Sprinkler fitters	10.35	.65	.95		.08
Truck Drivers:					
Up to 3 tons	6.71	e	g		
3 to 5 tons	6.86	e	g		
5 to 7 tons	7.01	e	g		
Helpers and warehousemen	6.66	e	g		
Special equipment	7.21	e	g		

TN77-1080 - (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Welders - receive rate for craft to which welding is incidental.					

PAID HOLIDAYS WHERE APPLICABLE:

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day; G-Washington's Birthday; H-Good Friday; J-Christmas Eve.

FOOTNOTES:

a. Holidays: A through F.

b. Employer contributes 4% of regular hourly rate to vacation pay credit for employer who has worked in business more than 5 years, and 2% for employee who has worked less than 5 years.

c. Employee who has worked more than 1, but less than 5 years, 2% of gross wages; 5 years or more, 4% of gross wages.

d. Holidays, A through J, providing employee has worked 45 full days during the 120 calendar days prior to the holiday, and the regularly scheduled work days immediately preceding and following the holiday.

e. $21.50 per week for each employee.

f. Paid Holidays: D-provided employee has been on payroll for (2) two weeks prior to the holiday and works the regular scheduled work days immediately preceding & following the holiday.

g. $ 18.00 per week for each employee.

TN77-1080 (Cont'd)

BUILDING & HEAVY CONSTRUCTION

LABORERS

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP A	6.25	.20	.20		
GROUP B	6.35	.20	.20		
GROUP C	6.45	.20	.20		
GROUP D	6.55	.20	.20		
GROUP E	6.60	.20	.20		
GROUP F	6.90	.20	.20		
GROUP G	6.95	.20	.20		
GROUP H	6.65	.20	.20		
GROUP I	6.80	.20	.20		
GROUP J	6.80	.20	.20		
GROUP K	7.05	.20	.20		

GROUP A: Concrete laborers, general laborers, carpenter tenders, window and floor cleaners, and flagman on road and street crossings, form strippers, handling of rope to clam bucket, grout men, laborers working on demolition work, handling cleaning and pulling of nails from materials

GROUP B: Powder man helpers, vibrator operators, tenders to all trowel trades and terrazzo work, carrying reinforced steel, operating motorized wheel barrows, doping and painting of pipe, railroad track laborers, air spade operators, snake men on pipe work.

GROUP C: Sanitary and storm pipe layers or any other pipe outside of foundation, grade checker, yarnet and pot man, steel form setters, mortar mixers by hand or machine, power saw operators, jackhammer, operator, pavement breaker operator, air tool operators, regular air tamp operators, wacker tamp operator, chipping hammer operator, hand operated ditching machine operator, concrete grinder, floor sweeping machine operator, concrete buffer and grinder power operator, concrete pumping machine operator.

GROUP D: Asphalt raker, wagon drill operator, sand blasting, track drill operator concrete saw operator, using cutting torch or burner on demolition work, flagging of rigs.

GROUP E: Barco tamp operator and specially designed tamp operator, black top or concrete curbing machine operator

GROUP F: Powderman, motorized post hole digger operator and terrazzo machine grinder

GROUP G: Pneumatic concrete gun operator and nozzleman

FREE AIR SHAFTS AND TUNNELS

GROUP H: Tunnel laborers

GROUP I: Chuck tender

GROUP J: Top lander on Shaft Work

GROUP K: Tunnel miner, including men required to go in pier holes drilled by

TN77-1080 - (Cont'd)

POWER EQUIPMENT OPERATORS:

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP A	8.55	.30	.30		
GROUP B	7.55	.30	.30		
GROUP C	7.15	.30	.30		
GROUP D	6.85	.30	.30		

GROUP A: Backhoes; cableways; ross carrier; clamshells; cranes; derricks; draglines; turnapulls; pans; scrapers; scoops; head tower machines; end-loaders; locomotives (over 20 tons); shovels; dozers; fork-lifts (over 8' lift); core drills; foundation drills; graders; mechanics; welders; winch truck with A-Frame; skimmer scoops; locomotive cranes; overhead cranes; skid rigs; piledrivers; side boom tractors; euclid loaders; derrick boat; dredge boats; hoist (any size handling steel or stone); engines used in connection with hoists material; mucking-machines; cherrypickers; tower cranes; skylift; gradall.

GROUP B: Tractors; farm type tractors (with attachments); central compressor plants; elevators (used for hoisting building materials); central mixing plants; hoist; (not handling steel or stone); pump-crete machine; concrete pumps; backfillers (other than cranes); tracmobile; crushing plant; elevating graders; earth augers; forklifts; (8' lift or under); paving machines (Blacktop/concrete); boat operator or engineer (30 tons or over); blacktop rollers; switchman; locomotive (under 20 tons); maintainers.

GROUP C: Asphalt plant; barber-green type loader; engine tender (other than steam); mixers (over 2 bags, not to include central plants); pumps (not more than 3); scrifiers; spreader box (bituminous); asphalt mixers; portable compressors (not more than 3); roller; sub-grader machine; tractors (farm type without attachments); cable head tower engineman; dredge booster pump; boat operator or engineers (under 30 tons); finishing machine; fireman & oiler (Combination); motor crane oiler & driver; welding machines (not more than 3); heaters (stationary or portable, not more than 5); compressors (portable, not more than 3); greaser or fuel truck.

GROUP D: Air compressor (1 portable); fireman; portable crushers; welding machine (1); conveyors; pump (1);oiler; heater (1).

SUPERSEDEAS DECISION

STATE: Wisconsin

COUNTIES: Ashland, Bayfield and Douglas

DECISION NUMBER: WI77-2105

DATE: Date of Publication

Supersedes Decision No. WI76-2157 dated December 17, 1976 in 41 FR 55292

DESCRIPTION OF WORK: Building (including residential) Construction

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$10.95	.30			
BOILERMAKERS	10.30	.85	1.00		.02
BRICKLAYERS	10.06	.45	.45		.01
CARPENTERS: Ashland County	7.94	.30	.25	.15	
Bayfield & Douglas Cos	9.65	.30	.40	.30	
(Residential) Bayfield & Douglas Cos.	5.45	.45	.40		.03
(Residential) Ashland	5.55	.45	.30		.03
CEMENT MASONS: Douglas County	9.65	.30			
Ashland & Bayfield Counties	9.24	.45	.45		
ELECTRICIANS	10.80	4%	3%	11%	3%
Residential	7.00	.35	3%		%Of1%
ELEVATOR CONSTRUCTORS:					
Constructors	9.325	.495	.32	4%+a+b	.02
Helpers	70%JR	.495	.32	4%+a+b	.02
Helpers (Prob.)	50%JR				
IRONWORKERS	11.35	.30	.55		.02
LATHERS	10.55	.30			
LINE CONSTRUCTION:					
Linemen	9.37	.35	5%		.5%
Digger, crane, tractor, winch truck operators	7.77	.35	5%		.5%
Truck tractor & line trucks w/o winch	6.16	.35	5%		.5%
Experienced Groundman	5.88	.35	5%		.5%
MILLWRIGHTS & PILEDRIVERMEN:					
Ashland County	8.14	.30	.25	.15	
Bayfield & Douglas Counties					
Millwrights	9.88	.30	.40	.30	
Piledrivermen	9.65	.30	.40	.30	
PAINTERS:					
Brush	9.43	.30	.40		.08
Spray	9.93	.30	.40		.08
PLASTERERS	10.20	.30		.45	
PLUMBERS	10.41	.30	.75	1.00	.05
ROOFERS	9.23	.30	.25	1.00	
SHEET METAL WORKERS	9.40	.62	.40		.03
SOFT FLOOR LAYERS	9.65	.30	.40	.30	
SPRINKLER FITTERS	11.70	.60	.90		.08
TERRAZZO WORKERS	10.06	.45	.45		.01
TILE SETTERS	10.06	.45	.45		.01

Welders receive rate prescribed for craft performing operation to which welding is incidental.

DECISION NO. WI77-2105

PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Holidays: A through F

b. Employer contributes 4% of regular hourly rate to Vacation Pay Credit for employee who has worked in business more than 5 years. Employer contributes 2% of regular hourly rate to Vacation Pay Credit for employee who has worked in business less than 5 years

c. Holidays: A through F plus Washington's Birthday and Good Friday, providing employee has worked 45 full days during the 120 calendar days prior to the holiday, regularly scheduled work days immdiately preceding and following the holiday.

