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federal register

FRIDAY, AUGUST 5, 1977

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

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

Monday	Tuesday	Wednesday	Thursday	Friday
NRC	USDA/ASCS		NRC	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/NHTSA	USDA/FNS		DOT/NHTSA	USDA/FNS
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	HEW/HRA			HEW/HRA
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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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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. 4746 ..... Pub. L. 95–84
To extend certain authorities of the Secretary of the Interior with respect to water resources research and saline water conversion programs, and for other purposes. (Aug. 2, 1977; 91 Stat. 400). Price: $0.35.

H.R. 7556 ..... Pub. L. 95–86
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H.R. 7557 ..... Pub. L. 95–85
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H.R. 2 ..... Pub. L. 95–87
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rules and regulations

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Community Services Administration

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: The position of Associate Director for Interagency and External Affairs is excepted under Schedule C because it is confidential in nature.

EFFECTIVE DATE: August 5, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3373(g) is added as set out below:

§ 213.3373 Community Services Administration.

* * * * *

(g) *Office of Interagency and External Affairs.* (1) The Associate Director.

(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.77-22549 Filed 8-4-77;8:45 am]

PART 213—EXCEPTED SERVICE

Department of Housing and Urban Development

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: The position of Special Assistant to the Deputy Assistant Secretary for Research and Demonstration is excepted under Schedule C because it is confidential in nature.

EFFECTIVE DATE: August 5, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3384(i)(8) is added as set out below:

§ 213.3384 Department of Housing and Urban Development.

* * * * *

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

(8) One Special Assistant to the Deputy Assistant Secretary for Research and Demonstration.

(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.77-22550 Filed 8-4-77;8:45 am]

PART 213—EXCEPTED SERVICE

Department of Labor

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: The position of Staff Assistant to the Assistant Secretary for Employment Standards is excepted under Schedule C because it is confidential in nature.

EFFECTIVE DATE: August 5, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3315(a)(59) is added as set out below:

§ 213.3315 Department of Labor.

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

(59) One Staff Assistant to the Assistant Secretary for Employment Standards.

(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.77-22551 Filed 8-4-77;8:45 am]

PART 213—EXCEPTED SERVICE

Department of the Treasury

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: The position of Special Assistant to the Assistant Secretary (Public Affairs) is excepted under Schedule C because it is confidential in nature.

EFFECTIVE DATE: August 5, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3305(a)(73) is added as set out below:

§ 213.3305 Department of the Treasury.

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

(73) One Special Assistant to the Assistant Secretary (Public Affairs).

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

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

[FR Doc.77-22553 Filed 8-4-77;8:45 am]

PART 213—EXCEPTED SERVICE

National Foundation on the Arts and Humanities

AGENCY: Civil Service Commission.

ACTION: Final Rule.

SUMMARY: This amendment changes the title of two positions of Assistant Director for State and Community Operations in the National Endowment for the Arts to Assistant Director for Federal-State Partnerships to more accurately reflect the duties of the positions.

EFFECTIVE DATE: August 5, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202–632–4533.

Accordingly, 5 CFR 213.3182(a)(13) is amended as set out below:

§ 213.3182 National Foundation on the Arts and Humanities.

(a) National Endowment for the Arts. * * *

(13) Until September 30, 1980, two Assistant Directors for Federal-State Partnerships.

(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.77-22552 Filed 8-4-77;8:45 am]

Title 9—Animals and Animal Products

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

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

PART 82—EXOTIC NEWCASTLE DISEASE; AND PSITTACOSIS OR ORNITHOSIS IN POULTRY

Areas Quarantined

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this amendment is to quarantine portions of Honolulu County in Hawaii because of the existence of exotic Newcastle disease. Exotic Newcastle disease was confirmed in Honolulu County, Hawaii, July 25, 1977. Therefore, in order to prevent the dissemination of exotic Newcastle disease it is necessary to quarantine the infested areas.

EFFECTIVE DATE: July 29, 1977.

FOR FURTHER INFORMATION CONTACT:

Dr. M. A. Mixson, USDA, Emergency Programs, Room 748, Federal Building, Hyattsville, Md. 20782 (301-436-8073).

SUPPLEMENTARY INFORMATION: This amendment quarantines portions of Honolulu County in Hawaii because of the existence of exotic Newcastle disease. Therefore, the restrictions pertaining to the interstate movement of poultry, mynah and psittacine birds, and birds of all other species under any form of confinement, and their carcasses and parts thereof, and certain other articles, from quarantined areas, as contained in 9 CFR Part 82, as amended, will apply to the quarantined areas.

Accordingly, Part 82, Title 9, Code of Federal Regulations, is hereby amended in the following respect:

In § 82.3, the introductory portion of paragraph (a) is amended by adding thereto the name of the State of Hawaii and a new paragraph (a)(1) relating to the State of Hawaii is added to read:

§ 82.3 Areas quarantined.

(a) * * *

(1) *Hawaii.* (i) The premises of Koolau Pets, 45-1045 Kamehameha Highway, Kaneohe, in Honolulu County.

(ii) The premises of Parrot Place, 719 Kamehameha Highway, Pearl City, in Honolulu County.

* * * * * *

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

The amendment imposes certain restrictions necessary to prevent the interstate spread of exotic Newcastle disease, a communicable disease of poultry, and must be made effective immediately to accomplish its purpose in the public interest. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

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

Done at Washington, D.C., this 29th 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.

J. K. ATWELL,
Acting Deputy Administrator,
Veterinary Services.

[FR Doc.77-22477 Filed 8-4-77;8:45 am]

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

SUBCHAPTER A—ORGANIZATION, PROCEDURES, AND RULES OF PRACTICE

PART 2—NONADJUDICATIVE PROCEDURES

PART 3—RULES OF PRACTICE FOR ADJUDICATIVE PROCEEDINGS

Disclosure of Material Pertaining to Consent Order Settlements; Withdrawal of Matter From Adjudication to Consider Consent Agreements

AGENCY: Federal Trade Commission.

ACTION: Final rule.

SUMMARY: These rules amend the Commission's rules governing disclosure of material pertaining to consent order settlements so as to make available for public inspection and copying, at the beginning of the period for public comment on such order, material submitted to the Commission that is not exempt from public disclosure under the Freedom of Information Act. These rules also provide for a form of automatic withdrawal of proceedings from adjudication where consent agreements have been signed, thus eliminating, in most cases, the need for the Administrative Law Judge to certify and the Commission to consider, all motions to withdraw a matter from adjudication.

EFFECTIVE DATE: September 7, 1977.

FOR FURTHER INFORMATION CONTACT:

Barry R. Rubin, Office of the General Counsel, Federal Trade Commission, Washington, D.C. 20580 (202-523-3865).

SUPPLEMENTARY INFORMATION: On September 1, 1976, the Commission published in the FEDERAL REGISTER (41 FR 36823) a proposal to amend its rules governing disclosure of material pertaining to consent order settlements so as to make available for public inspection and copying, at the beginning of the period for public comment on such order, factual material reasonably related to the merits of each order that is not exempt from disclosure under the Freedom of Information Act; to make explicit that confidential records of consent negotiations are subject to the Commission's Freedom of Information Act rules; and to add to the rule governing consent negotiations in matters withdrawn from adjudication the same provisions for FEDERAL REGISTER publication applicable to all other consent order settlements. The Commission also published for comment a petitioner's request that all documents submitted by a party during consent negotiations, including nonfactual material reflecting the negotiating process and draft settlement proposals, be placed on the public record at the beginning of the comment period.

The Commission determined that most documents submitted by the respondent or proposed respondent would be made available to assist in public comment. The only exception would be where the documents are otherwise exempt from mandatory disclosure under the Freedom of Information Act, such as documents which would reveal trade secrets or confidential commercial or financial information, or documents the disclosure of which would interfere with a related enforcement proceeding. The Commission also determined to examine the effect of this change at the end of a one year period, particularly its impact on consent negotiations.

DISCUSSION OF MAJOR COMMENTS

Some commenters suggested that no amendment of existing rules is necessary, because the public now has adequate information and might be misled by additional materials. Parties to consent negotiations might choose to litigate instead, it was suggested, if the additional, potentially damaging disclosure required by the proposal were adopted. The Commission has concluded, however, that the material to be disclosed may promote more informed public comments, and that outside persons will be protected against damaging disclosures through application of the appropriate exemptions in the Freedom of Information Act.

Other commenters urged the Commission to adopt the petitioner's request for disclosure of nonfactual negotiation material as well. They contended that the public comment process would be improved by disclosure of the negotiation context, that such disclosure would have no significant "chilling" effect on consent negotiations, and that such documents must be disclosed in any event to requesters under the Freedom of Information Act. Although a colorable claim might be made that all non-factual documents submitted to the Commission in the course of consent negotiations can be withheld under Exemption 7(A) of the Freedom of Information Act, 5 U.S.C. 552(b)(7)(A), the Commission believes that the public comment process will be improved by disclosure of

such material reasonably related to the merits of the order actually accepted by the Commission. The Commission is mindful of the possibility of risk to the negotiating process, however, and for that reason it will review the effect of this rule change after one year.

Finally, one commenter suggested that the Commission limit disclosure to "factual material reasonably related to the effect of the proposed order and not exempt from disclosure under the Freedom of Information Act which the Commission considered determinative in formulating the proposed order" and provide notice to the investigated party of the documents to be disclosed. The Commission rejects the first suggestion as administratively awkward and inappropriate. The broader public record disclosure in the Commission's amendment will be of greater benefit to the comment process. The second suggestion requires no specific amendment. The Commission has directed that notice be given to the investigated party prior to placing any documents received from it on the public record. This notice is independent of any notice afforded under a grant of confidential treatment.

Accordingly, and pursuant to 15 U.S.C. § 46 (f), (g) and 5 U.S.C. § 552, the Commission hereby amends its Rules of Practice §§ 2.34, 2.35, and 3.25, 16 CFR §§ 2.34, 2.35, and 3.25, as set forth below.

1. By revising § 2.34 to read as follows:

§ 2.34 Disposition.

Upon receiving an executed agreement conforming with the requirements of § 2.32, the Commission may: (a) Accept it; (b) reject it and issue its complaint; or (c) take such other action as it may deem appropriate. If an agreement is accepted, the Commission will place the order contained therein and any initial report of compliance submitted pursuant to § 2.33 on the public record, and at the same time, will make available an explanation of the provisions of the order and the relief to be obtained thereby, material submitted to the Commission reasonably related to the merits of the order that is not exempt from disclosure under the Freedom of Information Act, and any other information which it deems helpful in assisting interested persons to understand the terms of the order. The Commission will publish the agreement, order and explanation in the FEDERAL REGISTER. For a period of sixty (60) days after placement of the order on the public record and issuance of the statement, the Commission will receive and consider any comments or views concerning the order that may be filed by any interested person. Thereafter, the Commission may either withdraw its acceptance of the agreement and so notify the other party, in which event it will take such other action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require), and decision, in disposition of the proceeding.

2. By deleting § 2.35 as follows:

§ 2.35 [Deleted]

3. By amending § 3.25 to read as follows:

§ 3.25 Consent agreement settlements.

* * * * *

(b) A proposal to settle a matter in adjudication by consent agreement shall be submitted by way of a motion to withdraw the matter from adjudication for the purpose of considering the proposed consent agreement. Any such motion shall be accompanied by a consent agreement containing a proposed order executed by one or more respondents and conforming to the requirements of § 2.32; the consent agreement itself, however, shall not be placed on the public record unless and until it is accepted by the Commission as provided herein.

(c) If the agreement accompanying the motion has also been executed by complaint counsel, including the appropriate Bureau Director, the Secretary shall issue an order withdrawing the matter from adjudication with respect to those respondents signing the proposed consent agreement, and all proceedings before the Administrative Law Judge shall be stayed with respect to such respondents, pending a determination by the Commission pursuant to paragraph (f) of this section.

(d) If the agreement accompanying the motion has not been executed by complaint counsel, the Administrative Law Judge may certify the matter to the Commission together with his recommendation if he determines, in writing, that there is a likelihood of settlement. The filing of a motion to withdraw a matter from adjudication under this subsection and certification thereof to the Commission shall not stay proceedings before the Administrative Law Judge unless the Administrative Law Judge or the Commission shall so order. Upon certification of a motion to withdraw a matter from adjudication pursuant to this subsection, the Commission may, if it is satisfied that there is a likelihood of settlement, issue an order withdrawing the matter from adjudication for the purpose of considering the proposed consent agreement.

(e) If a matter is withdrawn from adjudication pursuant to paragraphs (c) or (d) of this section, the Commission will treat the matter as being in a nonadjudicative status with respect to those respondents signing the proposed consent agreement.

(f) After the matter has been withdrawn from adjudication, the Commission may (1) accept the agreement, (2) reject it and return the matter to adjudication for further proceedings, or (3) take such other action as it may deem appropriate. If an agreement is accepted, the Commission will place it on the public record, together with any initial report of compliance submitted pursuant to § 2.33, and at the same time, will make available an explanation of the provisions of the order and the relief to be obtained thereby; material submitted to the Commission reasonably related to the merits of the order that is not exempt from disclosure under the Freedom of Information Act; and any other information which it deems helpful in assisting interested persons to understand the terms of the order. The Commission will publish the agreement, order and explanation in the FEDERAL REGISTER. For a period of sixty (60) days after placement of the order on the public record and issuance of the statement, the Commission will receive and consider any comments or views concerning the order that may be filed by any interested persons. Thereafter, the Commission may either withdraw its acceptance of the agreement and so notify the other party, in which event it will return the matter to adjudication for further proceedings or take such other action as it may consider appropriate, or issue and serve its decision in disposition of the proceeding.

(g) This rule will not preclude the settlement of the case by regular adjudicatory process through the filing of an admission answer or submission of the case to the Administrative Law Judge on a stipulation of facts and an agreed order.

By direction of the Commission, dated July 27, 1977.

CAROL M. THOMAS,
Secretary.

DISSENTING STATEMENT BY COMMISSIONER DOLE JOINED IN BY COMMISSIONER DIXON

I share with the majority of the Commission the desire that the public comment period for consent orders be as meaningful and constructive as possible. Such comments can be extremely helpful to the Commission in making the final determination on whether to accept a consent order. I would have preferred, however, that factual material submitted by respondents, reasonably related to the merits of a consent order, be placed on the public record pursuant to an experimental rules change and that nonfactual material reflecting the negotiating process not be so included.

I am concerned that the step taken by the majority of the Commission today may well lessen the Commission's ability to obtain consent orders. It is beyond doubt that consent orders are vitally important law enforcement tools. Our staff has presented strong and, in my opinion, persuasive arguments that the majority's determination will inhibit respondents' willingness to participate in meaningful consent negotiations. The negotiation process is by nature delicate; successful negotiations depend in large part upon good faith give-and-take discussions. Ideas and possible order provisions are discussed by counsel, often without the respondent's prior review. Some proposals are rejected and others are accepted in the process of fashioning a consent order which would serve the public interest. Staff advises that respondent's counsel often produce facts which would be hotly contested in litigation.

I fear that the Commission's action today will result in disincentives to settlement, and I am not prepared to take this risk. The consent order procedure must remain a strong and viable option to the expense and time involved in litigation.

[FR Doc.77-22546 Filed 8-4-77;8:45 am]

SUBCHAPTER B—GUIDES AND TRADE PRACTICE RULES

RESCISSION OF OBSOLETE PARTS

AGENCY: Federal Trade Commission.

ACTION: Final Rescission of Certain Trade Practice Rules.

SUMMARY: Action taken is rescission of obsolete trade practice rules for eleven industries:

1. Commercial dental laboratory industry.
2. Frozen food industry.
3. Wall coverings industry.
4. Manifold business forms industry.
5. Wire rope industry.
6. Tobacco distributing industry.
7. Ribbon industry.
8. Hand knitting yarn industry.
9. Venetian blind industry.
10. Gladiolus bulb industry.
11. Fountain pen and mechanical pencil industry.

The Commission considered public comments received on proposed rescission of these rules and concluded that none merits retention or modification in the public interest. Accordingly all are being rescinded.

EFFECTIVE DATE: August 5, 1977.

FOR FURTHER INFORMATION WRITE OR CALL:

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

SUPPLEMENTARY INFORMATION: Interested persons were invited by the Commission, in 41 FR 2398, to submit written statements for the public record on proposed rescission of trade practice rules for 50 industries published in Title 16 (Commercial Practices) of the Code of Federal Regulations. This document concerns 11 of those 50. Separate documents cover the other 39.

Written statements received were placed on the Commission's Public Record No. 215–55–1–2 for examination by anyone during regular business hours.

Written requests were received to retain trade practice rules for 11 industries the subjects of this document. Recently the request to retain 16 CFR Part 47 (manifold business forms) was withdrawn. Retention requests were submitted by various industry members and trade associations concerning trade practice rules for the other 10 industries. However, still other trade associations agreed to rescission of Part 138 (ribbon), Part 191 (venetian blind) and Part 226 (fountain pen and mechanical pencil). Except for Part 18 (commercial dental lab), each part contains a section defining the industry or industry products. Except for Part 105 (tobacco distributing), each part contains sections (other than definitions) referring by name to the particular industry or industry products. Each part contains sections on deceptive and anticompetitive acts or practices. The Commission considered comments received and determined to rescind the following provisions of these trade practice rules:

(i) Group II rules because they were merely expressions of the trade and were not Commission interpretations of law;

(ii) Industry committee references because authority to establish such committees was rescinded in 1971;

(iii) Stereotype sections (e.g., commercial bribery, sales below cost, prohibited discrimination, etc.) because acts or practices covered are not limited to particular industries; and

(iv) Particularized sections (e.g., deception as to size of gladiolus bulbs, etc.) where a showing is not made that retention or modification is in the public interest. Public interest does not require these administrative interpretations of Commission administered laws to obtain compliance with those laws.

To date, the Commission has not granted any request to retain or amend trade practice rules. However, the Commission (June 10, 1977: 42 FR 29916) invited public comments on proposed amendments to Part 23 (jewelry). Commission action on Part 27 (brick) and Part 195 (bedding) will be reported soon.

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

Part 18—Commercial Dental Laboratory Industry.
Part 22—Frozen Food Industry.
Part 35—Wall coverings Industry.
Part 47—Manifold Business Forms Industry.
Part 66—Wire Rope Industry.
Part 105—Tobacco Distributing Industry.
Part 138—Ribbon Industry.
Part 177—Hand Knitting Yarn Industry.
Part 191—Venetian Blind Industry.
Part 206—Gladiolus Bulb Industry.
Part 226—Fountain Pen and Mechanical Pencil Industry.

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

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

Issued: August 5, 1977.

By the Commission.

CAROL M. THOMAS,
Secretary.