DECISION NO. WI77-2105

WISC. 18 - LAB G

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
GENERAL LABOR:					
Handling of material for carpenters, craftsmen, cleaning forms, rough, grading, digging shallow trenching, tool checkers, general labor around building & constr ction work	8.50	.30	.35		
CONCRETE WORK:					
Concrete, bituminous concrete aggregates for walls, footings foundations, floors, any other const. Mixing, handling, conveying, pouring, vibrating, gunniting, etc. Operating motorized wheelbarrows, buggies or machines of similar character, the hooking on, signaling dumpling & unhooking of bucket when concrete or aggregates are conveyed by crane, derrick or similar method. Placing of concrete or aggregates, Assembly, uncoupling cleaning, etc. of equipment used in mixing or conveying concrete, aggregates or mortar, all vibrating, grinding, spreading, flowing, puddling, leveling and strike-off of concrete or aggregates by floating, rodding or screening, Loading, unloading, etc., of prestressed or pre-cast concrete, slabs, wall, etc. Mixing, handling, conveying, placing & spreading of grout, cutting of concrete or aggregate	8.50	.30	.35		
Jackhammer, concrete busters, air spades, sheeting drivers, air hammers, jumping jack tamper	8.75	.30	.35		
Vibrators, mason tenders, tile & terrazzo helpers demolition & wrecking laborers, Lanscaping	8.50	.30	.35		

DECISION NO. WI77-2105

WISC. 18 LAB G

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
CONCRETE WORK: (CONT'D)					
Steel burners & steel form setters, mixing by hand for two or more bricklayers, hod carriers & plaster laborers	8.75	.30	.35		
Mixing by hand for one bricklayer, operator of power machinery used in cleaning brick roofing helper & Kettlemen, jack men on slip forms, underpinning, lagging, bracing, propping, shoring and all basement work etc.	8.50	.30	.35		
Miners, shafts, tunnels, underground sewers, drilling & blasting & compressed air work under ground or in compression chamber	8.85	.30	.35		
SEWER WORK:					
Pipelayers, cement manhole builder	8.75	.30	.35		
Bottom man and bracrers, caulker & joint man, swamper on a pipe gang, buffing machine man	8.65	.30	.35		
Kettlemen, top man	8.50	.30	.35		
DYNAMITE MAN	8.95	.30	.35		
Handling creosoted lumber, pileing squate timber & like material where covered with creosote applying bit, or creosote on wood, steel or cement	8.75	.30	.35		
Work on towers or scaffolds 25 ft. or more above gground	8.75	.30	.35		
BITUMINOUS WORKER:					
Dumper, ironer, smoother, shoveler, loader, utility man					
Raker, luteman	8.65	.30	.35		
STEEL WORK:					
Handling of all rods, mesh & material for use in reinforcing concrete const. hoisting rods, mesh & other materials except when a derrick or outrigger-operated by other than hand-is used	8.50	.30	.35		

DECISION NO. WI77-2105

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, End-loader (under 40 h.p.), Pumps (well points), Trencher (chain type having 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, Firemen (asphalt plants), Air compressor (300 CFM or over)

GROUP VI - Generators over 15 KW, Pumps over 3", Augers (vertical and horizontal), combination 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 helpers, Conveyor, Forklift (12' and under)

SUPERSEDEAS DECISION

STATE: Wisconsin

COUNTIES: Barron, Dunn, Polk & St. Croix Counties

DECISION NUMBER: WI77-2106

DATE: Date of Publication

Supersedes Decision No. WI76-2158, dated December 17, 1976 in 41 FR 55295

DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories).

49-Wisconsin B

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$10.48	.60	.65		.02
BOILERMAKERS	10.30	.85	1.00		.02
BRICKLAYERS	9.75	.65	.25		.04
CARPENTERS:					
Carpenters	9.67	.45	.50		.03
Millwrights & Piledrivermen	10.07	.50	.50		.03
CEMENT MASONS	9.19	.55	.25		.04
ELECTRICIANS: (Hudson, St Joseph & Troy Twps. in St. Croix Co.	10.65	5 3/4%	4%	11½%	1%
ELECTRICIANS (Remainder of Area)	10.92	5%	3%		½of1%
ELEVATOR CONSTRUCTORS:					
Constructors	10.345	.545	.35	4%+a+b	.02
Helpers	7.24	.545	.35	4%+a+b	.02
Helpers (Prob.)	50%JR				
IRONWORKERS: Structural, Ornamental and Reinforcing	11.10	.55	.55		.02
LABORERS:					
Laborers, common	7.83	.30	.35		.02
Mortar mixer & plasterer laborer air, gas & electric equipment, vibrator operator, Kettlemen, dumpmen & pittmen, Burner on wrecking, Scaffold builder & washing walls on swinging scaffold	7.98	.30	.35		.02
Gunnite man & nozzle men, puddlers (when concrete pumps & when working behind paving machine, Cement dumper	7.98	.30	.35		.02
Jackhammer	8.08	.30	.35		.02
LATHERS					
Western ½ OF County	10.55	.30			
Eastern ½ of County	9.30				
LINE CONSTRUCTION:					
Linemen	9.37	.35	5%		.5%
Heavy Truck Driver	6.46	.35	5%		.5%
Light Truck Driver	6.16	.35	5%		.5%
Groundmen 1st 6 Months	5.09	.35	5%		.5%
Equipment Operator	7.77	.35	5%		.5%
Groundmen - Thereafter	5.88	.35	5%		.5%

DECISION NO. WI77-2106

49 - Wisconsin

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS:					
Brush	8.80			5%	
Structural Steel	9.05			5%	
Sandblaster & Spray	9.30			5%	
Swing Stage	9.05			5%	
PLASTERERS	9.50			5%	
PLUMBERS & STEAM FITTERS	9.47	.45	.60	1.00	
ROOFERS	10.07			3%+.10	
SHEET METAL WORKERS	10.20	.62	.55		.03
TRUCK DRIVERS:					
Two axle	8.05	g	h	.20	
3 or more axles	8.15	g	h	.20	

PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day;

FOOTNOTES:

A. Employer contributes 4% 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.

b. Holidays A through F

c. Holidays, A thru F plus Washington's Birthday, Good Friday and Christmas eve, providing employee has worked 45 full dyus during the 120 calendar days prior to the holiday, and the regularly scheduled work days immediately preceding and following the holidays.

g. $14.25 per week for each employee.

h. $13.00 per week for each employee

DECISION NO. WI77-2106

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, End-loader (under 40 h.p.), Pumps (well points), Trencher (chain type having 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, Firemen (asphalt plants), Air compressor (300 CFM or over)

GROUP VI - Generators over 15 KW, Pumps over 3",. Augers (vertical and horizontal), combination 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 helpers, Conveyor, Forklift (12' and under)

STATE: Wisconsin

COUNTIES: Brown, Door, Kewaunee & Oconto

DECISION NUMBER: WI77-2109

DATE: Date of Publication

Supersedes Decision No. WI76-2160, dated December 17, 1976 in 41 FR 55297

DESCRIPTION OF WORK: Building Construction, (excluding single family homes and garden type apartments up to and including 4 stories)

5 - Wisconsin

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	10.06	.60	.50	.50+c	.05
BOILERMAKERS	10.30	.85	1.00		.02
BRICKLAYERS & MARBLE SETTERS & STONEMASONS	9.20	.65	.40		.02
CARPENTERS	9.32	.45	.50		.02
CEMENT MASONS	8.70	.65	.40		.02
ELECTRICIANS	10.93	.60	3%		1/8%
ELEVATOR CONSTRUCTORS:					
Constructors	10.04	.545	.35	4%+a+b	.02
Helpers	70%JR	.545	.35	4%+a+b	.02
Helpers (Prob.)	50%JR				
IRONWORKERS:					
Structural, Ornamental & Reinforcing	10.66	1.10	.80	1.15	.15
LATHERS	8.15	.50		.50+a	.01
MILLWRIGHTS & PILEDRIVERMEN	9.72	.45	.50		.03
PAINTERS:					
Brush	7.95	.60			
Structural	8.35	.60			
Spray	8.35	.60			
Swing Stage	8.35	.60			
PLASTERERS	9.20	.65	.40		.02
PLUMBERS & STEAMFITTERS	10.40	.55	.90		.03
ROOFERS: Composition	9.88			.50	
SHEET METAL WORKERS	9.47	.51	.33	.90	.02
SOFT FLOOR LAYERS	9.20	.45	.50		.03
TERRAZZO WORKERS & TILE SETTERS	9.20	.65	.40		.02
Welders - receive rate prescribed for craft performing operation to which welding is incidental.					

DECISION NO. WI77-2109 5 - Wisconsin

PAID HOLIDAYS:
A-New Year's Day B-Memorial Day; D-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Holidays, a through F

b. Employer contributes 4% regularly hourly rate tO vacaion 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 employer who has worked in businesss less than 5 years

c. .05 holiday pay.

DECISION NO. WI77-2109

WISCONSIN 15 - LAB

BUILDING CONSTRUCTION

LABORERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS I	7.88	.30	.30		.02
CLASS II	7.93	.30	.30		.02
CLASS III	8.08	.30	.30		.02

CLASS I - Construction laborers, form stripper, form oiler, form cleaner, dump men, pit men, building wrecker, plumbers laborer, motorized buggy operator, concrete laborer, air spade and chipping hammer, drag tender and signal man, concrete pumps and nozzle man, bituminous worker

CLASS II - Plasterer tender, hod carrier, dry cement handler, kettlemen, vibrator operator, slacking line, tile setter helpers, core drill operator

CLASS III - Jackhammer operator,driller gunite men, burner on wrecking, air operated concrete breaker, sheeting driver, power tamper, fork lift operator, jumping jack, terrazzo grinder, mortar and plaster mixer, creosote worker, bob cat operator, sand blaster, welder, mud jack operator, precast erector bituminous raker and luteman

DECISION NO. WI77-2109

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, End-loader (under 40 h.p.), Pumps (well points), Trencher (chain type having 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),Asssistant 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, Firemen (asphalt plants), Air compressor (300 CFM or over)

GROUP VI - Generators over 15 KW, Pumps over 3", Augers (vertical and horizontal), combination 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 helpers, Conveyor, Forklift (12' and under)

STATE: Wisconsin COUNTIES: Columbia, Dane, Iowa & Sauk
DECISION NUMBER: WI77-2110 DATE: Date of Publication
Supersedes Decision No. WI76-2161, dated December 17, 1976 in 41 FR 55299
DESCRIPTION OF WORK: Building Construction and residential construction in Dane County only.