[FR Doc.77-22557 Filed 8-4-77;8:45 am]

Title 18—Conservation of Power and Water Resources

CHAPTER I—FEDERAL POWER COMMISSION

SUBCHAPTER B—REGULATIONS UNDER THE FEDERAL POWER ACT

[Order No. 569; Docket No. RM77-24]

PART 35—FILING OF RATE SCHEDULES

Filing of Changes

AGENCY: Federal Power Commission.

ACTION: Final rule.

SUMMARY: This order amends the Commission's regulations governing the filing of certain changes in rate schedules by public utilities. A utility requesting a rate increase was previously required to submit certain cost of service data 60 days prior to the date that such changed rate was proposed to become effective. This rulemaking changes the mandatory minimum notice time between filing of the data required and the proposed effective date of the increased rates to 30 days. The change reflects a decision of the D.C. Circuit Court of Appeals. This amendment brings the Commission's regulations in line with the terms of the Federal Power Act.

EFFECTIVE DATE: August 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Lilo Schifter, Office of General Counsel, 202–275–4275.

By this order, the Commission amends the regulations governing the filing of certain changes in rate schedules by public utilities to reflect the decision of the Court of Appeals for the D.C. Circuit in *Indiana & Michigan Electric Co. v. F.P.C.*, 502 F. 2d 336 (D.C. Circuit 1974), cert. den. 420 U.S. 946 (1975).

Sections 35.13(b)(4)(i) and 35.13(b)(5)(i) of the Commission's regulations presently provide that a filing utility requesting a rate increase shall submit certain cost of service data and testimony 60 days prior to the date that such changed rate is proposed to become effective. Indiana & Michigan Electric Co.[1] found that the practical effect of this requirement is to impose a de facto 60-day notice requirement on utilities seeking a rate increase and that such a requirement contravenes the terms of Section 205(d) of the Federal Power Act, imposing a statutory waiting period for utilities seeking a rate increase of only 30 days. Accordingly, we shall conform our regulations by amending §§ 35.13(b)(4)(i) and 35.13(b)(5)(i) to change the mandatory minimum notice time between filing of the data and testimony required by these sections and the proposed effective date of the increased rates to 30 days. Section 35.22(b)(5) is amended to conform the provisions of that section with the 30 day requirement.

While enlargement of the statutory minimum notice period of 30 days may not be mandated by the Commission, it would be helpful to the Commission's proper exercise of the ratemaking authority under the Federal Power Act if more than 30 days are available for the evaluation of rate increase filings and related pleadings. We, therefore, welcome if the utilities file their rate increases more than 30 days (but less than 90 days) prior to the proposed effective date.

The Commission finds: (1) In view of the nature of these amendments compliance with the notice, public procedure and effective date provisions of 5 U.S.C. 553 is unnecessary.

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[1] 502 F. 2d at p. 340.

(2) The amendment to the Commission's regulations herein prescribed is necessary and appropriate for the administration of the Federal Power Act.

The Commission, acting pursuant to the authority granted by the Federal Power Act, as amended, particularly sections 205 and 309 thereof (49 Stat. 851, 858 and 859; 16 U.S.C. 824(d) and 825(h)) orders: (A) Subparagraphs (b)(4)(i) and (b)(5)(i) of § 35.13 in Part 35, Subchapter B of Chapter I, Title 18 of the Code of Federal Regulations are revised to read as follows:

§ 35.13 Filing of changes in rate schedules.

* * * * *

(b) In addition the following material shall be submitted: * * *

(4)(i) Except as provided in paragraph (b)(4)(ii) of this section, if the rate schedule provides for an increased rate, then the filing public utility shall submit a statement showing its cost of the service to be supplied under the new rate schedule according to supporting statements A through O as described below.

* * * * *

(5)(i) A utility filing for an increase in rates and charges shall be prepared to go forward at a hearing on reasonable notice on the data which have been submitted and sustain the burden of proof, imposed by the Federal Power Act, of establishing that its proposed charges are just and reasonable and not unduly discriminatory or preferential or otherwise unlawful within the meaning of the Act. The Commission is desirous of avoiding delay in processing rate filings. To this end, if the rate schedule provides for an increase in rate which exceeds $50,000 in revenues for the test period, the filing utility shall submit with its rate increase filing testimony and exhibits of such composition, scope and format that they would serve as the company's case-in-chief in the event the matter is set for hearing. In addition to whatever material the utility chooses to submit as part of its case, except for increases resulting from changes made in fuel clauses and increases of rates comprising an integral part of coordination and interchange arrangements in the nature of power pooling transactions, the exhibits shall include full cost of service data, as identified in subparagraph (4)(iii) of this paragraph, statements A through O, and the accompanying testimony should include an explanation of these exhibits.

* * * * *

§ 35.22 [Amended]

(B) In § 35.22 in Part 35, Subchapter B of Chapter I, Title 18 of the Code of Federal Regulations "Research and development clauses" amend paragraph (b)(5) by deleting "60 days" as the minimum notice period and substituting "30 days" therefor.

(C) The amendment adopted herein shall be effective upon issuance of this order.

(D) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-22609 Filed 8-4-77;8:45 am]

SUBCHAPTER C—REGULATIONS UNDER THE FEDERAL POWER ACT

SUBCHAPTER F—REGULATIONS UNDER THE NATURAL GAS ACT

[Docket No. RM75-27; Order 561-A]

UNIFORM SYSTEM OF ACCOUNTS FOR PUBLIC UTILITIES AND LICENSEES AND NATURAL GAS COMPANIES

Supplemental Order

AGENCY: Federal Power Commission.

ACTION: Supplemental order.

SUMMARY: The Commission is denying applications for rehearing of Order No. 561 (42 FR 9161, published February 15, 1977, amending CFR Parts 101, 104, 141, 201, 204 and 260) and clarifying one minor point related to use of the "Allowance for Funds Used During Construction" (AFUDC) formula. Several parties to this proceeding, filed applications for rehearing of the Commission's previous order which determined the maximum rates to be used in computing the AFUDC and provided accounting and reporting requirements for AFUDC. The Commission found that the rehearing applications presented no facts or principles of law which would require modification of its previous order.

EFFECTIVE DATE: August 1, 1977.

FOR FURTHER INFORMATION CONTACT:

L. H. Drennan, Jr., Chief Accountant, Office of Chief Accountant, 202-275-4031.

On March 4, 1977, El Paso Natural Gas Co. (El Paso), Public Systems,[1] three bulk power suppliers for rural electric cooperatives (Oglethorp),[2] and eight investor-owned public utilities (Private Group)[3] filed Applications for Rehearing of our Order No. 561, issued February 2, 1977, in Docket No. RM75-27. On March 7, 1977, Pennsylvania Power & Light Co. (PP&L) filed a separate Application for Rehearing. On April 1, 1977, an order was issued granting application for rehearing by the aforementioned petitioners for the purpose of further consideration of Order 561. On April 18, 1977, pursuant to Section 1.34(d) of the Commission's Rules of Practice and Procedure, the Public Service Commission of the State of New York (New York) and the Private Group filed responses to Applications for Rehearing filed by the Private Group and Public Systems, respectively.

SHORT-TERM DEBT

El Paso's application stated that it fully supported the Commission's objective in the instant rulemaking proceeding of providing adequate compensation for funds devoted to construction but believed that the formulas devised by the Commission and promulgated pursuant to Order No. 561 fall short of accomplishing this objective. El Paso submits that the approach adopted by the Commission is grounded upon two erroneous assumptions, i.e. (i) that short-term debt is the first source of funds for construction purposes, and (ii) that short-term debt is used exclusively for construction. El Paso proposed that instead of the formula adopted by the Commission that the rate for AFUDC be expressed as follows:

$$R = d\left(\frac{D}{D+P+C}\right) + p\left(\frac{P}{D+P+C}\right) + c\left(\frac{C}{D+P+C}\right)$$

In this formula R represents the AFUDC rate and the other symbols have the same meaning as defined in Order No. 561 except that D would equal the sum of long-term and short-term debt and d would equal the weighted average interest rate for D. El Paso states that this formula is grounded upon the more realistic assumption that construction work in progress is financed by funds provided according to the pro rata capitalization of the company, including short-term debt, if any. In the event, however, that the Commission chooses to retain the formula set forth in Order No. 561, El Paso requests clarification in cases where short-term debt exceeds construction work in progress to ensure that negative AFUDC rates do not result.

Public Systems states that the Commission correctly concludes that short-term debt is the primary source of funds for the construction of new utility plant and the procedures for the calculation of AFUDC reflect this fact. However, Public Systems expressed concern over the statement in Order No. 561 that the AFUDC method established was not for the purposes of establishing a method for allocating short-term interest cost for the purpose of a rate proceeding. They believe that such statement may be interpreted as an invitation to include the cost of construction related short-term borrowings in the development of AFUDC and to recognize the same costs in the development of the allowed return in rate proceedings. Public Systems also objects to any possible recognition of costs associated with bank or other

[1] See Appendix A for members of Public Systems.

[2] Oglethorp Electric Membership Corp., North Carolina Electric Membership Corp., and Old Dominion Electric Cooperative, Inc.

[3] Jersey Central Power & Light Co., Long Island Lighting Co., Metropolitan Edison Co., New England Power Co., Northeast Utilities Co., Pacific Power & Light Co., Pennsylvania Electric Co., and Pennsylvania Power & Light Co.

borrowings, such as compensating bank balances, in determining short-term debt cost. They believe that recognition of such costs should be sanctioned, if at all, only in general rate proceedings after a hearing on the record.

PP&L also disagrees with the Commission's premise in Order No. 561 that all short-term debt should be allocated to financing construction work in progress. PP&L states that there are many instances when a utility can specifically identify the utilization of short-term debt for purposes other than financing construction work in progress and in such cases, it would be erroneous to include this debt in the AFUDC computation.

As we stated in Order No. 561, it is generally impossible to specifically trace the source of funds used for various corporate purposes and it was not the purpose of the proposed rule to do so. We recognize that short-term debt is a source of funds that can be used for many corporate purposes other than construction. However, short-term debt cost is a valid cost of conducting utility operations and a mechanism for the recovery of such cost should be provided for within the regulatory framework. Recovery of capital costs is usually provided for through the rate of return allowance in a general rate proceeding. However, in a typical rate case situation, short-term debt cost does not lend itself to reasonable measurement for use in setting future rates since, as El Paso graphically illustrated in the Appendix to its Application, the amount of short-term debt that a company has outstanding can fluctuate widely over short periods of time. In addition, the interest rate for short-term debt often changes at frequent intervals. On the other hand, the cost of short-term debt can be effectively measured and capitalized for subsequent recovery (through depreciation charges in rates) since under our formula the balances and rates for the forthcoming year are estimated annually, with appropriate adjustments to the amounts capitalized if the estimates used are not reasonably reflective of actual experience. Therefore, we do not believe that we should modify Order No. 561 with respect to the weight given short-term debt in the formula.

El Paso's point on possible negative AFUDC rates in situations where short-term debt exceeds construction work in progress is well taken. We believe that this matter can best be clarified by stating herein that if short-term debt balances exceed construction work in progress plus nuclear fuel in process of refinement, conversion, enrichment and fabrication the maximum total AFUDC rate to be utilized will be the weighted average short-term debt rate. In instances where this occurs, the entire credit for AFUDC will be recorded in Account 432, Allowance for borrowed funds used during construction—Credit.

We do not believe that Public System's concerns are well founded with regard to the inclusion of short-term debt for rate of return purposes or the potential recognition in certain instances of short-term debt costs arising from such items as compensating balances. Order No. 561 neither changes the Commission's policy with respect to treatment of short-term debt in capitalization used for rate of return purposes nor does it grant blanket approval for recognition of compensating balances and commitment fees in costing short-term debt. The burden of proof is upon the companies to justify such items before they will be permitted.

STATE COMMISSION RATE DETERMINATIONS

Both Public Systems and Oglethorp object to the provision in Order No. 561 that the cost rate to be used for common equity be the rate granted common equity in the last rate proceeding before the body having primary rate jurisdiction or, if such rate is not available, the average rate actually earned during the preceding three years. They believe that the return on equity rate should be based upon determinations of the Federal Power Commission, whether the FPC has primary rate jurisdiction or not. Public Systems and Oglethorp believe that the approach adopted by the Commission is an unjustified abdication of statutory responsibility. On the other hand, Private Group urges that Order No. 561 be amended to provide that, if a state ratemaking agency having primary rate jurisdiction over an electric utility has prescribed a method of determining or applying an AFUDC rate, such electric utility may use such State Commission-directed rate rather than the rate developed under the formula in Order 561.

In its response to the application for rehearing filed by Public Systems, the Private Group stated the following:

> Order No. 561 is designed to provide an orderly method for accrual of AFUDC month-by-month during the on-going operations of a public utility. For the most part, the facilities constructed by an electric utility cannot be segregated as between those which will be employed solely for retail service and those which will be employed solely for wholesale service; instead, allocation procedures for joint use facilities are required and appropriate methods of allocation have been developed and are routinely applied. Under those circumstances, the utility must have a single AFUDC rate to apply to facilities under construction which will ultimately serve both groups of customers. A reasonable recognition of, and accommodation to, the Federal-State relationship involves the use of a cost rate for common equity which is equal to that last approved by the body having primary rate jurisdiction.

We fully agree with the above response by the Private Group with respect to the cost rate for equity funds. We believe that this argument is also supportive of the Commission's adoption of a uniform method for all jurisdictional companies to follow so that a single rate is developed for each company. Additionally, since the financial statements of electric utilities and natural gas companies are used by government agencies, investors, the general public, and others for purposes other than setting rates, it is important that a uniform method be used. This is especially important in an area such as AFUDC which has such a material impact on the earnings and cost determinations of utilities. We shall therefore deny rehearing on this point.

THE RELOCATION OF AFUDC IN THE INTEREST CHARGES SECTION OF THE INCOME STATEMENT

The Private Group and PP&L urged that Order No. 561 be revised to eliminate the provision that directs the relocation of the allowance for borrowed funds as a credit to the interest charge section of the income statement. New York in its response to application for rehearing filed by Private Group supported this position. These parties argue that the relocation required by Order No. 561 is likely to have an adverse effect on the ability to finance both debt and preferred stock securities due to coverage test requirements included in mortgage indentures and corporate charters. PP&L also questions whether the relocation of a portion of AFUDC as a reduction of interest charges will better inform readers of the financial statements as to the nature of the capitalized allowance for borrowed funds as stated in Order No. 561. They argue that such reclassification may in fact mislead readers of financial statements if such amount is considered a reduction of the actual amount of interest a company must pay.

We are unpersuaded by these arguments that we should modify Order No. 561 with respect to the location of the interest portion of AFUDC in the income statement. We purposely did not require that the amount of interest charged to the income statement be shown net of interest capitalized but instead required that the gross interest charges be shown in the income statement with a separate line item for the capitalized allowance for borrowed funds. This enables readers of financial statements to be informed as to the total interest liability incurred for the year as well as to any lesser amount of interest entering into the determination of net income for the year. We continue to believe that the readers of the financial statements will be better informed with this form of accounting disclosure than other suggested methods. Furthermore, the change in the location on the income statement for the allowance for interest capitalized does not in itself change either the nature of the item or the degree of protection afforded security holders by earnings of a utility.

NET-OF-TAX AFUDC RATE

Public Systems objects to the normalization of income tax benefits of construction interest through the use of a net-of-tax AFUDC rate and asks that Order No. 561 be revised to prohibit this practice.

Public Systems' arguments are misplaced. The proposed plant instructions pertaining to computation of income taxes were deleted when the Commission adopted Order No. 561 because these matters were previously spoken to in the Commission's Order Nos. 530, 530-A and 530-B in Docket Nos. R-424 and R-446.

These orders are currently under review by the D.C. Circuit (*Public Systems, et al., v. FPC*, CADC Nos. 76-1609, 76-1830.)

OTHER MATTERS

Private Group states in their application that in order for the AFUDC rate to be fully compensatory, estimates of weighted average embedded long-term debt and preferred stock costs as they are expected to exist during the current year should be used rather than the effective weighted average cost of the long-term debt and preferred stock at the end of the prior year as required by Order No. 561.

Private Group also argues that compounding of AFUDC should be permitted monthly rather than semi-annually, since utility accounting is on an accrual basis. If, however, the Commission considers the timing of cash outlays for interest and dividend to be relevant, Private Group argues that quarterly compounding would be more appropriate than semi-annual compounding since dividends on preferred and common stock and interest on short-term debt are almost invariably paid quarterly, and these items account in the aggregate for more than half of the AFUDC accrual. The remainder of the accrual relates to long-term debt which is normally paid semi-annually.

Public Systems objects to the provisions of Order No. 561 which indicate that amounts capitalized for AFUDC for the year will not be required to be adjusted if the gross AFUDC rate actually used for the year does not exceed by more than 25 basis points the rate that would be derived from the formula by use of actual thirteen monthly balances of construction work in progress and the actual weighted average cost and balances for short-term debt outstanding during the year. Public System argues that this provision creates an incentive to "misestimate" AFUDC and pocket additional prospective but unjustified revenues. Public System assumes that this provision was intended to ease accounting burdens but submits that the governing statutes do not contemplate such windfalls in the name of administrative convenience.

Oglethorp states that Order No. 561 excludes all non-investor sources of funds from the AFUDC computation on the ground that such sources are treated as rate base deductions but argues that some non-investor funds may not be treated as rate base deductions and hence could be incorrectly also overlooked for AFUDC purposes. Oglethorp believes the Order should be modified to provide that all non-investor funds which are not deducted from rate base should be included in the AFUDC formula at zero cost.

The requirement that the AFUDC rate for the current year be based on the effective weighted average cost of the long-term debt and preferred stock at the end of the prior year and the requirement that the AFUDC be compounded no more frequently than semi-annually may, in some instances, tend to slightly understate the cost of capital used for construction. Conversely, there may be relatively minor items of consumer contributed capital which are not considered in either the ratemaking process or through AFUDC and there may well be some instances in which the estimates used exceed by up to 25 basis points the rate that would be derived from actual experience.

We conclude that Order No. 561 should not be modified with respect to these matters. When considered together the proposed modifications tend to offset each other. We believe that Order No. 561 clearly provides for a rate for AFUDC which is in the zone of reasonableness, based upon uniform standards which can be effectively implemented and administered.

In light of the above, we believe that the applications for rehearing filed by the aforementioned applicants should be denied.

The Commission finds: The application for rehearing filed on March 4, 1977, by El Paso, Public Systems, Oglethorp and Private Group and on March 7, 1977, by PP&L present no facts or principles of law which would require modification of Order No. 561.

The Commission Orders: (A) The applications for rehearing filed by El Paso, Public Systems, Oglethorp and Private Group on March 4, 1977, and PP&L on March 7, 1977, are denied.

(B) The Secretary shall cause prompt publication of the Order in the FEDERAL REGISTER.

By the Commission.

LOIS D. CASHELL,
Acting Secretary.

PUBLIC SYSTEMS SPONSORING THE APPLICATION FOR REHEARING OF ORDER NO. 561

Anaheim, California
Azusa, California
Banning, California
Bowling Green, Ohio
Bryan, Ohio
Colton, California
Croswell, Michigan

Electric cities of North Carolina and its members, the following municipalities:

VIRGINIA

Blackstone	Iron Gate
Culpeper	Manassas
Franklin	Wakefield
Harrisonburg	

NORTH CAROLINA

Albemarle	Forest City
Apex	Fountain
Ayden	Fremont
Belhaven	Gastonia
Benson	Granite Falls
Black Creek	Greenville
Bostic	Hamilton
Cherryville	Hertford
Clayton	Highlands
Concord	High Point
Cornelius	Hobgood
Dallas	Hookerton
Davidson	Huntersville
Drexel	Kings Mountain
Edenton	Kingston
Elizabeth City	LaGrange
Enfield	Landis
Farmville	Laurinburg
Fayetteville	Lexington
Lincolnton	Rocky Mount
Louisburg	Scotland Neck
Lucama	Selma
Lumberton	Sharpsburg
Macclesfield	Shelby
Maiden	Smithfield
Monroe	Southport
Morganton	Stantonsburg
Murphy	Statesville
New Dern	Tarboro
Newton	Wake Forest
Oak City	Walstonburg
Pikeville	Washington
Pinetops	Waynesville
Pineville	Wilson
Red Springs	Windsor
Robersonville	Winterville

Municipals and Cooperatives in the State of Florida:

Alachua	Leesburg
Bartow	Mount Dora
Bushnell	Newberry
Chattahoochee	Ocala
Fort Meade	Quincy
Lake Helen	Williston

In the State of Kentucky: Frankfort.

Indiana Municipal Electric Association and its members, the following municipalities in Indiana:

Town of Bainbridge
Town of Bargersville
Town of Centerville
Town of Covington
Town of Darlington
Town of Edinburg
Town of Flora
Town of Greendale
City of Greenfield
Town of Hagerstown
Lawrenceburg Utilities
Lawrenceburg
City of Lebanon
City of Linton
Town of Middletown
Town of Paoli
Town of Pendleton
City of Rising Sun
Town of Rockville
City of Scottsburg
Town of South Whitley
Town of Thorntown
City of Tipton
Town of Veedersburg
Town of Waynetown

NEPCO Customer Rate Committee (successor to the Power Planning Committee of the Municipal Electric Association of Massachusetts, Inc.) and its members the following Massachusetts municipal light departments and plants:

Ashburnham	Paxton
Boylston	Peabody
Danvers	Princeton
Georgetown	Shrewsbury
Groton	Sterling
Hingham	Templeton
Holden	Wakefield
Hudson	West Boylston and Manchester Electric Company
Hull	
Ipswich	
Littleton	New Hampshire Electric Cooperative, Inc.
Mansfield	
Marblehead	
Merrimac	Littleton, New Hampshire
Middleton	
North Attleboro	

City of Riverside, California.
Vermont Electric Cooperative, Inc., Johnson, Vermont.
Village of Clinton, Michigan.
Village of Sebewaing, Michigan.

[FR Doc.77-22608 Filed 8-4-77;8:45 am]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER C—AIR PROGRAMS

[FRL 770-4]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

California Plan Revision: Imperial County APCD

AGENCY: U.S. Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: The Environmental Protection Agency (EPA) takes final action to approve and, where appropriate, disapprove or take no action on changes to the Imperial County APCD portion of the California State Implementation Plan (SIP) submitted by the Governor's designee. The intended effect of this action is to update rules and regulations and to correct certain deficiencies in the SIP.

EFFECTIVE DATE: September 5, 1977.

FOR FURTHER INFORMATION CONTACT:

Frank M. Covington, Director, Air and Hazardous Materials Division, Environmental Protection Agency, 100 California Street, San Francisco, Calif. 94111, Attn.: Dave Souten (415-556-7288).

SUPPLEMENTARY INFORMATION: On May 26, 1977, in 42 FR 27001, EPA published a Notice of Proposed Rulemaking for revisions to the Imperial County Air Pollution Control District Rules and Regulations submitted on November 10, 1976, by the California Air Resources Board for inclusion in the California SIP.

The changes contained in the abovementioned submittal and being acted upon by this rulemaking include the following: additions to the "Definitions" rule; the addition of a rule exempting agricultural operations from the visible emissions and quantity of emissions rules; the addition of an exemption to the "Nuisance" rule for odors emanating from agricultural operations; a new rule governing livestock feed yards; and the addition of an exemption for agricultural operations from the prohibitions rules.

A list of the Rules being considered by this action was published as part of the Notice of Proposed Rulemaking and can be found in 42 FR 27001 (May 26, 1977). The Notice of Proposed Rulemaking provided for a 30-day public comment period. EPA noted the deficiency that the term "agricultural operations" is not defined in the APCD rules and regulations. Although the Imperial County APCD sent a letter defining the term, the deficiency remains since definitions must be part of the rules and regulations in order to become a portion of the applicable SIP. No other public comments were received.

It is the purpose of this notice to approve Rule 100, *Definitions* and Rule 131.5, *Livestock Feed Yards* and incorporate them into the California SIP.

EPA is disapproving Rule 114.5, *Exceptions* and Rule 148.D(3), *Miscellaneous Exceptions*. These rules exempt "agricultural operations" from the visible emissions rules and the quantity of emissions rules. Because the term "agricultural operations" is not defined in the Imperial County APCD rules and regulations, the rules could be interpreted to exempt stationary sources to which the rules and regulations now apply. In addition, no data has been submitted which demonstrate that these exemptions will not interfere with attainment and maintenance of the National Ambient Air Quality Standards. This action adds Imperial County APCD to the disapproval notice in 40 CFR 52.236.

Rule 117, *Nuisance* is not appropriate for inclusion in the SIP because it is not specifically directed at the attainment and maintenance of the National Ambient Air Quality Standards. Therefore, EPA is taking no action on this rule.

The California Air Resources Board has certified the public hearing requirements of 40 CFR 51.4 have been satisfied.

Pursuant to section 110 of the Clean Air Act as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove the regulations as State Implementation Plan revisions.

(Secs. 110 and 301, Clean Air Act, as amended (40 U.S.C. 1857c-5 and 1857g).)

Dated: August 1, 1977.

DOUGLAS M. COSTLE,
Administrator.

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

Subpart F—California

1. Section 52.220, paragraph (c) is amended as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(35) * * *

(viii) Imperial County APCD.

(A) Rules 100, 114.5, 131.5, and 148.D (3).

* * * * *

2. Section 52.236 is added as follows:

§ 52.236 Rules and regulations.

(a) Since the following Air Pollution Control District (APCD) rules do not define the term "agricultural operations," the rules are disapproved because they could render certain emission limitations rules unenforceable.

(1) Southeast Desert Intrastate:

(i) Imperial County APCD.

(A) Rule 114.5, *Exceptions* submitted on November 10, 1976.

(B) Rule 148.D(3), *Miscellaneous Exceptions*, submitted on November 10, 1976.

[FR Doc.77-22487 Filed 8-4-77;8:45 am]

[FRL 770-6]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Illinois Plan Revision

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The purpose of this notice is to announce the approval of a revision to the Illinois State Implementation Plan addressing the ozone episode situation.

EFFECTIVE DATE: Immediately effective.

FOR FURTHER INFORMATION CONTACT:

Ms. Maxine Borcherding, Illinois State Specialist, Air Programs Branch, Environmental Protection Agency, Region V, 230 South Dearborn, Chicago, Ill. 60604 (312-353-2205).

SUPPLEMENTARY INFORMATION: On January 31, 1972, the State of Illinois submitted to the Administrator of the United States Environmental Protection Agency an implementation plan to achieve and maintain the National Ambient Air Quality Standards. The plan was approved by the Administrator on May 31, 1972 (37 FR 10862) with several exceptions, including disapproval of regulations pertaining to Prevention of Air Pollution Emergency Episodes. These deficiencies were corrected and the episode plan was fully approved on October 28, 1973 (38 FR 29297).

On April 9, 1976, the Illinois Pollution Control Board revised its emergency episode regulations after due notice and public hearings. The regulations (Illinois Pollution Control Board Regulations, Chapter 2, Part IV) took effect on April 19, 1976, and were submitted to U.S. Environmental Protection Agency (USEPA) on July 22, 1976, as revisions to the Illinois State Implementation Plan (SIP).

The new regulations primarily address ozone episode situations and would revise the plan as follows: (1) The regulations specifically state that Illinois Environmental Protection Agency has sole authority for declaring episode stages; (2) The requirement for a forecast of 24 hours of poor dispersion before an ozone episode can be declared has been revised to allow the declaration of an episode whenever specified ozone levels occur one day and are expected to recur the next day, or if an air stagnation advisory is received for any area within the State; (3) The term "Ozone Advisory" replaces the former designation of "Ozone Watch," and is issued when a two-hour average of 0.07 ppm of ozone is measured; (4) Episode stages have been set for concentration levels occurring for a one-hour period at any monitoring station as follows: ozone yellow alert level has been raised from 0.10 to 0.17 ppm; ozone red alert level has been decreased from 0.40 to 0.30 ppm; ozone emergency level has been decreased from 0.60 to 0.50 ppm; (5) The regulations establish a procedure for filing emission reduction contingency plans

and requirements for reduction of pollution levels during periods of high concentrations. Indirect sources of pollution such as large government agencies, parking garages, and fleet vehicle operations are included among sources required to file emission reduction contingency plans.

Notice of receipt of this revision request and the establishment of a 30-day period for public comment was published in the January 19, 1977, FEDERAL REGISTER (42 FR 3657). Copies of the regulations are available for public inspection during normal working hours at the Illinois Pollution Control Board, 309 West Washington Street, Suite 300, Chicago, Ill. 60606. Copies of the regulations are also available at the Illinois Environmental Protection Agency, 2200 Churchill Road, Springfield, Ill. 62706; and at Air Programs Branch, Air and Hazardous Materials Division, USEPA, Region V, 230 South Dearborn, Chicago, Ill. 60604.

In response to the January 18, 1977, FEDERAL REGISTER notice, EPA received two substantive comments. The issues raised were as follows:

(1) The proposal was criticized by the City of Chicago Department of Environmental Control for giving sole authority for the declaration of episode stages to the State. The City alleged that it had authority to declare air pollution episodes under its home rule authority, and was concerned about the possibility that the State may declare an episode alert for the City of Chicago only.

The Clean Air Act gives the states primary responsibility for development of air pollution programs. These revised regulations reserve authority to declare episodes to the Director of the Illinois Environmental Protection Agency to provide for statewide uniformity in conducting air pollution episodes and to prevent confusion on the part of the public which would be caused by conflicting episode orders by a number of air pollution control agencies.

On December 17, 1976, the Commissioner of the City of Chicago Department of Environmental Control signed the 1977–1978 interagency agreement for air pollution control between the Illinois Environmental Protection Agency and the Chicago Department of Environmental Control. In doing so, the City agreed to conduct its episode program in accordance with Part IV of the Illinois Pollution Control Regulations. It is, therefore, incumbent upon the City to adjust its program so as to be in conformity with its agreed role.

With respect to the geographic limitations on the declaration of episodes, the nature of the ozone problem is such that the likelihood of finding monitored violations solely within the corporate limits of the City of Chicago is extremely small, and we do not expect that this situation will arise in practice.

In addition, Rule 402(f) of the revised regulations stipulates that an advisory shall be declared for the entire Illinois portion of any air quality control region if any part of that region meets advisory criteria. Alert and Emergency declarations are made for portions of the alert area meeting the applicable criteria or causing those criteria to be met elsewhere. While we note the reluctance of the City of Chicago to accept a role which reduces its authority to declare air pollution episodes, the Agency has determined that these objections are outweighed by the advantages of a uniform statewide program.

(2) The proposal was also criticized by the Chicago Lung Association for the increase in the yellow alert level from 0.10 ppm to 0.17 ppm.

While retaining the existing 0.10 limitation would have been preferable, the 0.17 ppm level is consistent with the minimum EPA requirements. The impact of raising the yellow alert level to 0.17 ppm is offset by the fact that the advisory level is to be maintained at 0.07 ppm level, and the red alert and emergency levels have been decreased to 0.3 and 0.5 ppm, respectively. The revised regulations provide for more stringent emission reductions at lower ambient air concentrations of oxidants. Therefore, these revised regulations will result in greater protection to the public, and, therefore, should be approved.

EPA approval. After review of all relevant materials, the Administrator has determined that the proposed revision is consistent with current EPA policies and goals set forth in the requirements of section 110(a)(9) (A)–(H) of the Clean Air Act and EPA regulations in 40 CFR Part 51 in that the proposed revision will not interfere with any applicable ambient air quality standard. Therefore, the Administrator is approving this proposed Illinois revision.

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

Subpart O—Illinois

1. In § 52.720, paragraph (c)(12), is added as follows:

§ 52.720 Identification of plan.

* * * * *

(c) * * *

(12) On June 22, 1976, the Director of the Illinois Environmental Protection Agency submitted revised emergency episode regulations.

(42 U.S.C. 1857c-5.)

Dated: August 1, 1977.

DOUGLAS M. COSTLE,
Administrator.

[FR Doc.77-22488 Filed 8-4-77;8:45 am]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 21246; RM-2851]

PART 73—RADIO BROADCAST SERVICES

FM Broadcast Stations In Heidelberg, Miss.; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Report and order.

SUMMARY: This action assigns a first Class A FM channel to Heidelberg, Miss. Petitioner, New Laurel Radio Station, Inc., states that the FM station would provide Heidelberg with a first full-time local broadcast service.

EFFECTIVE DATE: September 12, 1977.

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

FOR FURTHER INFORMATION CONTACT:

Mildred B. Nesterak, Broadcast Bureau (202-632-7792).

SUPPLEMENTARY INFORMATION:

In the matter of amendment of § 73.-202(b), Table of Assignments, FM Broadcast Stations. Heidelberg, Miss. Report and order (Proceeding Terminated).

Adopted: July 29, 1977.

Released: August 2, 1977.

1. The Commission has under consideration the Notice of Proposed Rule Making, adopted May 13, 1977, 42 FR 27268, proposing the assignment of Channel 257A to Heidelberg, Miss., as a first FM assignment to that community. The Notice was issued in response to a petition filed by New Laurel Radio Station, Inc. ("petitioner"), licensee of AM Station WAML, Laurel, Miss. Petitioner filed supporting comments reaffirming its intention to apply for a station if the channel is assigned and to build a station if authority is granted. No oppositions to the petition were filed.

2. Heidelberg (pop. 1,112), situated in Jasper County (pop. 15,995),[1] is located approximately 24 kilometers (15 miles) northeast of Laurel, Miss., and 153 kilometers (95 miles) northwest of Mobile, Ala. There is no local broadcast service in Heidelberg.

3. In support of its proposal, petitioner submitted information with respect to Heidelberg and its need for a first FM channel assignment.

4. Upon careful consideration of the proposal herein, the Commission believes it would be in the public interest to assign Channel 257A to Heidelberg, Mississippi. A demand has been shown for its use, and it would provide the community with a first local aural service. It can be made without affecting any existing assignments and would be consistent with the applicable minimum spacing requirements.

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

6. In view of the foregoing, it is ordered, That effective September 12, 1977, § 73.202(b) of the Commission's Rules, the FM Table of Assignments, is amended with respect to the city listed below as follows:

[1] Population figures are taken from the 1970 U.S. Census.

City and Channel No.

Heidelberg, Miss., 257A.

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

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

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

[FR Doc.77-22592 Filed 8-4-77;8:45 am]

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

Amendment of Rules in the Maritime Service Adopted at the ITU World Maritime Administrative Radio Conference, Geneva, 1974; Correction

AGENCY: Federal Communications Commission.

ACTION: Correction.

SUMMARY: This document corrects the Report and Order appearing in the FEDERAL REGISTER June 17, 1977 at 42 FR 30999.

EFFECTIVE DATE: July 18, 1977.

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

FOR FURTHER INFORMATION CONTACT:

Walter E. Weaver, Safety and Special Radio Services Bureau, 202-632-7197.

SUPPLEMENTARY INFORMATION: In the matter of amendment of Parts 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, Docket No. 20813.

Released: July 29, 1977.

1. The Report and Order in the instant proceeding (FCC 77-380; 42 FR 30999), was released on June 10, 1977. The (First) Errata was released on June 21, 1977, and a Second Errata was released on July 18, 1977.

2. We have received a number of inquiries regarding the requirements imposed by the text of § 81.209(c)(2). In general these inquiries seek to determine if the intent of this section was to impose a receiver selectivity substantially less than the channel width, with particular reference to the A1 Morse calling channels.

3. In the case of the A1 Morse working channels, the channel width is uniformally 500 Hz in the bands between 4 and 26 MHz. The text of § 81.209(c)(2) is directed to those bands. This is not correct, however, in the case of the A1 Morse calling channels, where the channel width varies with megacycle order, being: 400 Hz at 4 MHz; 800 Hz at 8 MHz; 1200 Hz at 12 MHz; 1600 Hz at 16 MHz; and 2000 Hz at 22 MHz and at 25 MHz.

4. Clarification is necessary and can be provided by deleting the receiver selectivity for the A1 Morse working frequencies. We are, therefore amending § 81.209(c)(2) to delete the phrase "500 Hz removed", appearing at the end of that subparagraph. Section 81.209(c)(2) is, therefore amended to read as follows:

In § 81.209(c), subparagraph (2) is amended to read as follows:

§ 81.209 Watch on ship calling frequencies.

* * * * *

(c) * * *

(2) Have a selectivity capability such that it will reject signals on adjacent channels.

* * * * *

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.77-22523 Filed 8-4-77;8:45 am]

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Ex Parte No. MC-43 (Sub-No. 6)]

PART 1057—LEASE AND INTERCHANGE OF VEHICLES

Safety Inspection of Augmenting Equipment

AGENCY: Interstate Commerce Commission.

ACTION: Final rule.

SUMMARY: The rule established by this rulemaking proceeding relieves commonly controlled carriers which jointly maintain a uniform safety program of the duty to inspect equipment leased between them at the point of augmentation, provided that they remain under common control and that the equipment leased is inspected within the 24 hour period immediately preceding the time of augmentation. Thus, under the revised rule, all leased equipment will still be subject to an inspection to insure that it complies with the Motor Carrier Safety Regulations of the Federal Highway Administration of the Department of Transportation. However, the revised rule will allow commonly controlled carriers to provide a less costly and more expeditious service to the shipping public.