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$10.57	.60	.70	1.00	.04
BOILERMAKERS	10.30	.85	1.00		.02
BRICKLAYERS	9.79	.65	.60		
CARPENTERS	9.77	.45	.50		.03
Residential	5.70	.45	.15		.03
ELECTRICIANS	9.95	.74	3%	7%	.75%
Residential	5.53	.74	3%	7%	.75%
ELEVATOR CONSTRUCTORS:					
Constuctors	10.175	.545	.35	4%+a+b	.02
Helpers	7.12	.545	.35	4%+a+b	.02
Helpers (Porb.)	50%JR				
GLAZIERS	9.15	.40	.30	.45	.01
IRONWORKERS: STructural, ornamental & reinforcing	10.22	.50	.25		.03
BRICKLAYERS: (Columbia & Sauk Counties)	9.35	.55	.40		
LATHERS	9.05	.45	.20	.50	.01
LINE CONSTRUCTION:					
Linemen	9.37	.35	5%		.5%
Digger, crane & tractor operator	7.77	.35	5%		.5%
Winch truck or truck tractor	6.46	.35	5%		.5%
Line Truck w/o winch	6.16	.35	5%		.5%
Experienced groundman	5.88	.35	5%		.5%
MILLWRIGHTS & PILEDRIVERMEN	10.17	.45	.50		.03
PAINTERS:					
Brush	9.29	.70	.30	.30	.01
Spray	10.04	.70	.30	.30	.01
Structural steel (brush)	9.44	.70	.30	.30	.01
Swing stage	9.54	.70	.30	.30	.01
Sandblaster	9.29	.70	.30	.30	.01
PLASTERERS (Columbia & Sauk Cos.)	9.36	.55	.40		
PLASTERERS	9.60	.65	.65		
PLUMBERS	10.64	.45	.40		.3%
SOFT FLOOR LAYERS	9.77	.45	.50		.03
SPRINKLER FITTERS	11.40	.60	.90		.08
SHEET METAL WORKERS	10.54	.60	.35		
STEAMFITTERS	10.39	.45	.65		.3%
TERRAZZO WORKERS	9.75	.65	.30		
TILE SETTERS	9.50	.65	.30		

DECISION NO. WI77-2110

Welders receive rate prescribed for craft performing operation to which welding is incidental.

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTES:

a. Holidays: AthroughF.

b. Employer contributes 4% of regular hourly rate to Vaction Pay Credit for employee who has worked in business mroe than 5 years. Employer contributes 2% of regular hourly rate to Vacation Pay credit for employee who has worked in business less than 5 years.

c. Holidays, A thro F plus Washington's Birthday, Good Friday and Christmas Eve, providing employee has worked 45 full days during the 120 calendar days prior to the holiday, and the regularly scheduled work days immediately preceding and following the holidays.

Wisconsin 14 - Tab A

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
BUILDING, SEWER, WATER, EXCAVATING AND INCIDENTAL PAVING					
Laborers, Building:					
Pneumatic tool op., air hammer, jackhammer, concrete buster, sheeting driver, air spade	9.23	.40	.35		.02
Vibrator, air tamper & mortar mixer	9.13	.40	.35		.02
General laborer, concrete work, form stripeers, mason tenders, building wreckers	8.98	.40	.35		.02

DECISION NO. WI77-2110

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, End-loader (under 40 h.p.), Pumps (well points), Trencher (chain type having 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),Asssistant 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, Firemen (asphalt plants), Air compressor (300 CFM or over)

GROUP VI - Generators over 15 KW, Pumps over 3", Augers (vertical and horizontal), combination 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 helpers, Conveyor, Forklift (12' and under)

STATE: West Virginia
LOCATION: State of West Virginia excluding the Counties of Berkeley Jefferson, Morgan, Nicholas & Preston
DECISION No.: WV77-3101 DATE: Date of Publication
Supersedes Decision No. WV77-3027 dated February 18, 1977 in 42 FR-10281

DESCRIPTION OF WORK: Building construction (does not include single family homes and garden type apartments up to and including 4 stories). (See Heavy and Highway Construction General Wage Determination for all work in connection with the clearing and grading of the site, also all paving incidental to the project, and all incidental water lines and sewers utilities to within 5 feet of the building line, when such work is let as a separate contract by the owner or as a subcontract by the prime contractor).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS:					
AREA 1	$10.77	.59	.89		.03
AREA 2	11.10	.60	.70		
AREA 3	11.05	.50	.70		.03

AREAS COVERED BY ASBESTOS WORKERS

AREA 1 - Hampshire and Hardy Counties.

AREA 2 - Barbour, Brooke, Grant, Hancock, Harrison, Marion, Marshall, Mineral, Monongalia, Ohio, Taylor, Tucker, Tyler and Wetzel Counties.

AREA 3 - Boone, Braxton, Cabell, Calhoun, Clay, Doddridge, Fayette, Gilmer, Greenbrier, Jackson, Kanawha, Lewis, Lincoln, Logan, Mason, McDowell, Mercer, Mingo, Monroe, Pendleton, Pleasants, Pocahontas, Putnam, Raleigh, Randolph, Ritchie, Roane, Summers, Upshur, Wayne, Webster, Wirt, Wood and Wyoming Counties.

BOILERMAKERS:					
AREA 1	9.40	.75	1.00	1.40	.02
AREA 2	9.815	7.5%	7%		.01

AREAS COVERED BY BOILERMAKERS

AREA 1 - Barbour, Boone, Braxton, Brooke, Cabell, Calhoun, Clay, Doddridge, Fayette, Gilmer, Grant, Greenbrier, Hampshire, Hardy, Harrison, Jackson, Kanawha, Lewis, Lincoln, Logan, Marion, Marshall, Mason, McDowell, Mercer, Mineral, Mingo, Monongalia, Monroe, Ohio, Pendleton, Pleasants, Pocahontas, Putnam, Raleigh, Randolph, Ritchie, Roane, Summers, Taylor, Tucker, Tyler, Upshur, Wayne, Webster, Wetzel, Wirt, Wood and Wyoming Counties.

AREA 2 - Hancock County.

DECISION NO. WV77-3101

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
BRICKLAYERS, STONE MASONS, MARBLE MASONS, TERRAZZO WORKERS, & TILE LAYERS					
AREA 1	10.34		.40		
AREA 2	10.43	.55	.50	a	.03
AREA 3	8.70				
AREA 4					
Bricklayers & Stone masons	10.72	.65	.75		
Marble masons, Terrazzo workers, & Tile layers	10.65	.65	.25		
AREA 5					
Bricklayers & Stone Masons	11.04	.30	.30		
Marble Masons, Terrazzo Workers & Tile Layers	9.95	.30	.30		
AREA 6					
Bricklayers & Stone Masons	10.05	.60			
Marble Masons, Terrazzo Workers & Tile Layers	9.55	.60			
AREA 7					
Bricklayers & Stone Masons	9.63	.60	6%		.02
Tile Layers	9.48	.60	6%		.02
AREA 8					
Bricklayers, Stone Masons & Marble Masons	10.73	.50	.25		.02
Tile Setters & Terrazzo Workers	6.98	.50	.25		.02

DECISION NO. WV77-3101

AREAS COVERED BY BRICKLAYERS, STONEMASONS ETC

AREA 1 - Hampshire & Mineral Counties.

AREA 2 - Barbour, Doddridge, Gilmer, Grant, Hardy, Harrison, Lewis, Marion, Monongalia, Pendleton, Pocahontas, Randolph, Taylor, Tucker, Upshur and Webster Counties.

AREA 3 - McDowell, Mercer, Monroe & Wyoming Counties.

AREA 4 - Boone, Braxton, Clay, Fayette, Greenbrier, Kanawha, Putnam, Raleigh, Summers, and Logan Counties

AREA 5 - Cabell, Lincoln, Mason, Mingo, and Wayne Counties.

AREA 6 - Calhoun, Jackson, Pleasants, Ritchie, Roane, Wirt, and Wood Counties.

AREA 7 - Marshall, Ohio, Tyler, and Wetzel Counties.

AREA 8 - Brooke & Hancock Counties.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS & PILEDRIVERMEN:					
AREA 1					
Carpenters					
Contracts under $100,000	10.20	.40	.20		.04
Contracts $100,000 or more	10.45	.40	.20		.04
Piledrivermen					
Contracts under $100,000	10.70	.40	.20		.04
Contracts $100,000 or more	10.95	.40	.20		.04

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
AREA 2					
Carpenters	10.43	.45	.25		.02
Piledrivermen	10.75	.45	.25		.02
AREA 3					
Carpenters	9.85	.87	.65		.02
Piledrivermen	10.24	5%	10%		½ of 1%
AREA 4					
Carpenters	11.27	.50	.35		.02
Piledrivermen	11.52	.50	.35		.02
AREA 5					
Carpenters	10.16	.40	.25		.02
Piledrivermen	10.41	.40	.25		.02
AREA 6					
Carpenters	10.17	.50	.75		.03
Piledrivermen	10.46	.50	.75		.03
AREA 7					
Carpenters	10.42	.50	.35		.02
Piledrivermen	10.67	.50	.35		.02
AREA 8					
Carpenters	10.35	.50	.35		.02
Piledrivermen	10.60	.50	.35		.02
AREA 9					
Carpenters	10.42	.50	.35		.02
Piledrivermen	10.67	.50	.35		.02

AREAS COVERED BY CARPENTERS & PILEDRIVERMEN

AREA 1 - Barbour, Braxton, Doddridge, Gilmer, Harrison, Lewis, Marion, Monongalia, Pleasants, Randolph, Taylor, Tucker, Tyler, Upshur, Webster & Wetzel Counties.