EFFECTIVE DATE: October 4, 1977.

FOR FURTHER INFORMATION CONTACT:

Michael Erenberg, Assistant Deputy Director, Section of Operating Rights, Office of Proceedings, Interstate Commerce Commission, Washington, D.C. 20423 (202-275-7292).

SUPPLEMENTARY INFORMATION: On April 25, 1977, the Interstate Commerce Commission published a proposed rule (42 FR 21114) to revise the regulation in 49 CFR 1057.4(c). As the Commission stated at that time, the purpose of the proposed rule was to establish a more efficient procedure for allowing commonly controlled carriers to lease equipment between themselves than existed previously, thereby improving service to the shipping public.

Interested members of the public were invited to submit written comments concerning the proposed rule. Comments were received from a national organization of the trucking industry, and from five separate groups of commonly controlled motor carriers. All of the comments were favorable to the proposed revision. Several commenters, however, raised questions, or made suggestions, which have prompted changes in the regulation as proposed.

PURPOSE

The proposal for the revision of 49 CFR 1057.4(c) was initiated after the Section of Motor, Water, Forwarder Operations, in the Commission's Bureau of Operations, conducted a study of the effectiveness and efficiency of the existing regulation. Under the regulation all motor carriers leasing equipment have been required to inspect the equipment at the point of augmentation to insure that it conformed to the Motor Carrier Safety Regulations of the Federal Highway Administration of the Department of Transportation. It has, however, been the practice of the Commission's Motor Carrier Leasing Board to grant a petition for waiver of this regulation where the petitioning carriers are under common control and jointly maintain and administer a uniform safety program, in order to avoid needless duplication of effort, time, and cost. In those instances where waivers have been granted, the petitioning carriers were still obligated to inspect leased equipment. However, a single inspection took place at a time earlier than at the point of augmentation. Under the rule as revised in this proceeding, affected motor carriers need no longer file petitions for waiver, or, in the alternative, inspect leased equipment at the point of augmentation. These carriers will still be required, nonetheless, to inspect leased equipment within the 24 hour period immediately preceding the time of augmentation in the manner otherwise prescribed in the regulation. Thus, under the revision, the safety aspect of the regulation will be preserved, but affected carriers will be enabled to operate more efficiently to the benefit of the shipping public.

TIME AND NATURE OF THE INSPECTION

The revision to 49 CFR 1057.4(c) as originally proposed indicated, in part, that the exemption would apply provided that the equipment leased is inspected on the day it is to be leased. Several commenters have stated that this "same day" requirement is too restrictive since they perform trucking operations around the clock. They claim, therefore, that the time of the lease and that of the inspection may not readily be accomplished on the same calendar day. Therefore, these commenters have requested that a 24 hour period be allowed in lieu of the same day requirement, arguing that this modification would not subvert the intention of the regulation. We agree, pro-

vided that the inspection is accomplished prior to the time of augmentation to insure that the equipment conforms to the Motor Carrier Safety Regulations of the Department of Transportation before it changes hands.

One commenter has asked that we clarify the nature of the inspection required when equipment is leased between commonly controlled carriers jointly maintaining and administering a uniform safety program. Simply stated, the inspection requirement is the same which has previously existed and which is still clearly outlined in the regulation. The revision to 49 CFR 1057.4(c) enacted herein does not modify the nature of the inspection, but merely alters the time it may be accomplished without necessitating the filing of petitions for waiver by affected motor carriers.

The final revision to the regulation in 49 CFR 1057.4(c) reflects one additional modification to the rule as proposed. The sentence immediately following the newly incorporated exemption paragraph in the regulation begins with the phrase, "If an inspection is required * * *" and thereafter sets forth requirements pertaining to the nature of the inspection. The words, "If an inspection is required" will be deleted, since leased equipment still must always be inspected for safety purposes, irrespective of whether the parties engaging in the lease are commonly controlled and jointly maintain a uniform safety program.

(5 U.S.C. 553 and 559, and 49 U.S.C. 304.)

NOTE.—This decision 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.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

Accordingly, 49 CFR 1057.4(c) is amended to read as follows:

§ 1057.4 Augmenting equipment.

* * * * *

(c) *Safety inspection of equipment by the authorized carrier.* It shall be the duty of the authorized carrier, before taking possession of the equipment, to inspect the same or to have the same inspected by a person who is competent and qualified to make such inspection and has been duly authorized by such carrier to make such inspection as a representative of the carrier in order to insure that the said equipment complies with the Motor Carrier Safety Regulations of the Federal Highway Administration of the Department of Transportation. However, where carriers leasing equipment are commonly controlled and jointly maintain and administer a uniform safety program, no such inspection at the point of lease is required; *Provided,* That both carriers remain under common control and the equipment be inspected within the 24 hour period immediately preceding the time of augmentation and found to meet the requirements of the Motor Carrier Safety Regulations of the Department of Transportation. The person making the inspection shall certify the results thereof on a report in the form hereinafter set forth, which report shall be retained and preserved by the authorized carrier, and if his inspection discloses that the equipment does not comply with the requirements of the said safety regulations, possession thereof shall not be taken. When such an inspection has been made, the authorized carrier or an officer or partner thereof, or a safety director or other supervisory employee responsible for safety compliance, shall certify on the inspection report that the person who made the inspection, whether an employee or person other than an employee, is competent and qualified to make such inspection and has been duly authorized to do so by such carrier as its representative. When equipment other than a power unit is leased, a form of report applicable to such equipment may be used.

* * * * *

(5 U.S.C. 553 and 559 (49 U.S.C. 304).)

[FR Doc.77-22611 Filed 8-4-77;8:48 am]

SUBCHAPTER C—ACCOUNTS, RECORDS AND REPORTS

[No. 35345 (Sub-No. 2)]

PART 1251—REPORTS OF FREIGHT FORWARDERS

Freight Forwarder Report of Freight Loss and Damage Claims; Correction

AGENCY: Interstate Commerce Commission.

ACTION: Correction.

SUMMARY: The Report and Order, approved by the Commission July 1, 1977, and published in the FEDERAL REGISTER July 19, 1977, page 37001, shows: "EFFECTIVE DATE: Year Ended December 31, 1975." It should read: "EFFECTIVE DATE: Year Ended December 31, 1978."

FOR FURTHER INFORMATION CONTACT:

James H. Bayne, Chief, Section of Reports, Bureau of Accounts, Interstate Commerce Commission, Washington, D.C. 20423, Phone No. 202-275-7331.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-22610 Filed 8-4-77;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

Clarification of Tagging Requirements

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: A new section is added to require tagging of freshly killed migratory birds received, possessed, or given as a gift. Wording in present regulations allows a hunter to avoid possible charges of hunting without a license or exceeding possession limit by stating that another hunter had given him the birds; this requirement tightens that loophole by placing accountability on the hunter who took the birds. Also, "Migratory bird preservation facility" is redefined to include "taxidermists."

EFFECTIVE DATE: August 5, 1977.

FOR FURTHER INFORMATION CONTACT:

Marshall L. Stinnett, Special Agent in Charge, Regulations and Penalties, Division of Law Enforcement, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (202-343-9242).

SUPPLEMENTARY INFORMATION: On March 10, 1977, the Service published a proposed rule in the FEDERAL REGISTER [42 FR 13321] to amend § 20.11 and to add a new § 20.40 to Part 20 of Title 50 of the Code of Federal Regulations. The amendment to § 20.11 would insert the word "taxidermist" in paragraph (ii) of the definition of "Migratory bird preservation facility" in order to clarify the fact that taxidermists fall within the scope of that definition. The proposed § 20.40 would require that any freshly killed migratory game birds received, possessed, or given as a gift, except at personal abodes, have a tag attached identifying the hunter who took the birds, the total number taken, and the date such birds were taken.

Public comments were requested on these proposed rules, and comments received no later than May 18, 1977, have been considered. Comments received were favorable to the proposal. Two comments were from State agencies and one comment was from a waterfowl organization. The comment from the waterfowl organization suggested that "took" might be misconstrued to mean "accepted." However, in § 10.12 of Part 10 of Title 50, CFR, "took" or "take" is defined to mean pursue, hunt, shoot, wound, kill, trap, capture, or collect, or attempt to pursue, hunt, shoot, wound, kill, trap, capture, or collect. This definition is applicable to Part 20. The final rule is therefore adopted as proposed. The principal author of this document is Margaret Cash, Division of Law Enforcement.

Accordingly, Part 20, Subchapter B, Chapter I of Title 50, Code of Federal Regulations, is amended, as follows:

1. Add the word "taxidermist" to § 20.11(ii) under Subpart B. As revised, paragraph (ii) reads:

§ 20.11 Meaning of terms.

* * * * *

"Migratory bird preservation facility" means:

* * * * *

(ii) Any taxidermist, cold storage facility or locker plant which, for hire or other consideration; or

* * * * *

2. Add a new § 20.40 to Subpart D to read:

§ 20.40 Gift of migratory game birds.

No person may receive, possess, or give to another, any freshly killed migratory game birds as a gift, except at the personal abodes of the donor or donee, unless such birds have a tag attached, signed by the hunter who took the birds, stating such hunter's address, the total number and species of birds and the date such birds were taken.

NOTE.—The Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: August 2, 1977.

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

[FR Doc.77-22563 Filed 8-4-77;8:45 am]

Title 28—Judicial Administration

CHAPTER I—DEPARTMENT OF JUSTICE

PART 2—PAROLE, RELEASE, SUPERVISION AND RECOMMITMENT OF PRISONERS, YOUTH OFFENDERS, AND JUVENILE DELINQUENTS

Paroling, Recommitting and Supervising Federal Prisoners

AGENCY: The United States Parole Commission.

ACTION: Final rule.

SUMMARY: This rule enlarges the possible grounds for appeals by prisoners of the Commission's decisions. The rule replaces the present general criteria, which did not indicate what specific issues might be most relevant in such appeals. The purpose of the rule is to help the prisoner focus on the relevant issues as well as to make the Commission's reviewing process more efficient.

EFFECTIVE DATE: This rule becomes effective on September 6, 1977.

FOR FURTHER INFORMATION, CONTACT:

Michael A. Stover, Office of the General Counsel, United States Parole Commission, 320 First Street, NW., Washington, D.C. 20537, telephone 202-724-3092.

SUPPLEMENTARY INFORMATION: The rule is adopted as proposed. A total of four comments were received on the proposal. Three prisoners felt that the new appeal grounds were a considerable improvement from their point of view. One probation officer also sent a favorable comment.

The appeal grounds are designed to encompass any possible and relevant basis for relief, in both parole, recission, and revocation proceedings. The grounds include the possibility of a prisoner making his appeal on the basis of actual harm caused by errors of procedure (actual harm being defined as a different decision than would have resulted had corrected procedure been followed). Prisoners will therefore benefit from careful study of the possible appeal grounds before presenting their appeals; however, the absence of lengthy discussion of any ground selected will not foreclose consideration of that point by the Commission.

Accordingly, pursuant to the provisions of 18 U.S.C. 4203(a)(1) and 4204(a)(6), 28 CFR Chapter 1, Part 2, is amended as set forth below, effective September 6, 1977.

Dated: August 3, 1977.

CURTIS C. CRAWFORD,
Acting Chairman,
U.S. Parole Commission.

In § 2.25, paragraph (f) is revised as follows:

§ 2.25 Regional appeal.

* * * * *

(f) Appeals under this section may be based on the following grounds:

(1) That the guidelines were incorrectly applied as to any or all of the following:

(i) Severity rating;

(ii) Salient factor score;

(iii) Time in custody;

(2) That a decision outside the guidelines was not supported by the reasons or facts as stated;

(3) That especially mitigating circumstances (for example, facts relating to the severity of the offense or the prisoner's probability of success on parole) justify a different decision;

(4) That a decision was based on erroneous information, and the actual facts justify a different decision;

(5) That the Commissionn did not follow correct procedure in deciding the case, and a different decision would have resulted if the error had not occurred;

(6) There was significant information in existence but not known at the time of the hearing.

(7) There are compelling reasons why a more lenient decision should be rendered on grounds of compassion.

[FR Doc.77-22720 Filed 8-4-77;8:45 am]

PART 2—PAROLE, RELEASE, SUPERVISION AND RECOMMITMENT OF PRISONERS, YOUTH OFFENDERS, AND JUVENILE DELINQUENTS

Paroling, Recommitting and Supervising Federal Prisoners

AGENCY: The United States Parole Commission

ACTION: Final rule.

SUMMARY: The procedures relating to the organization of the Commissioners in the Commission's headquarters office in Washington, D.C., for the purpose of voting on national appeals and cases referred to them by the Regional Commissioners, are being revised to indicate which Commissioners will preside over and direct such voting, and how Commissioners will be substituted for by other Commissioners in the case of absence or vacancy. The purpose of the rule is to clarify the exercise of internal administrative authority which had hitherto been undefined, and not to affect the voting procedures themselves.

EFFECTIVE DATE: This rule is effective August 3, 1977.

FOR FURTHER INFORMATION, CONTACT:

Michael A. Stover, Office of the General Counsel, United States Parole Commission, 320 First Street NW., Washington, D.C. 20537, telephone 202-724-3092.

SUPPLEMENTARY INFORMATION: Since these internal administrative rules will not have any effect on the balance of voting power or any other matter which might affect the disposition of cases, this rule is made effective without public comment. The Commission has also determined that the orderly administration of its current caseload will be served by making the change effective immediately.

Accordingly, pursuant to the provisions of 18 U.S.C. § 4203(a)(1) and § 4204(a)(6), 28 CFR Chapter 1, Part 2, is amended as set forth below, effective August 3, 1977.

Dated: August 3, 1977.

CURTIS C. CRAWFORD,
Acting Chairman,
U.S. Parole Commission.

In § 2.1, paragraphs (c) and (d) are revised as follows:

§ 2.1 Definitions.

As used in this part:

* * * * *

(c) The term "National Appeals Board" refers to the Vice Chairman of the Commission and two other National Commissioners who are assigned in the headquarters office of the Commission in Washington, D.C. The Vice Chairman shall be the Chairman of the National Appeals Board. In the absence or vacancy of the Vice Chairman the Chairman of the Commission functions as the Chairman of the National Appeals Board. In the absence or vacancy of a member the Chairman of the Commission functions as a member of the National Appeals Board.

(d) The term "National Commissioners" refers to the Chairman of the Commission and the three members of the National Appeals Board. The Vice Chairman of the Commission shall be the Chairman of the National Commissioners. In the absence or vacancy of the Vice Chairman, the Chairman of the Commission shall be Chairman of the National Commissioners.

* * * * *

[FR Doc.77-22723 Filed 8-4-77;8:45 am]

PART 2—PAROLE, RELEASE, SUPERVISION AND RECOMMITMENT OF PRISONERS, YOUTH OFFENDERS, AND JUVENILE DELINQUENTS

Paroling, Recommitting and Supervising Federal Prisoners

AGENCY: The United States Parole Commission.

ACTION: Final rule.

SUMMARY: The Commission is publishing a rule that would permit any three Commissioners to obtain full Commission review of any decision to grant or deny parole. This rule arises from the need to ensure that no parole is granted or denied by a minority of Commission members, in a case where the full Commission would clearly decide otherwise. The purpose of the rule is to provide an extraordinary review procedure as part of the Commission's existing system of internal checks and balances.

EFFECTIVE DATE: August 3, 1977.

FOR FURTHER INFORMATION CONTACT:

Michael A. Stover, Office of the General Counsel, United States Parole Commission, 320 First Street NW., Washington, D.C. 20537, telephone 202-724-3092.

SUPPLEMENTARY INFORMATION: On June 10, 1977, the Commission published a proposal to permit review by the entire Commission (on the referral of three Commissioners) of any level of Commission decisionmaking, whether Regional Commissioner or National Appeals Board.

Two comments were received regarding the proposal. One prisoner felt that the procedure would be unfair in a case where a parole had been granted, while a probation officer felt that the regulation was well taken.

The Commission does not contemplate the use of such a procedure except in the most unusual case where its statutory mandate, at 18 U.S.C. § 4206(a)(2) (requiring that a release not "jeopardize the public welfare"), might not be served by a release, or where a denial of parole was clearly unwarranted. The case of a denial of a parole already granted, would, therefore, be likely to involve a very serious offender whose case would justify the use of such an extraordinary remedy. Moreover, the requirement for a three-vote referral ensures that such review will be taken only where the gravity of the issue makes it appropriate. Finally, a change of decision under § 2.24(at the regional level) is a not-infrequent occurrence that reflects the Commission's belief that the quality of its decisionmaking is enhanced through a system of internal checks and balances.

The rule is made effective immediately in order that the procedure be available in any future case in which a parole or a denial of parole might be contrary to the statutory requirements. Thus, the emergency nature of this publication arises from the need to ensure the fullest possible compliance with 18 U.S.C. § 4206.

Accordingly, pursuant to the provisions of 18 U.S.C. 4203(a)(1) and 4204(a)(6), 28 CFR Chapter 1, Part 2, is amended as set forth below, effective August 3, 1977.

Dated: August 3, 1977.

CURTIS C. CRAWFORD,
Acting Chairman,
U.S. Parole Commission.

§ 2.54 is amended by adding paragraph (c) to read as follows:

§ 2.54 Reviews pursuant to 18 U.S.C. 4203/4215.

* * * * *

(c) Notwithstanding the provisions of §§ 2.23-2.26 and § 2.28, any decision made by a Regional Commissioner or the National Appeals Board shall, upon the petition of not less than three Commissioners, be referred to the full Commission for review and, by majority vote, affirmed, modified, or reversed. Such petition must be submitted to the Chairman of the Commission and be acted upon by the Commission not later than 30 days from the date of entry of the decision to be reviewed. The prisoner shall receive a written notice of this referral, which shall stay the decision in his case until such review has been completed. Following review by the full Commission, the prisoner shall be informed in writing of the Commission's decision and, if parole is denied, of the reasons therefor.

[FR Doc.77-22724 Filed 8-4-77;8:45 am]

Title 7—Agriculture

SUBTITLE A—OFFICE OF THE SECRETARY OF AGRICULTURE

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

Order of Succession to Act as Secretary

AGENCY: Department of Agriculture.

ACTION: Final rule.

SUMMARY: This document provides the order in which Assistant Secretaries of the Department of Agriculture shall act as Secretary in the event two or more shall have taken office simultaneously.

EFFECTIVE DATE: August 5, 1977.

FOR FURTHER INFORMATION CONTACT:

Robert Siegler, Deputy Director, Research and Operations Division, Office of the General Counsel, U.S. Department of Agriculture, (202-447-6035).

SUPPLEMENTARY INFORMATION: Accordingly, Part 2, Subtitle A, Title 7, Code of Federal Regulations is amended by adding to § 2.5 the following new sentence at the end of paragraph (a):

§ 2.5 Order in which Assistant Secretaries and the General Counsel shall act as Secretary.

(a) * * * In the event that any two or more Assistant Secretaries shall have taken office simultaneously, they shall act as Secretary in the order they are listed herein.

* * * * *

(5 U.S.C. 301 and Reorganization Plan No. 2 of 1953.)

Dated: August 1, 1977.

BOB BERGLAND,
Secretary of Agriculture.

[FR Doc.77-22556 Filed 8-4-77;8:45 am]

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

[Lemon Reg. 104]

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 August 7-13, 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: August 7, 1977.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: (a) *Findings.* (1) Pursuant to the amended marketing agreement and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendaitons 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 easier than last week. Average f.o.b. price was $7.21 per carton the week ended July 30, 1977, compared to $6.82 per carton the previous week. Track and rolling supplies at 225 cars were down 25 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 han-

dled should be established as provided in this regulation.

(3) It is further found that it is impracticable and is contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), because the time intervening between the date when information upon which this regulation is based became available and the time when it must become effective to effectuate the declared policy of the act is insufficient. A reasonable time is permitted, for preparation for the effective time; and good cause exists for making the regulation effective as specified. The committee held an open meeting during the current week, after giving due notice, to consider supply and market conditions for lemons and the need for regulation. Interested persons were afforded an opportunity to submit information and views at this meeting. The recommendation and supporting information for regulation during the period specified were promptly submitted to the Secretary after the meeting was held, and information concerning the provisions and effective time has been provided to handlers of lemons. It is necessary, to effectuate the declared policy of as specified. The committee meeting was held on August 2, 1977.

§ 910.404 Lemon Regulation 104.

(a) *Order.* (1) The quantity of lemons grown in California and Arizona which may be handled during the period August, 7, 1977, through August 13, 1977, is established at 275,000 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: August 4, 1977.

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

[FR Doc.77-22856 Filed 8-4-77;1:09 pm]

[Pear Reg. 16]

PART 927—BEURRE D'ANJOU, BEURRE BOSC, WINTER NELIS, DOYENNE DU COMICE, BEURRE EASTER, AND BEURRE CLAIRGEAU VARIETIES OF PEARS GROWN IN OREGON, WASHINGTON, AND CALIFORNIA

Minimum Grade, Quality and Size Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation sets minimum grade and size requirements for fresh shipment of Beurre D'Anjou variety winter pears shipped from Oregon (except the Medford District), Washington, and California, and certain quality requirements for shipments from designated areas of Oregon and Washington, during the period August 8 through September 30, 1977. This action is necessary to assure that the pears shipped will be of suitable quality and size in the interest of consumers and producers.

EFFECTIVE DATE: August 8, 1977, through September 30, 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: *Findings.* This regulation is issued under the applicable provisions of the marketing agreement and Order No. 927 (7 CFR Part 927), regulating the handling of Beurre D'Anjou, Beurre Bosc, Winter Nelis, Doyenne du Comice, Beurre Easter, and Clairgeau varieties of pears grown in Oregon, Washington, and California, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The regulation was recommended by the Control Committee, established under the marketing agreement and order. It is hereby found that the regulation of Beurre D'Anjou variety of winter pears, as hereinafter set forth, will tend to effectuate the declared policy of the act.

This action reflects the Department's appraisal of the crop and the need for regulation based on current and prospective market conditions. The committee estimates that about 6 million boxes of Beurre D'Anjou pears will be produced this year as compared with 6.9 million in 1976 and 5.3 million in 1975. Shipments of Beurre D'Anjou pears from the production area are expected to begin about August 12, 1977. The grade, quality and size regulations hereinafter provided, are designed to prevent the handling, from August 8 through September 30, 1977, of any Beurre D'Anjou pears of lower grades and smaller sizes than specified so as to provide satisfactory quality fruit in the interest of producers and consumers consistent with the declared policy of the act.

In addition to the basic grade and size requirements specified for Beurre D'Anjou variety pears, the regulation permits the handling of such pears bearing limited damage from skin punctures, however, this reduction in market desirability would be offset by the requirement that any pears thus affected be of a specified higher grade and larger size.

The requirement regarding Beurre D'Anjou variety pears grown in the Oregon and Washington districts and shipped to domestic markets whereby certification that the core temperature of such pears has been lowered to 35 degrees F., or less prior to shipment and must have an average pressure test of 14 pounds, is designed to assure proper ripening of such pears.

It is hereby further found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of this regulation until 30 days after publication thereof in the FEDERAL REGISTER (5 U.S.C. 553) in that, as hereinafter set forth, the time intervening between the date when information upon which this regulation is based became available and the time when this regulation must become effective in order to effectuate the declared policy of the act is insufficient; a reasonable time is permitted, under the circumstances, for preparation for such effective time; and good cause exists for making the provisions hereof effective not later than August 8, 1977. A reasonable determination as to supply of, and the demand for, Beurre D'Anjou variety winter pears must await the development of the crop thereof, and adequate information thereon was not available to the Control Committee until July 7, 1977, on which date an open meeting was held, after giving due notice thereof, to consider the need for, and the extent of, regulation of shipments of such pears. Interested persons were afforded an opportunity to submit information and views at this meeting; the recommendation and supporting information for regulation during the period specified herein were submitted to the Department as soon as practicable after such meeting was held; shipments of the current crop of such pears are expected to begin soon after August 8, 1977; this regulation should be applicable to all such shipments in order to effectuate the declared policy of the act; the provisions of this regulation are identical with the aforesaid recommendation of the committe; information concerning such provisions and effective time has been disseminated among handlers of such pears; and compliance with the provisions of this regulation will not require of handlers any preparation therefor which cannot be completed by the effective time hereof.

Therefore, a new § 927.316 is added which reads as follows:

§ 927.316 Pear Regulation 16.

(a) During the period August 8, 1977, through September 30, 1977, no handler shall ship any Beurre D'Anjou variety of pears, except such variety grown in the Medford District, unless such pears meet the following requirement or are handled in accordance with paragraph (b) of this section: *Provided,* That, any Beurre D'Anjou pears shipped from the Medford District shall meet the requirements of subparagraph (2) of this paragraph.

(1) Beurre D'Anjou pears shall be of a size not smaller than 165 size and shall grade at least U.S. No. 2 except that any handler may ship a quantity of Beurre D'Anjou pears that are not smaller than 180 size and not less than U.S. No. 1 grade which quantity shall not exceed 2 percent of the total U.S. No. 1 or better grades of such variety shipped by the handler, during the aforesaid period: *Provided,* That, pears of such variety which bear unhealed skin punctures not exceeding 3/16 of an inch in

diameter may be shipped if they otherwise grade at least U.S. No. 1 and are of a size not smaller than 135 size; *Provided further*, That, pears of such variety which fail to meet the U.S. No. 2 grade requirements only because of serious damage but not very serious damage caused by healed hail marks or by frost, may be shipped if the shape of the pear is such that it will cut at least one good half;

(2) Beurre D'Anjou pears shipped from the Medford, Hood River-White Salmon-Underwood, Wenatchee, and Yakima Districts through September 30, 1977, shall have an appropriate certification by the Federal-State Inspection Service, issued prior to shipment, showing that the core temperature of such pears has been lowered to 35 degrees Fahrenheit or less and any such pears for domestic shipment shall have an average pressure test of 14 pounds.

(b) During the aforesaid period, each handler may ship on any one conveyance up to, but not to exceed, 200 standard western pear boxes of Beurre D'Anjou variety of pears, or an equivalent quantity of pears in other containers computed by weight to the nearest 5 pounds, without regard to the inspection requirements of § 927.60(a), under the following conditions:

(1) Each handler desiring to make shipments of Beurre D'Anjou variety of pears pursuant to this paragraph shall first apply to the committee, on forms furnished by the committee, for permission to make such shipments. At the time of any such shipment the handler shall report to the committee on forms furnished by the committee, the car or truck number and the destination of the shipment.

(2) On the basis of such individual reports the committee shall require spot check inspection of such shipments.

(c) When used herein, "U.S. No. 1" and "U.S. No. 2" shall have the same meaning as when used in the United States Standards for Winter Pears (7 CFR 51.1300–51.1323); "135 size," "165 size," and "180 size," shall mean that the pears of such designated sizes will pack, in accordance with the sizing and packing specifications of a standard pack as specified in said United States Standards, 135, 165, or 180 pears, respectively, in a standard western pear box (inside dimensions 18 inches long by 11½ inches wide by 8½ inches deep); and, except as otherwise specified, all other terms shall 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: August 2, 1977.

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

[FR Doc.77-22616 Filed 8-4-77;8:45 am]

PART 946—IRISH POTATOES GROWN IN WASHINGTON

Handling Regulation

Correction

In FR Doc. 77-21932 appearing on page 38380 in the issue for Thursday, July 28, 1977, in § 946.332(e)(1)(ii), middle column, page 38381, the line "such special purpose shipments and/or" was printed twice. The first of these should be removed and "such handler's certificate applicable to" substituted therefor.

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 993]

DRIED PRUNES PRODUCED IN CALIFORNIA

Proposed Expenses and Rate of Assessment for 1977–78 Crop Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This notice invites written comments on proposed expenses of $218,880 and a rate of assessment of $1.50 per ton of salable prunes handled, for the maintenance and functioning of the Prune Administrative Committee. This regulation would enable the Committee to collect assessments from handlers on all prunes handled and use the resulting funds for its expenses.

DATE: Comments due August 19, 1977.

ADDRESSES: Comments should be sent to: Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, D.C. 20250. Two copies of all written materials shall be submitted, and they shall be made available for public inspection at the office of the Hearing Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: The marketing agreement, and Order No. 993, both as amended, regulate the handling of dried prunes produced in California. They are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The Committee, established under the order, is responsible for its local administration.

The proposal is as follows:

§ 993.328 Expenses of the Prune Administrative Committee and rate of assessment for the 1977–78 crop year.

(a) *Expenses.* Expenses in the amount of $218,880 are reasonable and likely to be incurred by the Prune Administrative Committee during the crop year beginning August 1, 1977, for its maintenance and functioning and for such other purposes as the Secretary may, pursuant to the applicable provisions of the marketing agreement, as amended, and this part, determine to be appropriate.

(b) *Rate of assessment.* The rate of assessment for such crop year which each handler is required, pursuant to § 993.81, to pay to the Prune Administrative Committee as his pro rata share of the said expenses is fixed at $1.50 per ton of salable prunes handled by him as the first handler thereof.

Dated: August 2, 1977.

CHARLES R. BRADER,
Acting Director,
Fruit and Vegetable Division.

[FR Doc.77-22617 Filed 8-4-77;8:45 am]

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

[8 CFR Part 108]

ASYLUM

Identification of Reasons for Denial

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Notice of Proposed Rule Making.

SUMMARY: This is a notice of proposed rule making setting forth proposed amendments to the regulations of the Immigration and Naturalization Service pertaining to asylum. These amendments are necessary to require that a district director denying an application for asylum because it is "clearly lacking in substance" shall identify the feature or features which make the application insubstantial in his written denial order, and to reflect the agreement reached between this Service and the Department of State concerning the processing of last-minute applications for asylum submitted by citizens of the People's Republic of China ordered deported to Hong Kong. The intent of these amendments is to provide the detailed reasons for denial to aliens whose applications for asylum are denied because they are "clearly lacking in substance", and to prevent delay caused by the filing of last-minute applications for asylum where the State Department has indicated that it does not wish to be consulted in the particular class of cases.

DATES: Representations must be received on or before September 6, 1977.

ADDRESSES: Please submit written representations, in duplicate, to the Commissioner of Immigration and Naturalization, Room 7100, 425 Eye Street NW., Washington, D.C. 20536.

FOR FURTHER INFORMATION CONTACT:

James G. Hoofnagle, Jr., Instructions Officer, Immigration and Naturalization Service, 425 Eye Street NW., Washington, D.C. 20536, telephone 202–376–8373.

SUPPLEMENTARY INFORMATION: This is a notice of proposed rule making issued in accordance with the provisions of section 553 of Title 5 of the United States Code (80 Stat. 383) proposing amendments to 8 CFR 108.2. This proposal amends the existing regulation in two respects.

The first proposed amendment reflects the desire of the Service that where an asylum application is denied because it is "clearly lacking in substance", the reasons for this determination must be set forth Accordingly, it is proposed to amend the existing regulation to provide that where an application is denied for the reason that it is clearly lacking in substance, the required written denial must identify the feature or features of the application which make it insubstantial.

The second proposed amendment is the result of consultations between the Service and the Office of the Coordinator for Humanitarian Affairs of the Department of State concerning the problems raised by last-minute requests for asylum from aliens who could have applied for a hearing under section 243(h) of the Immigration and Nationality Act, with particular reference to the specific problems of the citizens of the People's Republic of China who have fled to Hong Kong and who have resided there for a substantial period of time. That office, in a letter which is being made an Appendix to this regulation, stated that it would deny requests for asylum submitted by citizens of the People's Republic of China who have fled to Hong Kong and who have resided there for a substantial period of time provided: (a) They are being deported to Hong Kong and not the People's Republic of China and (b) that the Colony will accept them. The existing regulation provides that where an application is denied for the reason that it is clearly lacking in substance, notification shall be given to the Department of State with opportunity to supply a statement containing matter favorable to the application and departure shall not be enforced until 30 days following the date of notification unless a reply has been received from the Department of State prior to that time. Since the Department of State has advised that it is unlikely that citizens of the People's Republic of China being deported to Hong Kong will be persecuted, and that last-minute requests for asylum may be handled by the Service without consultation with the Department of State, it is proposed to add a proviso to the 30-day provision of the existing regulation referred to above, stating that there need

be no delay of departure in any class of cases in which the Service has been officially notified by the Department of State that it does not desire to be consulted.

The Service invites submission of written data, views and arguments concerning the proposed rule. Oral representations may not be made in any manner. All relevant material received on or before the closing date for submission of representations will be considered.

In the light of the foregoing, it is proposed to amend Chapter I of Title 8 of the Code of Federal Regulations by revising § 108.2 and by adding an Appendix to Part 108 as set forth below.

In Part 108, in § 108.2, it is proposed to revise the existing first paragraph and redesignate it paragraph (a) and add a new paragraph (b). As revised, § 108.2 reads as follows:

§ 108.2 Decision.

(a) The applicant shall appear in person before an immigration officer prior to adjudication of the application, except that the personal appearance of any children included in the application may be waived by the district director. The district director shall request the views of the Department of State before making his decision unless in his opinion the application is clearly meritorious or clearly lacking in substance. The district director may approve or deny the application in the exercise of discretion. The district director's decision shall be in writing, and no appeal shall lie therefrom. If an application is denied for the reason that it is clearly lacking in substance, the written denial must identify the feature or features of the application which make it insubstantial, and notification shall be given to the Department of State, with opportunity to supply a statement containing matter favorable to the application, and departure shall no be enforced until 30 days following the date of notification unless a reply has been received from the Department of State prior to that time; *Provided*, however, there need be no delay of departure in any class of cases in which the Service has been officially notified by the Department of State that it does not desire to be consulted. A case shall be certified to the regional commissioner for final decision if the Department of State has made a favorable statement, but, notwithstanding, the district director has chosen to deny the application. If any decision will be based in whole or in part upon a statement furnished by the Department of State, the statement shall be made a part of the record of proceeding, and the applicant shall have an opportunity for inspection, explanation, and rebuttal thereof as prescribed in § 103.2(b)(2) of this chapter. A denial under this part shall not preclude the alien, in a subsequent expulsion hearing, from applying for the benefits of section 243(h) of the Act and of Articles 32 and 33 of the Convention Relating to the Status of Refugees.

(b) One class of cases in which the Department of State has notified the Service that it does not desire to be consulted is the following: The alien resided in Hong Kong for a substantial period after leaving the People's Republic of China, the Service proposes to deport him to Hong Kong which will accept him, and the alien has had an opportunity before requesting asylum to apply for section 243(h) withholding of deportation to Hong Kong. A pertinent letter from the Department of State dated November 9, 1976, is published as an Appendix to this Part.

It is proposed to add an Appendix to Part 108 which reads as follows:

APPENDIX

MR. JAMES F. GREENE, *Deputy Commissioner, Immigration & Naturalization Service, 425 I Street NW., Washington, D.C.*

November 9, 1976.

DEAR MR. GREENE: Thank you for your letter of October 22, 1976, with which you enclosed a copy of your proposed amendment to 8 CFR 108.2, and in which you call particular attention to the paragraph concerning citizens of the People's Republic of China who have fled to Hong Kong. You requested our comments and/or suggested changes in the proposed amendment. We have no suggested changes and the language as submitted is acceptable to the Department of State.

We understand that you are concerned over the problems raised by last minute requests for asylum from aliens who could have applied earlier for a hearing under Section 243(h) of the Immigration and Nationality Act, with particular reference to the specific problems of citizens of the People's Republic of China who have fled to Hong Kong and have resided there for a substantial period of time. There is no likelihood that these aliens will be persecuted within the meaning of the Convention Relating to the Status of Refugees if they are deported to Hong Kong nor have we any specific reason to believe that any of such persons will be returned by that government to countries where they will face such persecution. Our policy is to deny such requests for asylum provided: (a) They are deported to Hong Kong and not the People's Republic of China and (b) that the Colony will accept them.

We agree that such last minute requests concerning the return of Chinese to Hong Kong as described above can be handled by the Immigration and Naturalization Service without consultation with the Department through our office. We understand that during the deportation hearings all such aliens will have available to them the various benefits of the Immigration and Nationality Act, including withholding of deportation under Section 243(h) and the application of the Convention Relating to the Status of Refugees whenever appropriate in their cases. If there are any questions concerning individual asylum requests in such cases or if a case appears to be politically sensitive, we are prepared to provide you with an advisory opinion by telephone or in writing on an urgent basis.

I hope the increased flexibility provided your office as outlined above regarding Chinese from Hong Kong will be helpful to you.

Sincerely,

JAMES L. CARLIN,
Deputy Coordinator for Humanitarian Affairs, Department of State.

(Sec. 103; 66 Stat. 173 (8 P.S.C. 1103).)

Dated: August 2, 1977.

LEONEL J. CASTILLO,
Commissioner of Immigration and Naturalization.

[FR Doc.77-22612 Filed 8-4-77;8:45 am]

FEDERAL ENERGY ADMINISTRATION

[10 CFR Part 430]

ENERGY CONSERVATION PROGRAM FOR APPLIANCES

Proposed Rulemaking Regarding Energy Efficiency Improvement Targets; Corrections

AGENCY: Federal Energy Administration.