AREA 2 - Grant, Hampshire, Hardy, Mineral & Pendleton Counties.

AREA 3 - Brooke, Hancock, Marshall & Ohio Counties.

AREA 4 - Boone, Clay, Greenbrier, Jackson (southern portion including the towns of Leon, Ripley & Hereford), Kanawha, Lincoln, Mason, Monroe, Pocahontas, Putnam & Roane Counties.

AREA 5 - Calhoun, Jackson (remainder of county), Ritchie, Wirt & Wood Counties.

DECISION NO. W77-3101

AREAS COVERED BY CARPENTERS & PILEDRIVERMEN (CONT'D)

AREA 6 - Cabell, Mingo & Wayne Counties.

AREA 7 - Fayette, McDowell, Mercer, Summers & Wyoming Counties.

AREA 8 - Logan County.

AREA 9 - Raleigh County.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CEMENT MASONS & PLASTERERS:					
AREA 1	10.34		.40		
AREA 2	9.90				
AREA 3	8.70				
AREA 4					
Cement Masons	10.62	.70			
Plasterers	9.10				.01
AREA 5					
Cement Masons	8.11	40			.01
Plasterers	8.25	.25			
AREA 6					
Cement Masons	9.71	.65			.01
Plasterers	8.51	.30			
AREA 7					
Cement Masons	10.90				
Plasterers	10.25				.01
AREA 8					
Cement Masons	7.36	.38	.05	.30	.03
AREA 9	11.12	.70			
AREA 10					
Cement Masons	6.90	35			

DECISION NO. W77-3101

AREAS COVERED BY CEMENT MASONS & PLASTERERS

AREA 1 - Hampshire & Mineral Counties.

AREA 2 - Calhoun, Gilmer, Jackson, Mason (northern portion of the county, south to but not including Point Pleasant), Pleasants, Ritchie, Tyler, Wirt, & Wood Counties.

AREA 3 - McDowell, Mercer, Monroe & Wyoming Counties.

AREA 4 - Boone, Braxton, Clay, Fayette, Kanawha, Lincoln (eastern half of county), Logan, Putnam, Raleigh & Roane Counties.

AREA 5 - Brooke (the northern portion of county to Buffalo Creek) and Hancock Counties.

AREA 6 - Brooke (remainder of county), Marshall, Ohio & Wetzel Counties.

AREA 7 - Barbour, Doddridge, Harrison, Lewis, Taylor, Tucker, Upshur and Webster Counties.

AREA 8 - Marion, Monongalia Counties.

AREA 9 - Cabell, Lincoln (remainder of county), Mason (remainder of county) & Wayne Counties.

AREA 10 - Greenbrier County.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS:					
Barbour, Doddridge, Harrison Lewis, Randolph & Upshur Counties:					
Wiremen	9.10	.50	3%+.52	2.02	.03
Cable Splicers	10.01	50	3%+.52	2.02	.03
Jackson, Pleasants, Ritchie, Tyler, Wirt & Wood Counties:					
Wiremen	10.65	.50	3%+1.02	1.02	.04
Cable Splicers	10.90	.50	3%+1.02	1.02	.04

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DECISION NO. WV77-3101	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Brooke (Buffalo Twp. only), Marshall, Ohio & Wetzel Counties:					
Wiremen	10.50	.50	3%+.32	1.02	.04
Cable Splicers	10.75	.50	3%+.32	1.02	.04
Brooke (remainder of county) and Hancock Counties:					
Wiremen	12.00	6%	9%	8%	½ of 1%
Cable Splicers	12.40	6%	9%	8%	½ of 1%
Cabell & Wayne Counties:					
Wiremen	11.02	.50	3%+.52	1.02	.04
Cable Splicers	11.57	.50	3%+.52	1.02	.04
Lincoln County:					
Wiremen	11.22	.50	3%+.52	1.02	.04
Cable Splicers	11.78	.50	3%+.52	1.02	.04
Logan, Mason & Mingo Counties:					
Wiremen	11.47	.50	3%+.52	1.02	.04
Cable Splicers	12.04	.50	3%+.52	1.02	.04
Mineral County:					
Wiremen	10.15	.50	3% +.25		1%
Hampshire County:					
Wiremen	10.35	.50	3% +.25		1%
Grant County:					
Wiremen	10.55	.50	3% +.25		1%
Greenbrier, McDowell, Mercer, Monroe & Pocahontas Counties:					
Wiremen	8.51	.30	3%		½ of 1%
Cable Splicers	8.91	.30	3%		½ of 1%
Hardy & Pendleton Counties:					
Contracts under $30,000:					
Wiremen	6.25	.50	3%		3/4 of 1%
Contracts $30,000 or more:					
Wiremen	9.65	.50	3%		3/4 of 1%
Marion, Monongalia, Taylor & Tucker Counties:					
Contracts under $12,000:					
Wiremen	6.05	.50	3%+1.02	1.52	.02
Contracts over $12,000					
Wiremen	9.40	.50	3%+1.02	1.52	.02
Cable Splicers	9.55	.50	3%+1.02	1.52	.02

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DECISION No. WV77-3101	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Summers & Wyoming Counties:					
Contracts $15,000 or less:					
Wiremen	8.02	.50	3%+.12	.77	.06
Cable Splicers	8.32	.50	3%+.12	.77	.06
Contractors over $15,000:					
Wiremen	10.92	.50	3%+.12	.77	.06
Cable Splicers	11.22	.50	3%+.12	.77	.06
Fayette (except Falls & Kanawha Twps.) County:					
Contractors $15,000 or less:					
Wiremen	7.82	.50	3%+.12	.77	.06
Cable Splicers	8.12	.50	3%+.12	.77	.06
Contracts over $15,000:					
Wiremen	10.72	.50	3%+.12	.77	.06
Cable Splicers	11.02	.50	3%+.12	.77	.06
Raleigh (except Clear Fork & Marsh Fork Twps.) County:					
Contracts $15,000 of less:					
Wiremen	7.52	.50	3%+.12	.77	.06
Cable Splicers	7.82	.50	3%+.12	.77	.06
Contracts over $15,000:					
Wiremen	10.42	.50	3%+.12	.77	.06
Cable Splicers	10.72	.50	3%+.12	.77	.06
Boone, Braxton, Calhoun, Clay Fayette (Falls & Kanawha Twps) Gilmer, Kanawha, Putnam, Raleigh (Clear Fork & Marsh Fork Twps.), Roane & Webster Counties:					
Wiremen	11.70	.50	3%+.25	.25	04
Cable Splicers	12.87	.50	3%+.25	.25	.04
ELEVATOR CONSTRUCTORS:					
Boone, Clay, Fayette, Kanawha Logan, Mingo, Putnam,& Raleigh Counties:					
Mechanics	9.895	.495	.32	4%+b+c	.02
Helpers	6.93	.495	.32	4%+b+c	.02
Probationary Helpers	4 95				

DECISION NO. WV77-3101

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Cabell, Mason & Wayne Counties:					
Mechanic	10.945	.545	.35	4%+b+c	.02
Helpers	7.66	.545	.35	4%+b+c	.02
Probationary Helpers	5.47				
Brooke, Hancock, Harrison, Marshall & Ohio Counties:					
Mechanics	9.20	.495	.32	4%+b+c	.02
Helpers	6.44	.495	.32	4%+b+c	.02
PRobationary Helpers	4.60				
GLAZIERS:					
AREA 1	9.33				
AREA 2	10.00		.50		
AREA 3					
Inside	5.40	.26	.20	.60+p	
Outside	6.10	.26	.20	.60+p	

AREAS COVERED BY GLAZIERS

AREA 1 - Jackson, Pleasants, Ritchie, Roane, Tyler, Wirt & Wood Counties.

AREA 2 - Boone, Cabell, Calhoun, Clay, Fayette, Greenbrier, Kanawha, Lincoln, Logan, Mason, McDowell, Mercer, Mingo, Monroe, Pendleton, Pocahontas, Putnam, Raleigh, Summers, Wayne & Wyoming Counties.

AREA 3 - Barbour, Braxton, Doddridge, Gilmer, Harrison, Lewis, Marion, Randolph, Taylor, Tucker, Upshur & Webster Counties.

IRONWORKERS -Structural, Ornamental & Reinforcing					
AREA 1	10.57	.90	1.05		.01
AREA 2	11.28	.70	.85		.03
AREA 3	10.83	.90	1.05		.09
AREA 4	10.24	.60	.90		
AREA 5	9.55	.60	.65		.03
AREA 6					
Zone 1 - 10 miles from Union Hall	11.27	.90	1.05		.01
Zone 2 - 10-15 miles from Union Hall	11.42	.90	1.05		.01
Zone 3 - 15-20 miles from Union Hall	11.52	.90	1.05		.01
Zone 4 - 20-25 miles from Union Hall	11.62	.90	1.05		.01

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AREA COVERED BY IRONWORKERS

AREA 1 - Calhoun, Doddridge, Gilmer, Jackson, Lewis, Mason, Pleasants, Ritchie, Roane, Upshur, Wirt & Wood Counties.

AREA 2 - Barbour, Brooke, Hancock, Harrison, Marion, Marshall, Monongalia, Ohio, Taylor, Tyler & Wetzel Counties.

AREA 3 - Boone, Braxton, Clay, Fayette, Kanawha, Lincoln, Logan, McDowell, Putnam, Raleigh, Webster & Wyoming Counties.

AREA 4 - Grant, Hampshire, Hardy, Mineral, Pendleton, Randolph & Tucker Counties.

AREA 5 - Greenbrier, Mercer, Monroe, Pocahontas & Summers Counties.

AREA 6 - Cabell, Mingo & Wayne Counties.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS					
AREA 1					
Group 1	7.92	.40	.40		.03
Group 2	8.22	.40	.40		.03
Group 3	8.57	.40	.40		.03
AREA 2					
Group 1	7.46	.40	.40		.03
Group 2	7.76	.40	.40		.03
Group 3	8.11	.40	.40		.03
AREA 3					
Group 1	7.20	.40	.40		.03
Group 2	7.50	.40	.40		.03
Group 3	7.85	.40	.40		.03
AREA 4					
Group 1	8.06	.40	.40		.03
Group 2	8.36	.40	.40		.03
Group 3	8.71	.40	.40		.03
AREA 5					
Group 1	7.63	.40	.40		.03
Group 2	7.93	.40	.40		.03
Group 3	8.28	.40	.40		.03
AREA 6					
Group 1	7.60	.40	.40		.03
Group 2	7.90	.40	.40		.03
Group 3	8.25	.40	.40		.03

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
AREA 7					
Group 1	8.10	.40	.40		.03
Group 2	8.40	.40	.40		.03
Group 3	8.75	.40	.40		.03
AREA 8					
Group 1	7.60	.55	.40		.05
Group 2	7.765	.55	.40		.05
Group 3	7.80	.55	.40		.05
Group 4	7.845	.55	.40		.05
Group 5	7.93	.55	.40		.05
Group 6	8.10	.55	.40		.05
Group 7	8.13	.55	.40		.05
Group 8	8.28	.55	.40		.05
Group 9	8.43	.55	.40		.05
Group 10	8.50	.55	.40		.05

CLASSIFICATION DEFINITION
LABORERS - AREAS 1,2,3,4 5,6,7

GROUP 1 - Laborers; carpenter tender; flagmen; water boy; demolition worker; fire watch; landscape laborer.

GROUP 2 - Powderman helper; semi-skilled laborer; scaffold builders; chainmen & rod men; grade checker; signal man; brick masons tenders; plasterer tenders; cement finishers tenders; stone masons tenders; lathers tenders; tile setters tenders; mortar mixers jackhammer operators; vibrator operators; tamper operators; pavement buster operators; chipping & Peening hammer operators; air sysphon & air pump operators; riprap finishers; concrete saw operators; concrete technician; pwer saw operators; chain saw operators; motorized buggy operators; pipelayers helpers; drill operators helpers; sheeters & Shorers; post hole digger operators; asphalt rakers; lance and/or water blaster operators; blacksmith helpers; batch house scale operators; workmen working with acid mortar, acid brick, acid or mastic asphalt; workmen working creosote; nozzlemen for gunnite or sandblasting; tool room attendants; ride or walk roller tampers.

GROUP 3 - Blacksmith; powdermen; air track operator; pipe layer (including laser beam set-up); burner.

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LABORERS - AREA 8

GROUP 1 - General laborers; carpenter tenders.

GROUP 2 - Brick handlers; tenders for brick masons, plasterers, stone masons; tile setters; montarmen for masons & plasterers; men mixing cement for cement finishers.

GROUP 3 - Operators of concrete busters, jackhammers, air spades, chipping hammers, air tampers, vibrators, power buggy, cement saw, power saw, sand-blaster, acetylene burners; welders; scuba divers; panel cleaning machines; all power driven tools operators; air pump operators; air blow pipe operators; pipe layers & helpers working in ditches or tunnels; hand spikers on railwoads.

GROUP 4 - Ditches, trenches, caissons & coffers over 6' Deep (open top).

GROUP 5 - Laborers performing work pertaining to or in connection with repair stoves, blast furnaces & basic oxygen process furnaces, steeples & stacks, annealing process furnaces, Kilns, soaking pits, coke battries on industrial work; demolition of stacks 50' to 100'; tunnel laborers, muckers, including caisson & coffers, horizontal & underground.

GROUP 6 - Demolition of stacks 100' to 150'.

GROUP 7 - Miners, including caissons & coffers, horizontal or underground; mucking machine operators.

GROUP 8 - Blaster men & helpers; billmen & Lancer; bottom-men in blast furnaces; stacks, stoves & dust covers.

GROUP 9 - GUnnite nozzlemen.

GROUP 10 - Demolition of stacks over 150'.

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AREAS COVERED BY LABORERS

AREA 1 - Boone, Clay, Fayette, Kanawha, Putnam & Roane Counties.

AREA 2 - Barbour, Braxton, Doddridge, Gilmer, Grant, Hampshire, Hardy, Harrison, Lewis, Marion, Mineral, Monongalia, Pendleton, Randolph, Taylor, Tucker, Upshur & Webster Counties.

AREA 3 - Greenbrier, McDowell, Mercer, Monroe, Pocahontas, Raleigh, Summers & Wyoming Counties.

AREA 4 - CaBell, Lincoln, Mason & Wayne Counties.

AREA 5 - Logan & Mingo Counties.

AREA 6 - Calhoun, Jackson, Pleasants, Ritchie, Tyler, WIrt & Wood Counties.

AREA 7 - Marshall, Ohio & Wetzel Counties.

AREA 8 - Brooke & Hancock Counties.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LATHERS:					
AREA 1	10.925		.10		
AREA 2	10.25		.20		.01
AREA 3	9.76	.50	.10		.01
AREA 4	8.98	.45	1.10		.01
AREA 5	9.315		.10		
AREA 6	9.58		.15		.01

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AREAS COVERED BY LATHERS

AREA 1 - Boone, Clay, Fayette, Kanawha, Putnam & Roane Counties.

AREA 2 - Barbour, Doddridge, Gilmer, Harrison, Lewis, Marion, Monongalia, Taylor, Tyler, Upshur & Wetzel Counties.

AREA 3 - Brooke, Marshall & Ohio Counties.

AREA 4 - Hancock County

AREA 5 - Cabell, Mason & Wayne Counties

AREA 6 - Calhoun, Jackson, Pleasants, Ritchie, Wirt & Wood Counties.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION:					
Greenbrier, McDowell, Mercer, Monroe & Pocahontas Counties:					
Linemen	8.66	.35	3%		1/2 of 1%
Cable Splicers	9.06	.35	3%		1/2 of 1%
Equipment Operators	7.45	.35	3%		1/2 of 1%
Truck with earth boring auger	6.06	.35	3%		1/2 of 1%
Truck with winch & groundmen	4.76	.35	3%		1/2 of 1%
Mineral County:					
Linemen	10.15	.50	3%+.25		1/2 of 1%
Equipment Operators	9.64	.50	3%+.25		1/2 of 1%
Truck drivers & groundmen	6.60	.50	3%+.25		1/2 of 1%
Hampshire County:					
Linemen	10.35	.50	3%+.25		1/2 of 1%
Equipment Operators	9.84	.50	3%+.25		1/2 of 1%
Truck drivers & groundmen	6.80	.50	3%+.25		1/2 of 1%
Grant County:					
Linemen	10.55	.50	3%+.25		1/2 of 1%
Equipment Operators	10.04	.50	3%+.25		1/2 of 1%
Truck drivers & groundmen	7.00	.50	3%+.25		1/2 of 1%
Hardy & Pendleton Counties:					
Linemen, cable splicers & equipment operators	12.11	.45	3%		1/2 of 1%
Truck with winch, pole or steel handling	7.43	.45	3%		1/2 of 1%
Groundmen	7.17	.45	3%		1/2 of 1%