ACTION: Proposed rulemaking; corrections.

SUMMARY: This document corrects errors made in the proposed rulemaking regarding energy efficiency improvement targets for ten types of consumer products, which appeared at pages 36648 and following of the July 15, 1977, FEDERAL REGISTER.

FOR FURTHER INFORMATION CONTACT:

James A. Smith (Program Office), Old Post Office Building, Room 307, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461 (202-566-4635).
Jim Merna (Media Relations), 12th and Pennsylvania Avenue NW., Room 3104, Washington, D.C. 20461 (202-566-9833).
William J. Dennison (Office of General Counsel), 12th and Pennsylvania Avenue NW., Washington, D.C. 20461 (202-566-9750).

SUPPLEMENTARY INFORMATION: FR Doc. 77-20285, appearing at 42 FR 36648-36670, July 15, 1977, is corrected as follows:

A. Page 36655; In col. 2, paragraph 3, line 11, change "Data" to "Dana", and in paragraph 3, line 13, change "Publication" to "Publications".

B. Page 36659:

1. Freezers: In col. 1, Stage III, paragraph 3, line 5, change "6.4 trillion" to "6.1 trillion".

2. Dishwashers: In col. 2, Stage I, paragraph 1, line 3, change "$21.00" to "$20.90"; Stage I, paragraph 1, line 5, change "$24.00" to "$24.22"; Stage II, paragraph 2, line 4, change "$78" to "$81"; Stage II, paragraph 3, line 3, change "$10.4 million" to "$7.0 million"; Stage III, paragraph 2, line 4, change "$117 million" to "$119 million"; Stage III, paragraph 2, line 7, change "$200 million" to "198 million"; Stage IV, paragraph 2, line 2, change "5.9 percent" to "6.2 percent"; Stage IV, paragraph 2, line 2, change "289,000 dishwashers" to "303,800 dishwashers".

In col. 3, Stage IV, paragraph 3, line 2, change "437 production workers" to "459 production workers".

3. Gas clothes dryers: In col. 3, Stage II, paragraph 3, line 2, add "is" between "manufacturers" and "adequate"; Stage II, paragraph 3, line 13, change "$4.9 million" to "$4 million"; Stage II, paragraph 1, line 1, change "Stage II" to "Stage III".

C. Page 36660:

1. Electric clothes dryers: In col. 1, Stage I, line 5, change "$5.20" to "$5.22"; Stage II, paragraph 2, line 4, change "less than 1 percent" to "about 1 percent".

2. Electric water heaters: In col. 2, Stage I, paragraph 1, line 6, change "$18.50" to "$18.54"; col. 3, Stage IV, paragraph 4, line 6, change "$6 million" to "$1.4 million".

D. Page 36661:

1. Gas water heaters: In col. 1, Stage I, line 3, change "24" to "$24.00"; col. 2, Stage IV, paragraph 4, line 1, change "$5 million" to "$2 million".

2. Room air conditioners: In col. 3, Stage II, paragraph 3, line 13, change "$36.5 million" to "$36.8 million"; Stage III, paragraph 2, line 2, change "shipment" to "shipments"; State III, paragraph 3, line 4, change "20 trillion" to "21 trillion"; Stage III, paragraph 3, line 7, change "380 million" to "308 million".

E. Page 36662:

1. Room air conditioners: In col. 1, delete the first six paragraphs; col. 1, Stage IV, paragraph 5, line 5, change "93 percent" to "95 percent"; Stage IV, paragraph 5, line 6, change "12 sizeable firms" to "13 sizeable firms"; Stage IV, paragraph 5, line 7, change "seven percent" to "five percent".

2. Home heaters (gas vented): In col. 2, Stage II, between paragraph 2 and paragraph 3, insert the following:

Stage III. Benefits exceed costs for the household sector in the purchase and use of higher-priced, more efficient home heaters (gas vented), resulting in measurable energy savings.

The purchase and use of projected 1980 shipments of 700,000 home heaters (gas vented) complying with the proposed target initially costs households an additional $17 million but lowers life cycle operating costs by $55 million, yielding a net benefit of $38 million calculated on a present value basis.

Achievement of proposed operating efficiency for projected 1980 shipments results in an annual energy savings of 2.7 billion cubic feet of natural gas, which is equivalent to 3 trillion Btu's of utility energy supply. Total energy savings of these 1980 shipments is 40 billion cubic feet of natural gas, or 45 trillion Btu's over the 15-year life of an average home heater (gas vented).

Stage IV. Negative impacts from implementation of the proposed home heater (gas vented) target are not of substantial consequence.

Demand in 1980 might reasonably increase by 1.8 percent, or 12,600 home home heaters (gas vented), because of the higher purchase price of more energy-efficient products.

Employment might temporarily increase by 30 production workers, or about 2 percent of home heater (gas vented) employment, in response to lower demand.

3. Oil vented home heaters: Delete the entire section, and add the following:

Oil Vented Home Heaters

FEA, in a manner consistent with the methodology presented above, has determined that the proposed energy efficiency improvement target of 12 percent for oil vented home heaters is the maximum improvement which is technologically and economically feasible. A summary of economic findings for oil vented home heaters follows:

Stage I. The total price increase resulting from implementation of the selected design options is $200 per unit which yields a production-weighted price increase of $31.00 in current prices and $35.93 in 1980 prices.

Stage II. Both scarce material supplies and investment funds are sufficiently available to permit the implementation of the proposed target for oil vented home heaters.

No scarce materials are affected by the proposed target.

Profitability and growth of the manufacturers is adequate to finance total industry investment of 1.2 million which amounts to about $197 thousand per firm in additional research and development along with capital costs. The investment requirement per firm is the cumulative cost for each design option. Alternative investment required to produce an amount of energy equivalent to that which will be saved by the design options is $900 thousand.

Stage III. Benefits exceed costs for the household sector in the purchase and use of higher-priced, more efficient oil vented home heaters, resulting in measurable energy savings.

The purchase and use of projected 1980 shipments of 40 thousand oil vented home heaters complying with the proposed target initially costs households an additional $1.4 million but lowers life cycle operating costs by $4.8 million, yielding a net benefit of $3.4 million calculated on a present value basis.

Achievement of proposed operating efficiency for projected 1980 shipments results in an annual energy savings of 1.3 million gallons of fuel oil, which is equivalent to 173 billion Btu's of utility energy supply. Total energy savings of these 1980 shipments is 19 million gallons, or 2.6 trillion Btu's, over the 15-year life of an average oil vented home heater.

Stage IV—Negative impacts from implementation of the proposed oil vented home heater target are not of substantial consequence because the relatively small replacement demand shows signs of declining below current low levels during the next decade. Comprehensive data concerning demand, employment, and industry structure for oil vented home heaters are not presently available but the data which are available imply that the impacts are not of substantial consequence."

F. Page 36663:

1. Monochrome televisions: In col. 1, change "*Statge IV*" to "*Stage IV*".

2. Color televisions: In col. 1, Stage IV, paragraph 1, line 3, change "televisoin" to "television".

G. Page 36664:

1. Microwave ovens: In col. 1, Stage I, paragraph 1, line 3, change "$20.00" to "$1.50"; Stage I, paragraph 1, line 5, change "$23.18" to "$1.74"; Stage III, paragraph 3, line 10, change "$150 thousand" to "$86 thousand".

In col. 2, Stage III, paragraph 2, line 5, change "1.5 million" to "$1.7 million"; Stage III, paragraph 2, line 6, change "$1.7 million" to "$2 million"; Stage III, paragraph 2, line 7, change "$0.2 million" to "$0.3 million"; State III, paragraph 3, line 5, change ".5 billion Btu's" to "47.7 billion Btu's"; Stage III, paragraph 3, line 7, change "7.5 billion Btu's" to "720.8 billion Btu's".

2. Clothes washers: In col. 2, Stage II, paragraph 3, line 13, change "$65.0 million" to "$66.7 million"; Stage III, paragraph 2, line 1, change "6.1 million" to "7 million"; col. 3, Stage III, paragraph 2, line 3, change "693 million" to "697 million"; Stage III, paragraph 2, line 1, change "11 million" to "7 million"; Stage III, paragraph 3, line 4, change "44 trillion" to "28 trillion"; Stage III, paragraph 3, line 7, change "303 trillion" to "304 trillion".

H. Page 36665: Delete Tables 24 and 26 and add the following:

TABLE 24.—*Energy factors and cost of implementation*

Consumer product	Production-weighted			Projected costs in 1980		
	Energy savings (percent)	Purchase price increase		Number of shipments (millions)	Initial purchase cost (millions)	Cost increased (millions)
		Current	1980			
Refrigerators, refrigerator-freezers	32.0	$39.00	$45.20	7.1	$3,703	$321
Freezers	23.0	33.00	38.30	1.8	626	69
Room air-conditioner	23.0	47.00	54.50	6.0	1,739	327
TV, color	35.0	0	0	10.0	5,560	0
TV, black and white	65.0	0	0	3.5	406	0
Room heater, gas	12.0	21.00	24.30	.7	203	17
Clothes washer	32.0	1.00	1.20	6.1	1,980	7
Dryer, electric	7.0	4.50	5.22	4.2	1,168	22
Dryer, gas	15.0	4.60	5.30	1.0	301	5
Dishwasher	20.0	20.90	24.22	4.9	1,420	119
Water heater:						
Gas	20.0	17.00	19.70	3.1	503	61
Electric	15.0	16.00	18.54	4.1	570	76
Cooking range:						
Gas	51.0	35.00	40.60	2.4	793	97
Electric	3.0	6.00	7.00	4.4	1,708	31
Total				59.3	20,680	1,152

TABLE 26.—*Additional capital investment requirements by industry for each consumer product to achieve energy efficiency improvement targets*[1]

Consumer product	Capital investment (millions)	Capital investment per unit of energy saved (mills per kilowatt hour)
Dishwasher	$7.0	0.4
Refrigerator/refrigerator-freezer	7.5	.1
Room air-conditioner	7.5	.3
Freezer	7.0	.8
Water heater, gas	2.6	.04
Water heater, electric	1.4	.03
Cooking range, gas	1.3	.02
Room heater, gas	1.2	.1
Clothes washer	.8	.02
Dryer, electric	.8	.2
Cooking range, electric	.6	.4
Dryer, gas	.4	.1
TV, color	0	0
TV, black and white	0	0
Total	38.1	.1

[1] FEA analysis and testimony at May 1976 hearings.

I. Page 36665: In col. 1, paragraph 1, line 7, change "$1,154" to "$1,152"; col. 3, paragraph 2, line 2, change "$41.1 million" to "$38.1 million".

J. Page 36666: In col. 1, paragraph 2, line 6, change "$41.1 million" to "$38.1 million"; paragraph 2, line 18, change "$41 million" to "$38.1 million"; Stage III, paragraph 1, line 12, change "$1,154" to "$1,152"; Stage III, paragraph 1, line 15, change "$19.46" to "19.43"; Stage III, paragraph 1, line 16 change "$368.20" to "$368.17".

Issued in Washington, D.C., July 29, 1977.

ERIC J. FYGI,
Acting General Counsel,
Federal Energy Administration.

[FR Doc.77-22382 Filed 8-4-77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 320]

[Docket No. 77N-0194]

CERTAIN ANTICONVULSANTS

Proposed Bioequivalence Requirements

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: This proposal would establish bioequivalence requirements for certain oral drug products used to treat convulsions (anticonvulsants). Available data suggest that the various marketed brands of the same oral anticonvulsant may not have a comparable therapeutic effect. The proposed regulations would assure the bioequivalence of different brands of an anticonvulsant drug product and batch-to-batch uniformity of the same drug product by each manufacturer.

DATES: Comments by October 4, 1977. The Commissioner proposes that the final regulation based on this proposal be effective 30 days after its dates of publication in the FEDERAL REGISTER.

ADDRESSES: Written comments (four copies, identified with Docket No. 77N-0194) to the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

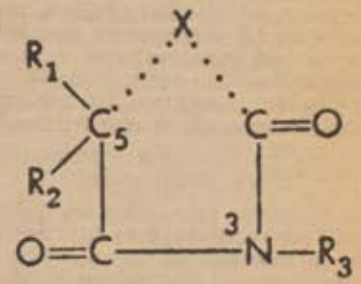
FOR FURTHER INFORMATION CONTACT:

Jerome P. Skelly, Bureau of Drugs (HFD-522), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857 (301-443-4750).

SUPPLEMENTARY INFORMATION: Regulations in Subpart C of 21 CFR Part 320 published in the FEDERAL REGISTER of January 7, 1977 (42 FR 1624) set forth procedures for the Commissioner, on his own initiative or in response to a petition from an interested person, to propose and to establish a bioequivalence requirement for drug products containing identical amounts of the same active ingredient and in the same dosage form that are intended to be used interchangeably for the same therapeutic effect and for which there is a known or potential bioequivalence problem. Data available to FDA suggest that there is well-documented evidence of actual bioequivalence differences in oral formulations of phenytoin and phenytoin sodium and potential bioequivalence differences in oral formulations of other anticonvulsants among currently marketed brands of the same drug product produced by various manufacturers, based on the criteria set forth in § 320.52 (21 CFR 320.52). Therefore, the Commissioner, on his own initiative, tentatively concludes that a bioequivalence requirement involving in vivo testing in humans and in vitro dissolution testing should be established for the following oral anticonvulsants: phenytoin, phenytoin sodium, ethotoin, mephenytoin, ethosuximide, methsuximide, phensuximide, paramethadione, trimethadione, phenacemide, and primidone. The evidence on which the Commissioner bases his tentative conclusion and the proposed bioequivalence requirement are discussed below.

BACKGROUND

Orally administered anticonvulsants are used primarily in the prophylaxis of epileptic seizures, i.e., to reduce the number and severity of seizures in patients with epilepsy. Although no one oral anticonvulsant drug product is equally effective in all types of epilepsy, they are presented together on the basis that they are members of a class of drugs that have close structural commonality, similar physicochemical and pharmacological properties and whose dose must be individualized which in turn requires close monitoring of patients. All of them are derivatives of either barbiturates (primidone being a structural analog of phenobarbital), hydantoins (phenytoin, phenytoin sodium, ethotoin, mephenytoin), and phenacemide (a substituted acetylurea derivative), oxazolidinediones (paramethadione and trimethadione), or succinimides (ethosuximide, methsuximide, and phensuximide). All contain the following structural common denominator:



The substituent at x varies with the chemical class, e.g.,

Hydantoins —NH—
Oxazolidinediones—O—
Succinimides —CH_2—
Acetylureas —NH_2—

Except for anticonvulsant agents selectively active against absence (petit mal) seizures, a phenyl or similar aromatic group at R_1 or R_2 appears essential for antiepileptic activity (Ref. 1).

Although their specific modes of action are not fully understood, these products have anticonvulsant activity and are effective for the various types of epilepsy, i.e., primidone is indicated for grand mal, psychomotor and focal seizures; phenytoin and ethotoin for grand mal and psychomotor seizures; mephytoin for psychomotor seizures; mephenytoin for grand mal, focal, Jacksonian, and psychomotor seizures; phenacemide for severe epilepsy, particularly mixed forms of psychomotor seizures; ethosuximide, methsuximide, phensuximide, paramethadione, and trimethadione for petit mal.

Most anticonvulsant drugs are almost completely absorbed after oral administration; however, the rate of absorption differs with the various drugs. The rate of excretion is generally slow and varies from subject to subject. The anticonvulsant agents are widely distributed in the body. Hydantoins, especially phenytoin, reach highest concentrations in the brain, liver, and salivary glands. Oxazolidinediones and succinimides are freely distributed throughout body water. Phenytoin and probably paramethadione and trimethadione cross the placental barrier. Phenytoin and primidone appear in the milk of nursing mothers (Ref. 2).

With the exception of paramethadione, most of the anticonvulsants are crystalline solids. Although phentoin sodium, ethosuximide, and trimethadione are fairly soluble in water, the other oral anticonvulsants are either insoluble or very slightly soluble in water.

Because of the similarity of chemical structure, physicochemical and pharmacological properties, and the necessity for individualized dosage requiring close monitoring of patients during administration of each drug product, these anticonvulsant drug products are being considered as a class in establishing a bioequivalence requirement. While phenobarbital sodium fall within the same

class by virtue of their structure and use as anticonvulsants, these drug products are not proposed at this time for inclusion as drugs of the anticonvulsant class presenting bioequivalence problems. The agency has reached this decision based on the lack of significant documented evidence of bioequivalence problems with phenobarbital commensurate with its extensive production by numerous manufacturers and use over the years.

Evidence to Establish a Bioequivalence Requirement

The following criteria as set forth in § 320.52 were considered by the Commissioner in determining that a bioequivalence requirement should be established:

1. *Evidence from well-controlled bioequivalence studies that such products are not bioequivalent drug products.* Studies conducted under an FDA contract (Ref. 3) evaluated the relative bioavailability in 12 normal human volunteers of 11 lots of 100 mg phenytoin sodium capsules manufactured by 8 different companies. The studies demonstrated that several of the drug products exhibited statistically significant differences in the various parameters studied, e.g., the time of peak plasma concentration of the drug products ranged from 2.6 to 6 hours and the peak plasma concentration from 0.93 to 1.44 micrograms per milliliter (mcg/ml). The same studies also showed that on the basis of the area under the plasma level-time curve, one drug product was 31 percent more bioavailable than the reference product.

A recent single-dose crossover study involving six volunteers (Ref. 4) compared the vioavailability of four brands of phenytoin tablets with that of a micronized phenytoin-acid suspension. Significant differences between various products were found with regard to the areas under the serum phenytoin concentration-time curves (AUC), the peak serum phenytoin concentration (Cmax) and time to peak (Tmax).

Cmax, Tmax, and AUC's for the various brands of phenytoin

Brand	Cmax (micrograms per milliliter	Tmax (hours)	AUC (micrograms per hour per milliliter
A	6.3±0.5	12.2±3.9	327±33
B	2.7±0.2	12.3±3.9	124±20
C	9.1±1.5	5.2±1.4	429±44
D	6.1±0.5	7.8±3.2	283±44
E (suspension)	11.4±1.0	7.2±1.1	480±66

The areas under the serum phenytoin concentration-time curves for the tablets were 26, 59, 68, and 90 percent of the AUC of the suspension. The peak serum phenytoin concentrations using the different tablets were 24, 54, 55, and 80 percent of the peak serum concentration of the suspension.