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		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Raleigh					
Linemen & equipment Operators	10.42	.50	3%+.52	.77	1/2 of 1%
Cable Splicer	10.72	.50	3%+.52	.77	1/2 of 1%
Groundmen	8.34	.50	3%+.52	.77	1/2 of 1%
Summers & Wyoming Counties:					
Linemen & equipment operators	10.92	.50	3%+.52	.77	1/2 of 1%
Cable Splicers	11.22	.50	3%+.52	.77	1/2 of 1%
Groundmen	8.74	.50	3%+.52	.77	1/2 of 1%
Fayette County:					
Linemen & Equipment Operators	10.72	.50	3%+.52	.77	1/2 of 1%
Cable Splicers	11.02	.50	3%+.52	.77	1/2 of 1%
Groundmen	8.58	.50	3%+.52	.77	1/2 of 1%
Marion, Monongalia, Taylor & Tucker Counties:					
Linemen & Equipment Operators	9.50	.50	3%+1.02	1.52	1/2 of 1%
Cable Splicers	10.45	.50	3%+1.02	1.52	1/2 of 1%
Groundmen & Truck Drivers	7.60	.50	3%+1.02	1.52	1/2 of 1%
Jackson, Pleasants, Ritchie, Tyler, Wirt & Wood Counties:					
Linemen & Equipment Operators	10.70	.45	3%+1.02	1.02	1/2 of 1%
Cable Splicers	11.77	.45	3%+1.02	1.02	1/2 of 1%
Groundmen	8.56	.45	3%+1.02	1.02	1/2 of 1%
Brooke (Buffalo Twp. only), Marshall, Ohio & Wetzel Counties:					
Linemen & Equipment Operators	10.50	.50	3%+.32	1.02	1/2 of 1%
Cable Splicers	10.75	.50	3%+.32	1.02	1/2 of 1%
Groundmen	8.40	.50	3%+.32	1.02	1/2 of 1%
Brooke (except Buffalo Twp.) & Hancock Counties:					
Linemen & Equipment Operator	10.80	5%	8%	8%	1/2 of 1%
Cable splicers	11.20	5%	8%	8%	1/2 of 1%
Groundmen	7.02	5%	8%	8%	1/2 of 1%
Barbour, Doddridge, Harrison Lewis, Randolph, and Upshur Counties:					
Linemen & Equipment Operators	9.10	.50	3%+.52	2.02	1/2 of 1%
Cable Splicers	10.01	.50	3%+.52	2.02	1/2 of 1%
Groundmen & truck drivers	7.28	.50	3%+.52	2.02	1/2 of 1%
Boone, Braxton, Cabell, Calhoun Clay, Gilmer, Kanawha, Lincoln, Logan, Mason, Mingo, Putnam. Roane, Wayne & Webster Counties:					

DECISION No. WV77-3101	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Linemen & Equipment Operators	11.08	.45	3%+.52	1.02	1/2 of 1%
Cable Splicers	12.19	45	3%+.52	1.02	1/2 of 1%
Groundmen	8.86	.45	3%+.52	1.02	1/2 of 1%
MARBLE MASON HELPERS, TERRAZZO WORKER HELPER & TILE LAYER HELPER:					
Cabell, Lincoln, Mason, Mingo & Wayne Counties	7.93	.30	.30		
MILLWRIGHTS:					
AREA 1	10.81	.45	.25		.02
AREA 2	10.79	.40	.37		.03
AREA 3	10.725	.40	.20		.04
AREA 4	10.37	50	6%		.02
AREA 5	11.55	.50	.35		.02
AREA 6	10.40	.50	.55		.10

AREAS COVERED BY MILLWRIGHTS

AREA 1 - Grant, Hampshire, Hardy, Mineral & Pendleton Counties.

AREA 2 - Cabell & Wayne Counties

AREA 3 - Barbour, Doddridge, Gilmer, Harrison, Marion, Lewis, Monongalia, Randolph, Taylor, Tucker, Upshur & Webster Counties.

AREA 4 - Brooke, Hancock, Marshall & Ohio Counties.

AREA 5 - Boone, Clay, Fayette, Greenbrier, Jackson (Southern portion including the towns of Leon, Rippley & Hereford), Kanawha, Logan, Mason, McDowell, Mercer, Mingo, Monroe, Pocahontas, Putnam, Raleigh, Roane, Braxton, Lincoln, Summers, and Wyoming Counties

AREA 6 - Calhoun, Jackson (remainder of county), Pleasants, Ritchie, Tyler, Wetzel, Wirt, and Wood Counties

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS:					
AREA 1					
Brush, rollers, hanging wallcovering & installing seemless type floors	7.95		.50		
Spray, sandblasting & use of toxic materials	8.45		.50		
Drywall: Taping, spackling, sanding & finishing	9.85		.50		
AREA 2					
Painters - An area within 50 miles of Huntington, W.V.	8.22	.30	.35		.02
An area 50 miles and beyond of Huntington, W.V.	9.47	.30	.35		.02
Vinyl & all other wall covering; drywall taping - An area within 50 miles of of Huntington, W.V.	8.72	.30	.35		.02
An area 50 miles and beyond of Huntington, W.V.	9.97	.30	.35		.02
Repaint work (limited to Public Schools) - An area within 50 miles of Huntington, W.V.	6.38	.30	.35		.02
An area 50 miles and beyond of Huntington, W.V.	7.63	.30	.35		.02
AREA 3					
Brush & roller	6.42	.50			.01
Paper & vinyl hangers	6.42	.50			.01
Seemless floors	6.42	.50			.01
Glove	6.67	.50			.01
Perfs-taping	6.79	.50			.01
Brush height over 40'	6.92	.50			.01
Spray, sandblast, seemless floor, epoxy & steam cleaning	7.42	.50			.01
AREA 4					
Brush & roller	6.20	.50	.40		
Spray	7.20	.50	.40		
Vinyl hanging & taping	8.15	.50	.40		

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
AREA 5					
Commercial	8.40	.50	.20	.30	
Drywall finishers	8.65	.50	.20	.30	
Swing & boat swain chair	8.75	.50	.20	.30	
Vinyl wall covering	8.90	.50	.20	.30	
Structural steel after erection	9.25	.50	.20	.30	
Repaint structural steel	8.50	.50	.20	.30	
Spray painting	9.40	.50	.20	.30	
Towers, tanks & stacks	9.65	.50	.20	.30	
Sandblasting	10.25	.50	.20	.30	
Extra pay of heights 50' to 100' (+.50 per hour); over 100' (+ $1.00 per hour)					
AREA 6					
New Construction:					
Brush	9.16		.30		.01
Roller	9.42		.30		.01
Spray & blast	10.18		.30		.01
Pot-men	10.18		.30		.01
Commercial Repaint:					
Brush	7.74		.30		.01
Roller	8.02		.30		.01
Paperhanger	9.16		.30		.01
Drywall	9.61		.30		.01
Spray, pot-men	10.18		.30		.01
Paper & vinyl hangers	9.16		.30		.01
Open structural steel	10.51		.30		.01
Drywall pointers & tapers	9.61		.30		.01
Liquid tile brush	9.93		.30		.01
Stacks, vent pipes, flag poles, electrical, radio & T.V. towers & tanks over 30' high	10.11		.30		.01
Hydrojet, steam cleaning & glove work	10.18		.30		.01
Operating mechanical taping machines	10.61		.30		.01

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	REPAINT Basic Hourly Rates	NEW Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
AREA 7						
Air Compressor Operator	7.32	8.14				
Brush Painting	7.32	8.14				
Roller, Dry-Wall Pointers & Tapers, Dipping & Mitten Work & Spray	7.68	8.46				
Water Blasters, Steam Jenny Nozzle Men, Swinging Scaffold & Boatswain Chair, Window Jack Work	8.43	8.99				
Brush Painters on Bridges, Nedele Bean, Cable Work, Power Tool Work, Brush & Flame Cleaning	8.86	9.37				
Operating Mechanical Taping Machines	9.08	9.73				
Sand Blasters	9.12	9.70				
All Stacks, Vent Pipe, Flag Poles in excess of 30' high, all Towers Water Towers, Elevated Towers, Electrical Switch Yards, Transformer Banks & Television Towers	10.25	10.65				
Vinyl hangers & Paper hangers (with tools	7.67	8.46				

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	Basic Hourly Rates	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
AREA 8					
Brush & roller:					
Commercial repaint	6.75				
New commercial	7.25				
Paperhanging-wall covering under 48":					
Commercial repaint	6.75				
New commercial	7.25				
Drywall finishing:					
Commercial repaint	6.75				
New commercial	7.25				
Drywall machine tool:					
Commercial repaint	7.00				
New commercial	7.50				
Lining machine work, power cleaning tools:					
Commercial repaint	7.25				
New commercial	7.75				
Wall covering 48" or over:					
Commercial repaint	7.25				
New commercial	8.25				
Spray, sandblasting, mittens, structural steel, material emitting toxic vapors:					
Commercial repaint	7.50				
New commercial	8.25				
Height clause: An additional $1.00 per hour per 100' over the appropriate scale					

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AREAS COVERED BY PAINTERS

AREA 1 - Grant, Hampshire, Hardy, Mineral & Pendleton Counties.

AREA 2 - Cabell, Lincoln, Logan, Mason, Mingo & Wayne Counties.

AREA 3 - Brooke (south of Buffalo Creek), Marshall, Ohio & Wetzel Counties.

AREA 4 - Brooke (remainder of county) & Hancock Counties.

AREA 5 - Barbour, Doddridge, Gilmer, Harrison, Lewis, Marion, Randolph, Taylor, Tucker, Upshur & Webster Counties.

AREA 6 - Jackson, Pleasants, Ritchie, Roane, Tyler, Wirt & Wood Counties.

AREA 7 - Boone, Braxton, Clay, Fayette, Greenbrier, Kanawha, McDowell, Mercer, Monroe, Pocahontas, Putnam, Raleigh, Summers & Wyoming Counties.

AREA 8 - Monongalia County

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLUMBERS & PIPEFITTERS:					
AREA 1	10.02	.50	.60	10%	.04
AREA 2	10.27	.50	.60	10%	.04
AREA 3	10.52	.50	.60	10%	.04
AREA 4	10.77	.50	.60	10%	.04
AREA 5	10.45	.40	8%	10%	.05
AREA 6	10.46	.40	7%	8%	.05
AREA 7					
Comercial WOrk	10.23	.40	.50		
Repair WOrk	10.04	.40	.50		
AREA 8					
ZONE 1 - within an 8 mile radius of CAbell County courthouse, Huntington, W.V.	10.58	.50	1.00		.02
ZONE 2 - 8 to 15 miles from the courthouse	10.78	.50	1.00		.02
ZONE 3 - 15 to 25 miles from the courthouse	10.98	.50	1.00		.02
ZONE 4 - Over 25 miles from the courthouse	11.23	.50	1.00		.02
AREA 9					
Contracts to $75,000	8.05	.45	.50		.09
Contracts above $75,000	10.52	.45	.50		.09

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AREAS COVERED BY PLUMBERS & PIPEFITTERS

AREA 1 - Harrison, Marrion & MonongaLia Counties.

AREA 2 - Barbour, Doddridge, Lewis, Taylor & Upshur Counties.

AREA 3 - Braxton (that portion north of the southern corporate limits of the city of Sutton), Gilmer, Randolph, Tucker & Webster (that portion north of the southern city limits of Webster Springs) Counties.

AREA 4 - Grant, Hampshire, Hardy, Mineral & Pendleton Counties.

AREA 5 - Brooke (south of Buffalo Creek), Marshall, Ohio & Wetzel Counties.

AREA 6 - Brooke (remainder of county) & Hancock Counties.

AREA 7 - Calhoun, Jackson (northern portion to but not including the Town of Ripley), Pleasants, Ritchie, Roane (northern portion up to but not including Spencer), Tyler, Wirt & Wood Counties.

AREA 8 - Boone (southwest portion to but not including the Towns of Madison & Whitesville), Cabell, Lincoln, Logan, Mason, Mingo & Wayne Counties.

AREA 9 - McDowell, Mercer, Monroe, Raleigh& Wyoming Counties.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLUMBERS & STEAMFITTERS:					
Plumbers	9.78	.45	.30		.05
Steamfitters	9.82	.45	.15		.05

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AREA COVERED BY PLUMBERS & STEAMFITTERS

Boone (remainder of county)) Braxton (remainder of county), Clay, Fayette, Greenbrier, Jackson (remainder of county), Kanawha, Pocahontas, Putnam, Roane (remainder of county), SOmmers & Webster (remainder of county) Counties.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
GROUP 1	10.92	.45	.55		.04
GROUP 2	10.42	.45	.55		.04
GROUP 3	10.02	.45	.55		.04
GROUP 4	9.62	.45	.55		.04
GROUP 5	8.92	.45	.55		.04

CLASSIFICATION DEFINITIONS
POWER EQUIPMENT OPERATORS

GROUP 1 - Operating cranes, derricks, tower cranes, and similar equipment, having a reach from the top of its boom to the ground of 175' or a lifting capacity of 70 tons; all shovels, draglines, clamshells, backhoes, end-loaders, and concrete mixing plants of 4 cubic yard capacity or over; hoist with 18,000 pound line pull or over.

GROUP 2 - All mechanics and those operating cranes, derricks and similar equipment hydraulic cranes in excess of 15 tons capacity; all shovels, draglines, clamshells, gradealls, tug or tow boats; concrete clamshells, gradealls, tug or tow boats - concrete mixing plants of 3 cubic yards capacity; endloaders in excess of 2½ cubic yards capacity; backhoes in excess of ½ cubic yard capacity; hoist in excess of 5,000 pounds line pull; side boom cat, standards guage locomotive.

GROUP 3 - Hydraulic cranes up to and including 15 tons capacity; endloaders up to and including 2½ cubic yards capacity; backhoes up to and including ½ cubic yard capacity; two drum hoist; well point system, concrete mixing plants, elevators, core drills, fork lift, ross carrier, air compressor (60 CFM or over), high compression equipment, concrete pumps double.

GROUP 4 - Trencher, air tugger, concrete mixer, (2 bag) material hoist, (single) "A" frame truck, rubber tired scraper, power grader, dozer, tractor and pan, push cat, all tractors, oiler's standard guage locomotive crane, truck cranes; over 15 tons, grease truck operator and greaser, fireman, deckhand, asphalt and concrete paving equipment operators.

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CLASSIFICATION DEFINITIONS
POWER EQUIPMENT OPERATORS (CONT'D)

GROUP 5 - Roller and compactor, concrete mixer, (1 bag) Barbour Greene loader, mechanic helper, crawler crane oiler, air compressor, welding machine, gasoline powered) light plant, generator, conveyor, mechanical heater and pump operator.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS:					
AREA 1	9.68	.60	.20		
AREA 2	11.15	.45	.30		.02
AREA 3					
Commercial:					
Roofers	9.60		.10		.01
Waterproofers	9.85		.10		.01
Unprotected roofing or reroofing:					
Roofers	7.25		.10		.01
Waterproofers	7.50		.10		.01

AREA COVERED BY ROOFERS

AREA 1 - Brooke, Hancock, Marshall & Ohio Counties.

AREA 2 - Boone, Cabell, Clay, Fayette, Greenbrier, Kanawha, Lincoln, Logan, Mason, McDowell, Mercer, Mingo, Monroe, Putnam, Raleigh, Summers, Wayne, Webster & Wyoming Counties.

AREA 3 - Barbour, Braxton, Calhoun, Doddridge, Gilmer, Grant, Hardy, Harrison, Jackson, Lewis, Marion, Mineral, Monongalia, Pendleton, Pleasants, Pocahontas, Randolph, Ritchie, Roane, Taylor, Tucker, Tyler, Upshur, Wetzel, Wirt & Wood Counties.

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
SHEETMETAL WORKERS:					
AREA 1	10.20		.25	1.80	.02
AREA 2	11.05	.50+a	.55		.05
AREA 3	8.93	.45	.45		.02
AREA 4	11.30	.45	.55		.04
AREA 5	9.28	.35	.30		.04

AREAS COVERED ON SHEETMETAL WORKERS

AREA 1 - Grant, Hampshire, Hardy & Mineral Counties.

AREA 2 - Cabell, Lincoln, Logan, Mingo & Wayne Counties.

AREA 3 - Brooke, Hancock, Marshall & Ohio Counties.

AREA 4 - Boone, Clay, Fayette, Greenbrier, Kanawha, Mason, McDowell, Mercer, Monroe, Putnam, Raleigh, Summers, Webster & Wyoming Counties.

AREA 5 - Barbour, Braxton, Calhoun, Doddridge, Gilmer, Harrison, Jackson, Lewis, Marion, Monongalia, Pendleton, Pleasants, Pocahontas, Randolph, Ritchie, Roane, Taylor, Tucker, Tyler, Wetzel, Wirt & Wood Counties.

SOFT FLOOR LAYERS:					
AREA 1	9.85	.87	.65		.02
AREA 2	10.17	.50	.75		.03
AREA 3	10.42	.50	.35		.02
AREA 4	10.35	.50	.35		.02
AREA 5	11.27	.50	.35		.02
AREA 6	9.76	.40	.25		.02

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AREAS COVERED BY SOFT FLOOR LAYERS

AREA 1 - Brooke, Hancock Marshall & Ohio Counties.

AREA 2 - Cabell, Mingo & Wayne Counties.

AREA 3 - Fayette, McDowell, Mercer, Raleigh, Summers & Wyoming Counties.

AREA 4 - Logan County

AREA 5 - Boone, Clay, Greenbrier, Jackson (southern portion including the Towns of Leon, Ripley & Hereford), Kanawha, Lincoln, Mason, Monroe, Pocahontas, Putnam & Roane Counties.

AREA 6 - Calhoun, Jackson (remainder of county), Ritchie, Wirt & Wood Counties.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
SPRINKLER FITTERS	11.48	.65	.95		.08
TRUCK DRIVERS:					
AREA 1					
GROUP 1	8.16	f	g		
GROUP 2	8.26	f	g		
GROUP 3	8.41	f	g		
GROUP 4	8.46	f	g		
GROUP 5	8.51	f	g		
GROUP 6	8.61	f	g		
GROUP 7	8.81	f	g		
AREA 2					
GROUP 1	6.30	h	i		
GROUP 2	6.40	h	i		
GROUP 3	6.55	h	i		
GROUP 4	6.70	h	i		
GROUP 5	6.95	h	i		
GROUP 6	7.05	h	i		

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
AREA 3					
GROUP 1	9.08	h	j	1.00	
GROUP 2	9.18	h	j	1.00	
GROUP 3	9.33	h	j	1.00	
GROUP 4	9.38	h	j	1.00	
GROUP 5	9.43	h	j	1.00	
GROUP 6	9.48	h	j	1.00	
GROUP 7	9.73	h	j	1.00	
AREA 4					
GROUP 1	6.10	k	i		
GROUP 2	6.20	k	i		
GROUP 3	6.40	k	i		
GROUP 4	6.45	k	i		
GROUP 5	6.50	k	i		
GROUP 6	6.88	k	i		
AREA 5					
GROUP 1	5.85	l	m	n	
GROUP 2	5.88	l	m	n	
GROUP 3	5.90	l	m	n	
GROUP 4	6.00	l	m	n	
GROUP 5	6.08	l	m	n	
GROUP 6	6.13	l	m	n	
GROUP 7	6.16	l	m	n	
GROUP 8	6.43	l	m	n	
GROUP 9	6.50	l	m	n	
GROUP 10	6.53	l	m	n	
AREA 6					
GROUP 1	5.37	o			
GROUP 2	5.38	o			
GROUP 3	5.42	o			
GROUP 4	5.45	o			
GROUP 5	5.47	o			
GROUP 6	5.70	o			
GROUP 7	6.00	o			
GROUP 8	6.10	o			