A bioavailability study (Ref. 5) submitted in support of an abbreviated new drug application (ANDA) demonstrated that the test products, 30 mg and 100 mg phenytoin sodium capsules, were only 70 percent (30 mg capsules) and 66 percent (100 mg capsules) as bioavailable as the reference capsule product on the basis of the area under the 0- to 72-hour plasma concentration time curve.

In another bioavailability study (Ref. 6) submitted in support of an ANDA, the test product, an oral phenytoin suspension, showed a significantly greater rate of absorption over the reference oral phenytoin suspension as demonstrated by a 46 percent increase in peak plasma concentration, a 67 percent reduction in time of peak plasma concentration, and a 32 percent increase in the 0- to 12-hour area under the plasma concentration-time curve.

This criterion is therefore considered to be applicable to drug products containing either phenytoin or phenytoin sodium.

2. *Evidence that these drug products exhibit a narrow therapeutic ratio, e.g., there is less than a twofold difference in median lethal dose (LD_{50}) and median effective dose (ED_{50}) values, or have less than a twofold difference in the minimum toxic concentrations and minimum effective concentrations in the blood, and safe and effective use of the drug products requires careful dosage titration and patient monitoring.* The absorption, metabolism, and excretion of anticonvulsants varies widely, yet these drug products must be limited to a relatively narrow blood concentration range from that producing the desired therapeutic effect to that associated with significant toxic response or lack of therapeutic response. (See table below.) This necessitates individualized dosage of these drug products and therefore calls for close monitoring of patients undergoing anticonvulsant therapy (Refs. 7 through 11). For example, data indicate an effective plasma concentration of 10 to 20 mcg/ml for phenytoin. Concentrations as low as 8 mcg/ml may be adequate for seizure control in some patients. However, nystagmus (involuntary rapid eyeball movement) is usually evident at 20 mcg/ml, ataxia (muscular incoordination) at 30 mcg/ml, and lethargy occurs at 40 mcg/ml or higher (Ref. 1). With primidone, minimum effective blood levels for the control of seizures in patients are over 5 mcg/ml. Levels over 15 mcg/ml or 20 mcg/ml may be associated with continuous side effects (Ref. 7). Data are not available to determine the relationship between plasma concentration and adverse effects for ethotoin, mephenytoin, phenacemide, paramethadione, trimethadione, methsuximide, and phensuximide. However, blood levels for these drug products vary from patient to patient as with phenytoin and primidone requiring individualized dosage and close monitoring of patients during administration of each drug product. Similar symptoms of toxicity are also produced. It is therefore logical to apply this criterion to these anticonvulsants as well.

Effective and toxic blood levels of some anticonvulsants

Drug	Minimum effective concentration (microgram per milliliter)	Toxic (microgram per milliliter)
Phenytoin	10	20
Primidone	5	12
Ethosuximide	40	100

3. *Competent medical determination that a lack of bioequivalence of such drug products would have serious adverse effect in the treatment or prevention of a serious disease or condition.* The management of epileptic seizures and acute convulsive episodes is the major indication for anticonvulsant therapy. Significant changes in drug availability could change blood levels from optimal to toxic or subtherapeutic. Large differences in drug product bioavailability when undetected would increase the potential for epileptic seizures or toxic reactions. For example, a report on the hearings before the Subcommittee on Monopoly of the Select Committee on Small Business, United States Senate, in May and June 1967 (Ref. 12) indicated that an increased incidence of seizures was observed in patients in six government-operated hospitals when different brands of phenytoin sodium were used. A number of other reports recognize and document the potential for variable phenytoin sodium absorption among different lots of the same drug product and among different brands with a possible change in bioavailability (Refs. 13, 14, and 15). Because of the similarity in structure, pharmacology, and physicochemical properties, it is logical to apply this criterion to all of the other previously named oral anticonvulsants.

4. *Physicochemical evidence that:* (a) *The active drug ingredient has a low solubility in water, e.g., less than 5 milligrams per 1 milliliter, or if dissolution in the stomach is critical to absorption, the volume of gastric fluids required to dissolve the recommended dose far exceeds the volume of fluids present in the stomach (taken to be 100 milliliters for adults and prorated for infants and children).* Phenytoin is practically insoluble in water. Phenytoin sodium is fairly soluble in water but is converted to the less soluble acid form in the stomach. Ethotoin is insoluble in water; methsuximide (2.8 mg/ml) and phensuximide (4.2 mg/ml) are slightly soluble in water; mephenytoin, phenacemide, and primidone (0.5 mg/ml) are very slightly soluble in water; and paramethadione is sparingly soluble in water (Ref. 2). Therefore, for these oral anticonvulsant drugs the amount of fluid required to dissolve any of these drugs at the recommended dose level exceeds the volume of fluid present in the stomach.

(b) *The dissolution rate of one or more such products is slow, e.g., less than 50 percent in 30 minutes when tested using either a general method specified in an official compendium or a paddle method at 50 revolutions per minute in 900 milliliters of distilled or deionized water at 37° C, or differs significantly from that of an appropriate reference material such as an identical drug product that is the subject of an approved full new drug application.* Dissolution studies conducted by FDA (Ref. 16) on phenytoin sodium capsules (100 mg) of seven different manufacturers revealed that three of the drug products dissolved less than 50 percent in 30 minutes (see results below). The rotating basket apparatus described

in the United States Pharmacopeia at 50 rpm and water at 37° C was used to determine the dissolution rates.

Dissolution Profile of Phenytoin Sodium (100 mg) Capsules

Product:	Percent dissolved in 30 minutes
A	80
B	33
C	36
D	58
E	83
F	88
G	18
H	112

Based on this criterion, evidence suggests a bioequivalence difference between drug products in capsule form containing phenytoin sodium marketed by different manufacturers.

(c) *The particle size and/or surface area of the active drug ingredient is critical in determining its bioavailability.* The effect of particle size and salt form on absorption is well illustrated in a study (Ref. 17) of plasma phenytoin levels in dogs given equivalent 25 mg/kg peroral doses of: (1) phenytoin sodium in particle size of 5 to 25 microns; (2) phenytoin (acid form) in particle size of 10 to 50 microns; and (3) phenytoin (acid form) crystallized in flat plates averaging about 3 millimeters in diameter. The sodium salt preparation was absorbed more rapidly than the acid preparation reaching higher peak levels at earlier time periods. The sodium salt is converted to phenytoin (acid form) in the stomach with the resultant precipitation of the insoluble acid in fine microcrystalline particles which are more readily absorbed. The 10- to 50-micron crystal preparation of phenytoin (acid form) gave 15 times the peak blood levels of that obtained from flat plates of the phenytoin (acid form) preparation which showed practically no absorption.

In another study (Ref. 18) using (1) two preparations of phenytoin sodium capsules (100 mg) in particle sizes less than 100 microns for one preparation and 5 to 30 microns for the other preparation and (2) phenytoin (acid form) in a particle size of 100 x 100 to 300 microns, the plasma levels of phenytoin in epileptic patients were significantly higher after treatment with either of the two phenytoin sodium preparations than after treatment with the same dose of the free acid. This was confirmed by both short- and long-term studies, and in the long-term studies, increased plasma levels of phenytoin were accompanied by better control of generalized seizures.

Evidence therefore suggest that, based on this criterion, drug products containing phenytoin and phenytoin sodium present bioequivalence differences.

(d) *Specific inactive ingredients, e.g., hydrophilic or hydrophobic excipients and lubricants, either may be required for absorption of the active drug ingredient or therapeutic moiety or alternatively, if present, may interfere with such absorption.* An outbreak of phenytoin intoxication occurred in epileptic patients in Australia during 1968–1969. Reports (Refs. 15 and 19) indicated a fourfold increase in peak plasma phenytoin levels with attendant increase in toxicity. The excipient in the responsible phenytoin sodium capsules had been changed by the manufacturer from calcium sulfate to lactose several months before the outbreak of the intoxication and this change was causally related to the altered blood phenytoin concentrations.

This criterion is therefore applicable to drug products containing phenytoin sodium.

THE BIOEQUIVALENCE REQUIREMENT

On the basis of these data, the Commissioner tentatively concludes that the evidence meets one or more of the criteria set forth in § 320.52 and he proposes to establish a bioequivalence requirement for single active ingredient oral dosage form drug products containing the following anticonvulsants: phenytoin, phenytoin sodium, ethotoin, mephenytoin, ethosuximide, methsuximide, phensuximide, paramethadione, trimethadione, phenacemide, and primidone. The proposed bioequivalence requirement would be applicable to all manufacturers of such drug products and would require each manufacturer, except a manufacturer of a reference material or a manufacturer who has previously conducted in vivo bioavailability/bioequivalence studies fulfilling the requirements of this section, to: (1) conduct an in vitro dissolution test comparing its drug product to a specified reference material and (2) conduct an in vivo bioavailability study comparing its drug product to a specified reference material. Under this proposed requirement, the test drug product would be deemed to meet the bioequivalence requirement if (1) the in vitro data show that the dissolution rate for the test drug product is not less than 60 percent in 30 minutes and not less than 85 percent in 60 minutes, and (2) the in vivo data show that the test drug product meets the following conditions:

1. The test drug product and the reference material indicate no more than 20 percent difference in the comparison of measured parameters, e.g., concentration of the active drug ingredient in the plasma, peak plasma levels (Cmax), and area under the plasma concentration-time curves (AUC); and

2. In at least 75 percent of the subjects administered the drug, the test drug product has a bioavailability of greater than 75 percent relative to that of the administered reference material utilizing each subject as his own comparison; and

3. Analytical and statistical techniques used are of sufficient sensitivity to detect those differences in rate and extent of adsorption that are not attributable to subject variability.

The Commissioner advises that further in vivo studies may be required where data submitted in the application differ significantly from data involving valid studies reported in literature or obtained by the agency using a validated protocol and method.

The Commissioner proposes that a manufacturer of a drug product selected by the FDA as the reference material and a manufacturer of any drug product subject to the requirements of the section proposed below who has previously conducted in vivo tests in humans to demonstrate bioavailability/bioequivalence of his drug product in accordance with the provisions of the proposed section below would be required to conduct in vitro dissolution testing on three consecutive lots/batches of their product to demonstrate consistent dissolution performance. A manufacturer of a reference material who has not previously conducted in vivo bioavailability/bioequivalence studies fulfilling the requirements of this section would be required to conduct an in vivo bioavailability study comparing the reference material with a solution or suspension of an equivalent amount of the anticonvulsant contained in the reference material.

A manufacturer of a drug product subject to this proposed section who has previously conducted in vivo bioavailability/bioequivalence studies, e.g., to meet requirements for approval of an ANDA for a drug product covered by a drug efficacy study implementation (DESI) notice, may request the FDA to evaluate such studies to determine whether (1) such studies now fulfill the requirements uder this proposed section or (2) such studies are adequate and conclusive to assure the bioequivalence of the drug product in light of current scientific knowledge and methodology.

To obtain data necessary to correlate in vivo data with in vitro data, the Commissioner proposes that the same lot/batch of the test product and one of the three lots/batches of the reference material used in the in vitro tests be used in the in vivo test, unless a manufacturer has conducted in vivo tests in humans to demonstrate bioavailability/bioequivalence prior to the effective date of this proposed section.

General guidelines for the conduct of in vivo testing are set forth in § 320.25 (21 CFR 320.25). Specific guidelines for in vivo testing and for in vitro dissolution testing of anticonvulsants 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, and are available on request. The reference material to be used in conducting the in vivo and in vitro tests of each drug product subject to this proposed section is named in the guideline for in vivo bioavailability studies for anticonvulsants.

The Commissioner proposes that the results of the required in vitro dissolution test be submitted to FDA on or before 60 days following the effective date of the final regulation and the results of the required in vivo test be submitted to FDA on or before 180 days following the effective date of the final regulation. The proposed effective date of the final regulation is 30 days following the date of its publication in the FEDERAL REGISTER. The Commissioner believes this will be sufficient time for a manufacturer to conduct the required tests, evaluate the data, prepare the necessary reports, and

submit them to FDA. The Commissioner advises, however, that in meeting an in vivo bioavailability requirement for some anticonvulsants, the agency may require a manufacturer to conduct a pilot study to determine optimal sampling times and volume of sample needed. An additional extension up to 180 days may be granted by the Commissioner upon request from the manufacturer to allow sufficient time to conduct the pilot study and submit the data to FDA. In addition, FDA encourages the submission of protocols for conducting in vivo bioavailability studies. In the event that a manufacturer submits a protocol for evaluation by FDA, the Commissioner will grant an extension of time necessary for the initial review of the protocol.

The Commissioner advises that drug products subject to this proposal are regarded as new drugs as defined in section 201(p) (21 U.S.C. 321(p)) of the Federal Food, Drug, and Cosmetic Act, requiring either an approved full or abbreviated new drug application as a condition to lawfully market the product. Marketing of such a drug product shall be in accordance with the requirements of § 320.58 (21 CFR 320.58).

Certain oral anticonvulsant drugs are covered by a DESI notice (DESI 5856) published in the FEDERAL REGISTER on August 26, 1970 (35 FR 13594) and amended on July 29, 1976 (41 FR 31588). The DESI notice set forth requirements for the marketing of these products and offered an opportunity for hearing concerning certain indications. These requirements specify that an ANDA must contain the information specified in § 314.1(f) (21 CFR 314.1(f)) and, for oral anticonvulsant dosage forms, shall include data of the kind required for the drug at the time of submission of the application to show that it is bioavailable in the formulation proposed for marketing. After a final bioequivalence requirements for oral anticonvulsants is promulgated, the submission of evidence that the drug meets the bioequivalence requirement, i.e., that it is comparable in vivo and in vitro to the specified reference material, would be required in lieu of evidence of bioavailability. Elsewhere in this issue of the FEDERAL REGISTER, the Director of the Bureau of Drugs is issuing a followup notice to DESI 5856 setting forth the legal status and the conditions for marketing specific oral dosage forms of phenytoin and phenytoin sodium.

After the effective date of a final regulation establishing a bioequivalence requirement, each manufacturer, under § 320.56 (21 CFR 320.56), would be required to conduct the in vitro dissolution test on a sample of each batch of the oral anticonvulsant to assure batch-to-batch uniformity.

REFERENCES

Copies of all references cited below are on public display in the office of the Hearing Clerk, Food and Drug Administration.

1. Woodbury, D. M., and E. Fingl, "Drugs Effective in the Therapy of the Epilepsies," in "The Pharmacological Basis of Therapeutics," 5th Ed., edited by L. S. Goodman and A. Gilman, MacMillan, New York, pp. 201–204, 220–221, 1975.

2. "Anticonvulsants," in "American Hospital Formulary Service," American Society of Hospital Pharmacists, Washington, D.C., 1976, chapter 28:12.

3. Melikian, A. P., A. B. Straughn, G. W. A. Slywka, P. L. Whyatt, and M. C. Meyer, "Bioavailability of 11 Phenytoin Products," Journal of Pharmacokinetics and Biopharmaceutics, 5(2):133–146, 1977.

4. Pentikainen, P. J., P. J. Neuvonen, and S. M. Elfving, "Bioavailability of Four Brands of Phenytoin Tablets," European Journal of Clinical Pharmacology, 9:213–218, 1975.

5. Dighe, S. V., FDA internal memorandum to J. P. Skelly, "ANDA Summary (Phenytoin Capsules): ANDA 80–265 and 80–266 (Review dated 6–24–74) Documentation," January 28, 1977.

6. Dighe, S. V., FDA interal memorandum to J. P. Skelly, "ANDA Summary (Phenytoin Suspension), ANDA 83–048 (Review dated 2–14–73) Documentation," January 28, 1977.

7. Kutt, H., and J. K. Penry, "Usefulness of Blood Levels of Antiepileptic Drugs," Archives of Neurology, 31:283–288, 1974.

8. Sherwin, A. L., J. P. Robb, and M. Lechter, Improved Control of Epilepsy by Monitoring Plasma Ethosuximide," Archives of Neurology, 28:178–181, 1973.

9. Borofsky, L. G., S. Louis, and H. Kutt, "Diphenylhydantoin in Children," Neurology, 23:967–972, 1973.

10. Dawson, K. P., and A. Jamieson, "Value of Blood Phenytoin Estimation in Management of Childhood Epilepsy," Archives of Disease in Childhood, 46:386–388, 1971.

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12. Hall, D. G., statement in "Hearings before the Subcommittee on Monopoly of the Select Committee on Small Business, U.S. Senate, 90th Cong., 1st Sess., on Present Status of Competition in the Pharmaceutical Industry," Part 1, pp. 258–281, 1967.

13. "Brand, Generic Drugs Differ in Man" (Medical News), Journal of the American Medical Association, 205(9):23, 1968.

14. Rail, L., "Dilantin Overdosage" (Letter), The Medical Journal of Australia, 2:339, 1968.

15. Eadie, M. J., J. M. Sutherland, and J. H. Tyrer, "Dilantin Overdosage" (Letter), The Medical Journal of Australia, 2:515, 1968.

16. Prasad, V. K., T. Alston, V. Shah, and C. Hooper, "Summary of Dissolution Data; Dissolution Testing Performed by the Laboratory Branch (HFD–524) of the Division of Biopharmaceutics," FDA staff paper, 18 pp.

17. Glazko, A. J. and T. Chang, "Diphenylhydantoin-Absorption, Distribution, and Excretion," in "Antiepileptic Drugs," edited by D. M. Woodbury, K. Penry, and R. P. Schmidt, Raven Press, New York, pp. 127–129.

18. Lund, L., "Clinical Significance of Generic Inequivalence of Three Different Pharmaceutical Preparations of Phenytoin," European Journal of Clinical Pharmacology, 7:119–124, 1974.

19. Tyrer, J. H., M. J. Eadie, J. M. Sutherland, and W. D. Hooper, "Outbreak of Anticonvulsant Intoxication in an Australian City," British Medical Journal, 4:271–273, 1970.

The Commissioner has carefully considered the environmental effects of the proposed regulation and, because the proposed action will not significantly affect the quality of the human environment, has concluded that an environmental impact statement is not required. A copy of the environmental impact assessment is on file with the Hearing Clerk, Food and Drug Administration.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(p), 502, 505, 701(a), 52 Stat. 1050–1053 as amended, 1055, 76 Stat. 795 as amended (21 U.S.C. 321(p), 352, 355, 371(a))) and under authority delegated to the Commissioner (21 CFR 5.1), it is proposed that Part 320 be amended by adding new Subpart D consisting at this time of § 320.105 to read as follows:

Subpart D—Bioequivalence Requirements for Specific Drug Products

§ 320.105 Certain oral anticonvulsants.

(a) *Applicability.* The requirements of this section apply to all single active ingredient oral dosage form drug products containing the anticonvulsants phenytoin, phenytoin sodium, ethotoin, mephenytoin, ethosuximide, methsuximide, phensuximide, phenacemide, primidone, paramethadione, or trimethadione.