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
AREA 7					
GROUP 1	7.56	.60	.70		
GROUP 2	7.71	.60	.70		
GROUP 3	7.91	.60	.70		
GROUP 4	8.10	.60	.70		
GROUP 5	8.34	.60	.70		

CLASSIFICATION DEFINITIONS
TRUCK DRIVERS - AREA 1

GROUP 1 - Warehousemen, yardmen, truck helpers, pick-ups, stationwagons, panel trucks, flatbody material truck (straight job), greasers, washers, tiremen, gas pumps attendants, dump trucks (up to 5 cubic yards)
GROUP 2 - Tank truck (straight)
GROUP 3 - Dump trucks (5 cubic yards and over), semi-dump trucks, semi-trailers, (whether flat rack, or pole and hauled or pushed by truck or tractor), agitator or mixer trucks (up to 5 cubic yards), farm type tractor, tank truck (semi).
GROUP 4 - Low-Boy trailers, winch trucks, fork trucks, distributor trucks (front and back end), truck crane, moni-rail truck.
GROUP 5 - Material checker and receiver, mechanics helpers.
GROUP 6 - Agitator or mixer truck (5 cubic yards and over).
GROUP 7 - Mechanics, euclid, dumpster, turnarocker, ross carriers, athey wagon or similar equipment, A-frame, hydrolift, dual purpose trucks.

TRUCK DRIVERS AREA 2

GROUP 1 - Warehousemen, yardmen, truck helpers, pick-ups, stationwagons, panel trucks.
GROUP 2 - Flatbody material trucks (straight jobs), dump trucks (up to 5 cubic yards), greasers, washers, tiremen, gas pump attendants, mechanic helpers, material checkers & receivers, tank truck (straight).
GROUP 3 - Dump trucks (5 cubic yards & over), semi-dump trucks, semi-trailer (whether flat, rack or pole and hauled or pushed by truck or tractors), agitators or mixed-trucks (up to 5 cubic yards), tank trucks (semi), monorails.
GROUP 4 - Low-boy trailers, winch trucks, fork truck, distributor trucks (front and back end), truck crane, agitators or mixer trucks (5 cubic yards & over), hydraulic tail gate, farm type tractors.
GROUP 5 - Euclids, dumpsters, turnarockers, ross carriers, athey wagons or similar equipment, A-frame, hydrolift, dual purpose trucks.
GROUP 6 - Mechanics.

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TRUCK DRIVERS - AREA 3

GROUP 1 - Warehousemen, yardmen, truck helpers, pick-ups, stationwagons, panel trucks, flatbost material truck (straight job), greasers, washers, tiremen, gas pump attendants, dump trucks (up to 5 cubic yards).
GROUP 2 - Tank truck (straight)
GROUP 3 - Dump trucks (5 cubic yards and over), semi-dump trucks, semi trailers (whether flat rack or pole and hauled or pushed by truck or tractors). agitator or mixer trucks (up to 5 cubic yards), tank truck (semi)
GROUP 4 - Low-boy trailers, winch trucks, fork trucks, distributor trucks (front and back end), truck crane, moni-rail truck.
GROUP 5 - Material checker and receiver, mechanics helpers.
GROUP 6 - Agitator or mixer truck (5 cubic yards and over).
GROUP 7 - Mechanics, tri-axle dump trucks, hydraulic lift tailgate truck and farm type tractors, end dumpsters, turnarockers, ross carriers, athey wagon or similar equipment, A-frame, hydrolift, dual purpose trucks.

TRUCK DRIVERS - AREA 4

GROUP 1 - Warehouse, yardmen, truck helpers, pick-ups, stationwagons, panel trucks,team 2 - up.
GROUP 2 - Flatbody material trucks (straight jobs), dump trucks (up to 5 cubic yards), material checkers, material receivers, team 4 - up, greasers, tiremen and mechanic helpers (truck)
GROUP 3 - Semi-dump truck, semi-trailers (flat rack or pole), low-boy trucks, distributor trucks, agitators or mixer trucks (up to and including 5 yards) dump trucks and dumpster (5 to 12 yards).
GROUP 4 - Dump truck, agitator or mixer trucks and other hauling equipment (12 yards to 20 yards), mucker trucker, rubber-tired tractors (towing or pushing)
GROUP 5 - Dump truck, agitator or mixer trucks and other hauling equipment (20 yards and over)
GROUP 6 - "A" Frame operator, mechanics (truck).

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TRUCK DRIVERS - AREA 5

GROUP 1 - Flat bed material trucks, dump trucks, semi-dump trucks.
GROUP 2 - Tank trucks (straight & semi).
GROUP 3 - Semi-trailers, tractor trailers.
GROUP 4 - Pole trailer.
GROUP 5 - Agitator & mixer trucks (up to 5 cubic yards)
GROUP 6 - Euclids, dumpsters, turnarocker, ross carriers, athey wagons.
GROUP 7 - Agitator & mixer trucks (over 5 cubic yards)
GROUP 8 - Low-boy trailers, winch trucks, ford trucks (front and back end) truck crane.
GROUP 9 - A-Frame.
GROUP 10 - Mechanics.

TRUCK DRIVERS - AREA 6

GROUP 1 - Warehousemen, yardmen, truck helpers.
GROUP 2 - Greasers, washers, tiremen, gas pump attendants, mechanics helpers.
GROUP 3 - Flatboy material trucks, dump trucks, semi-trucks.
GROUP 4 - Tank trucks (straight & semi)
GROUP 5 - Semi-trailers & tractor trailers.
GROUP 6 - Euclids, dumpsters, turnarockers, ross carriers, athey wagons.
GROUP 7 - Low-boy trailers, winch trucks, A-frame, fork trucks, distributor (front & back end), truck crane.
GROUP 8 - Mechanics.

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TRUCK DRIVERS - AREA 7

GROUP 1 - Dumpmen & flagmen.
GROUP 2 - Pick-up trucks, dump tracks under 5 yard capacity, straight trucks.
GROUP 3 - Panel trucks, straight truck with multiple axle, dumpsters under 5 yard capacity, transit mix, dump trucks from 5 to 9 yard capacity, flat body material trucks (straight jobs), greasers, tiremen & mechanic helpers, rubber-tired (towing or pushing flatbody vehicles), &-form trucks.
GROUP 4 - Dump trucks 10-15 yard capacity.
GROUP 5 - Dump trucks over 15 yard capacity, bottom and end dump euclids, all other euclid type trucks, turnarockers, ross carriers, athey wagons, A-frames, mechanics, semi-trailer or tractor trailers, low boy trucks, asphalt distributor trucks, agitator mixer, dumpcretes or batch trucks, specialized earth moving equipment, off-highway tandem back-dump, twin engine equipment and double hitched equipment (where not self-loaded)

AREAS COVERED BY TRUCK DRIVERS

AREA 1 - Boone, Braxton, Clay, Fayette, Greenbrier, Kanawha, McDowell, Mercer, Monroe, Pocahontas, Putnam, Raleigh, Summers, Webster & Wyoming Counties.

AREA 2 - Calhoun, Gilmer, Jackson, Pleasants, Ritchie, Roane, Tyler, Wirt & Wood Counties.

AREA 3 - CAbell, Lincoln, Logan, Mason, Mingo & Wayne Counties.

AREA 4 - Barbour, DOddridge, Harrison, Lewis, Marion, Monongalia, Randolph, Taylor, Tucker & Upshur Counties.

AREA 5 - Marshall, Ohio & Wetzel Counties.

AREA 6 - Brooke & Hancock Counties.

AREA 7 - Grant, Hampshire, Hardy, Mineral & Pendleton Counties

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PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E- Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

a. Paid Holiday: Christmas Day.

b. PAid Holidays: A through F.

c. 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.

d. Employer contributes 2¢ per hour per employee from June 1 to December 31.

e. Employer contribution of 3% per hour to the Sasmi Fund per employee and is based on the basic hourly rate, plus pension, plus health and welfare.

f. Employer contributes $41.16 per month per employee employed 30 days or more.

g. Employer contributes $34.67 per month per employee.

h. Employer contributes $82.33 per month per employee employed 30 days or more.

i. Employer contributes $26.00 per month per employee employed 30 days or more.

j. Employer contributes $52.00 per month per employee employed 30 days or more.

k. Employer contributes $28.50 per month per employee employed 30 days or more.

l. Employer contributes $6.30 per week per employee.

m. Employer contributes $6.00 per week per employee.

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FOOTNOTE (Cont'd):

n. One week's paid vacation.

o. Employer contributes $9.50 per week per employee.

p. Paid Holidays: A through F, Plus Christmas Eve.

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Advance Orders are now being Accepted
for delivery in about 6 weeks

CODE OF FEDERAL REGULATIONS

(Revised as of April 1, 1977)

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