(b) *Bioequivalence requirement for in vitro testing.* (1) Each manufacturer of a drug product subject to this section, except as provided for in paragraph (b)(3) of this section, shall conduct an in vitro dissolution test comparing its drug product to the reference material.

(2) The test drug product shall be deemed to meet the bioequivalence requirement for in vitro testing if it dissolves not less than 60 percent in 30 minutes and not less than 85 percent in 60 minutes.

(3) Each manufacturer of a drug product subject to this section selected by the Food and Drug Administration as the reference material and each manufacturer of a drug product subject to this section who has previously conducted in vivo tests in humans to demonstrate bioavailability/bioequivalence of its drug product in accordance with the provisions of this section shall conduct an in vitro dissolution test on three consecutive lots/batches of their drug product to demonstrate consistent dissolution performance.

(4) Each manufacturer of a drug product subject to this section shall submit the results of the required in vitro dissolution test to the Food and Drug Administration on or before (60 days after the effective date of this section).

(c) *Bioequivalence requirement for in vivo testing in humans.* (1) Each manufacturer of a drug product subject to this section, other than a manufacturer of the reference material, who has not conducted in vivo bioavailability/bioequivalence studies fulfilling the requirements of this section prior to the effective date of this section, shall conduct an in vivo bioavailability study in humans comparing its drug product to the reference material.

(2) The test drug product shall be deemed to meet the bioequivalence requirement for in vivo testing in humans of the following conditions are met:

(i) The test drug product and the reference material indicate no more than 20 percent difference in the comparison of measured parameters, e.g., concentration of the active drug ingredient in the plasma, peak plasma levels (Cmax), and area under the plasma concentration-time curves (AUC); and

(ii) In at least 75 percent of the subjects administered the drug, the test drug product has a bioavailability of greater than 75 percent relative to that of the administered reference material utilizing each subject as his own comparison; and

(iii) Analytical and statistical techniques used are of sufficient sensitivity to detect those differences in rate and extent of absorption that are not attributable to subject variability.

(3) Each manufacturer of a drug product subject to this section that is selected by the Food and Drug Administration as the reference material, who has not conducted in vivo bioavailability/bioequivalence studies fulfilling the requirements of this section prior to the effective date of this section, shall conduct an in vivo bioavailability study in humans comparing its product (i.e., the reference material) with a solution or suspension of an equivalent amount of the anticonvulsant contained in the reference material.

(4) Each manufacturer of a drug product subject to this section shall submit the results of the required in vivo testing to the Food and Drug Administration on or before (180 days after the effective date of this section). The Food and Drug Administration may grant an extension of time up to 180 days upon request for the submission of the results of the required in vivo test when pilot studies are required prior to commencing such tests. An extension of time necessary for an initial review of a protocol will be granted by the Food and Drug Administration when a protocol is submitted.

(5) Each manufacturer of a drug product subject to this section who has conducted one or more in vivo bioavailability/bioequivalence studies prior to the effective date of this section may request an evaluation of such studies to determine whether (i) such studies now fulfill the requirements under this section or (ii) such studies are adequate and conclusive to assure the bioequivalence of the drug product in light of current scientific knowledge and methodology. Any such request shall contain the new drug application number, the established (generic) name of the drug product, the dosage form and strength of the drug product, and the date(s) of submission of the pertinent study information contained in the new drug application.

(6) If the manufacturer holds an approved or pending full new drug application for the drug product, a request for an evaluation shall be submitted to the Division of Neuropharmacological Drug Products (HFD–120), Bureau of Drugs, Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20857. If the manufacturer holds an approved or pending abbreviated new drug application for the drug product, a request for an evaluation shall be submitted to the Division of Generic Drug Monographs (HFD–530), Bureau of Drugs, Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20857.

(d) *Reference material and guidelines for testing.* (1) The reference material to be used in the in vivo and in vitro tests is specified in the "Guidelines for In Vivo Bioavailability Studies for Anticonvulsants." The same lot/batch of the test drug product and one of the three lots/batches of the reference material used in the in vitro test shall be used in the in vivo test unless a manufacturer has conducted in vivo tests in humans to demonstrate bioavailability/bioequivalence prior to the effective date of this section.

(2) Guidelines for the conduct of in vivo and in vitro tests of anticonvulsants 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, and are available on request to that office.

Interested persons may, on or before October 4, 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 20, 1977.

JOSEPH P. HILE,
Associate Commissioner for Compliance.

[FR Doc.77-22362 Filed 8-4-77;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.

OFFICE OF THE FEDERAL REGISTER

AUGUST AND SEPTEMBER 1977 LEGAL DRAFTING WORKSHOPS ARE FULL. ADDITIONAL WORKSHOPS ARE SCHEDULED.

WHO: Any local, state, or Federal employee who drafts or reviews documents for publication in the FEDERAL REGISTER.

COST: One hundred-fifty dollars for each participant. Federal employees send an Optional Form 37 or a Form 170 to: Special Projects Unit, Office of the Federal Register, National Archives and Records Service, Washington, D.C. 20408.

WHAT: The workshop covers the following areas:

1. Legal Drafting Techniques—Preferred usage, organization, clarity.
2. Writing for your audience—Who is your audience, measuring the writer-reader gap, how to use readability formulas.
3. Legal Drafting Exercises—Regulations, preambles.
4. Critique of participant's drafts to check for use of legal drafting techniques and for substance.
5. How to comply with new preamble requirements.
6. The regulatory process—Where has it been, where is it going?

WHY: The workshop aims to improve the participant's ability to design and draft clear documents which make the FEDERAL REGISTER more readable.

WHEN: October 20, 21, 25, 1977; November 17, 18, 21, 1977; December 15, 16, 19, 1977; January 19, 20, 23, 24, 1978;[1] February 16, 17, 20, 1978; March 16, 17, 20, 21, 1978;[1] April 20, 21, 24, 1978; May 18, 19, 22, 1978.

MORE INFORMATION: Write: Special Projects Unit, Office of the Federal Register, National Archives and Records Service, Washington, D.C. 20408 or call: 202-523-5240.

[1] These workshops will meet mornings only. Workshop dates are subject to change.

CIVIL AERONAUTICS BOARD

[Docket No. 31221; Order 77-8-3]

AMERICAN AIRLINES, INC.

Order Regarding Emergency Air Transportation Requirements

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 1st day of August 1977.

On July 28, 1977, American Airlines, Inc., filed an application pursuant to section 416(b) of the Act for an exemption to serve Burlington, Vermont, in lieu of Montreal, Canada, during the period of an anticipated strike by the Canadian air traffic controllers expected to begin August 4 or 5, 1977.[1] The carrier indicates that it will reroute its Chicago-Montreal flights to Burlington and provide bus service between Burlington and Montreal. American cites similar authority granted by the Board in the past, particularly a blanket exemption granted by Order 76-6-170 to all U.S. carriers to provide similar emergency service during a strike by Canadian air controllers.

Upon consideration of the request, the Board has determined that an emergency may be created affecting all U.S.-Canadian flights should the work stoppage materialize. However, because of the number of requests which may be submitted[2] and the desire of the Board to respond expeditiously and effectively to this situation, we have decided to delegate authority to the Director, Bureau of Operating Rights, beginning August 1, 1977, and terminating on August 31, 1977 (unless sooner terminated or extended), to grant or deny, in whole or in part, any and all requests for exemptions or special operating authorizations which may arise out of this situation. Our sole purpose in taking this action is to alleviate, to the extent possible, any hardships on the traveling public which would inevitably result from the projected strike.

Accordingly, it is ordered, That:

1. Authority be delegated to the Director, Bureau of Operating Rights (the Director), beginning August 1, 1977, to act for the Board on requests for emergency exemption under section 416(b) of the Act and/or for special operating authority for the transportation of persons, property, and mail for the duration of the imminent work stoppage by the Canadian air traffic controllers;

2. In the absence of a further order of the Board, the delegation of authority in paragraph 1 shall expire not later than August 31, 1977;

3. In the exercise of delegated authority, the Director is authorized in his discretion to act before the receipt of answers, and petitions for review of the Director shall not stay the effective date thereof;

4. Applications subject to the procedures established may be made orally pursuant to 14 CFR 300.2(c)(5), but such applications shall be put into telegraphic or written form within 24 hours and, if in telegraphic form, shall be followed within 5 days with a written notice served in accordance with the Board's rules of practice;

5. Any interested person objecting to any provision of this order shall file such objections with the Board within 5 days from the date of service of this order, but the filing of objections shall not stay the effectiveness of this order;

6. This order may be amended or revoked at any time at the discretion of the Board; and

7. This order shall be served on all certificated air carriers.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.[3]

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-22570 Filed 8-4-77;8:45 am]

[1] We have been advised orally by American that the strike date has been changed to August 2, 1977.

[2] Operations of Allegheny Airlines, Delta Air Lines, Eastern Air Lines, Frontier Airlines, Hughes Airwest, North Central Airlines, Northwest Airlines, United Air Lines, and Western Air Lines would also be affected.

[3] All Members concurred.

[Docket No. 29123; Agreements C.A.B. 26555-26557, R-1 through R-19 etc.; Order 77-7-142]

INTERNATIONAL AIR TRANSPORT

Order Relating to North Atlantic Passenger Fares

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 28th day of July 1977.

By Order 77-5-91, May 18, 1977, the Board generally approved agreements among the carrier members of the International Air Transport Association (IATA) establishing fares over the North Atlantic through March 31, 1978. However, the Board disapproved the increases proposed in Miami-London first-class fares and economy-class promotional fares, on the grounds that the earnings of National Airlines, Inc. (National), the only U.S. carrier serving the Miami-London route, would be adequate under existing fares and excessive under the proposed fares.[1]

[1] The subject IATA agreements superseded a previous North Atlantic fare package approved in major part by Order 77-3-54, March 9, 1977 which, however, disapproved all normal economy-fare increases, all Miami-London increases, and placed conditions on other portions of the agreement. As a result, the IATA carriers submitted new agreements intended to satisfy the Board's objections to the previous package. Miami-London fares, for instance, were proposed to be increased in more moderate amounts than those previously disapproved in Order 77-3-54.

Petitions for reconsideration of Order 77–5–91 have been filed by National Airlines, Inc. (National) and by Pan American World Airways, Inc., (Pan American). An answer in support of Pan American). An answer in support of Pan American's petition has been submitted by Trans World Airlines, Inc. (TWA).

In support of its petition, National alleges that the Board has illegally transformed the public interest test of section 412(b) of the Act into an absolute rule of ratemaking, by using National's return on investment (ROI) as the only consideration in acting on Miami-London fares, and by disapproving increases when it forecast National's ROI to be above 12 percent; that the domestic 12-percent ROI standard developed in Phase 8 of the Domestic Passenger-Fare Investigation, Docket 21866–8, has been applied here as a rule in violation of section 553 of the Administrative Procedure Act; and that the Board, through its use of a simple arithmetic test for determining the public interest in the context of an IATA agreement, has used the agreement approval procedure as a de facto device to prescribe passenger fares in foreign air transportation, and thus create for itself authority which Congress denied the Board when it expanded the Board's authority over international fares in 1972.[2] National asserts further that the Board's failure to evaluate the agreement on an overall industry basis favors National's competitors, because at the same time the Board denied National a fare increase by treating National's earnings separately, it allowed Pan American and TWA to enjoy yields higher than National by combining their earnings in approving fare increases on their route;[3] that the Board has advanced no reason for such discriminatory treatment and is required to "play by the same rules" with all whom it regulates;[4] and that the Board's action is not premised on advantages to the public which National's lower fares over Miami will bring, since if fare levels were the Board's concern, it would cause TWA, whose earnings are much higher and who carries many more passengers, to charge lower fares as well.[5] Finally, National contends that the Board's adjustments to National forecast are arbitrary, capricious and an abuse of discretion under section 706 of the Administrative Procedure Act since the Board acted without substantial evidence and did not even describe how the adjustments were made; and that the Board was incorrect in assuming National's load factor through next March will not decline, since National's competitor British Airways will offer 40 percent more seats than National per departure in addition to increasing its frequencies to a daily schedule.

In its petition, Pan American alleges that the Board has arbitrarily treated the Miami-London market as if it were not part of the overall North Atlantic market, and by singling out Miami-London fares for separate treatment the Board is, in effect, repudiating its findings in Order 77–3–54 that the revenue need of Pan American and TWA justifies promotional-fare increases in all other North Atlantic markets. Elaborating on this point, Pan American contends that North Atlantic fares constructed over a Miami-London routing undercut fares over New York-London for every city in the southern United States, including at least 49 cities which generate a significant amount of traffic, and thus Pan American and other carriers will either have to give up this traffic or reduce their own fares over New York from these interior points to the level of those on the Miami-London sector; and that if they do hold their fares to the Miami level, they will not only lose revenue but will also bear a heavier pro-rate burden, resulting in a substantial loss of the revenue to which the Board found Pan American entitled for a reasonable return.[6] Finally, Pan American denies the Board's statement in Order 77–5–91 that Miami may, in many cases, be a more convenient departure gateway than New York; the carrier asserts that connecting service from New York to Europe is much superior to that out of Miami, and that there is a far greater number of European destinations served directly from New York than are served directly from Miami.

In its answer TWA states that it supports Pan American's petition, contending that the Board's disapproval of Miami-London fare increases will deprive the North Atlantic carriers of all or a substantial portion of the revenues the Board found to be needed, because of the undercut situation; that TWA, which is the only carrier certificated to provide direct service to Europe from many cities such as Tulsa, Oklahoma City, and Phoenix, will lose traffic from these points to connections over Miami; and that the Board's action prefers the Miami gateway as compared to New York.

Upon careful review of Order 77–5–91, the petitions and answer thereto, and all other relevant matters, the Board finds that the petitions do not set forth facts sufficient to warrant reversal of our earlier action and they will, therefore, be denied.

We reject out of hand National's assertions that there is no adequate basis for treating fares on the Miami-London route separately from the rest of the North Atlantic IATA fare package, and that an IATA agreement must always be considered only as a single, homogenous mass. While the carriers' earnings forecasts are based on the total effect of an agreement's provisions, this does not preclude the Board from disapproving any individual portion it finds to be adverse to the public interest; and although the profitability of individual markets usually cannot be distinguished from that of the overall market in a given ratemaking area, in some cases it is so different that it cannot be ignored. This is clearly the situation with the Miami-London market, which is clearly separable and due to its particular characteristics has historically shown good earnings. For this reason the Board has treated this market separately and has omitted National from our computation of composite carrier ROI in the general North Atlantic market during the past three years of high profits for National, profits over the 12 percent guideline. Our rationale was clearly articulated in Orders 75–3–101, March 27, 1975, 76–4–175, April 30, 1976, and 77–3–54, March 9, 1977, as well as in the order at issue here, where in each case the Board disapproved increases in Miami-London fares because we found National's earnings to be adequate under existing fares and because the carrier had not shown a clear need for an increase. There is even earlier precedent. In Order 74–4–144, April 26, 1974, the Board disapproved a U.S.-Mexico IATA agreement to the extent it would have increased U.S. west coast-Mexico fares, on the basis that Western Airlines, Inc. (Western), the only U.S. carrier serving those routes, was in an excess earnings position and required no fare increase; and the Board has rejected arguments made by Western which are similar to those National presents here.[7]

National is in error in arguing that the Board could not have been concerned with fare levels and public benefits since it permitted TWA, which carries more passengers and has higher earnings than National, to increase its fares. The Board's concern with fare levels was an important factor; indeed, it goes to the heart of the matter. There is no reason for Miami-London passengers to pay

[2] Pub. L. 92–259. National contends in particular that by delaying its decision until May 18, 1977 when the new fares were proposed for effect June 1, the Board gave the carriers no choice but to refile the existing fares on short notice, since there was no time for the carriers to reconvene and submit a new agreement, and any tariff filing to implement the higher fares would surely have been suspended; and that this conduct is a clear abuse of discretion. National also cites *Pan American World Airways, Inc.* v. *C.A.B.*, 14 AVI 17, 448 (D.C. D of C, 1976); and *Moss* v. *C.A.B.*, 430 F. 2d 891 (D.C. Cir. 1970).

[3] National notes that TWA's adjusted ROI including the fare increases would be about 17 percent.

[4] Citing *Continental Air Lines, Inc.* v. *C.A.B.*, 443 F. 2d 745 (D.C. Cir., 1971).

[5] National also claims that National's low costs were of little interest to the Board in Docket 25908, Transatlantic Route Proceeding, where the Board recommended Pan American rather than National to serve Houston-Europe.

[6] Pan American has cited the relevant fare constructions and undercuts; and submits that while most of the undercuts occur in the 22/45-day excursion fare, which accounts for about 20 percent of its traffic, the undercuts extend to the 14/21-day excursion fare in many markets. Pan American's prorate argument refers to the fact that in computing each carrier's share of a ticket using a joint routing, the domestic portion will be larger in relation to the transatlantic portion if the through international fare is reduced.

[7] See Order 76–8–22, August 5, 1976; see also Orders 77–4–132, April 26, 1977, 74–8–117, August 29, 1974, 74–12–49, December 13, 1974, 75–2–102, February 25, 1975, 75–3–96, March 26, 1975, 75–8–13, July 24, 1975, and 76–11–7, November 3, 1976.

fares in excess of National's economic costs on this route and provide it unjust enrichment because the U.S. carriers on other North Atlantic routes—Pan American and TWA—require a fare increase. Were there a direct, competitive relationship between carriers serving the same routes, where one carrier was achieving good returns and the others were experiencing poor earnings, our actions in preventing unjust enrichment of the favorably situated carrier would, of course, be considerably attenuated. This is, in fact, the current situation with TWA and Pan American. We are not unmindful of TWA's adjusted ROI forecast of 17.11 percent under the new IATA fares, and were it possible to consider Pan American's and TWA's routes separately, we would certainly do so. However, it is patently impossible to set aside fares on TWA's extensive route network for separate treatment and we must, therefore, evaluate such fares on the basis of a composite Pan American/TWA ROI. Miami-London fares, however, must be evaluated in light of National's particular earnings.

National also argues that the Board used a 12 percent ROI figure as an inflexible, maximum ceiling. It is true that the Board, in evaluating international fare increases, has used the 12 percent figure as a guideline which represents a reasonable long-term return on investment. In the instant case we estimated National's ROI, after adjustments, at 12.36 percent under existing fares, and National has provided no basis for concluding that its present earnings are inadequate and that it is entitled to the 13.39 percent ROI which we estimated it would earn with the proposed fare increase. We may note also that while National alleges that the 12 percent ROI guideline has become a ceiling, the carrier has historically achieved returns well above 12 percent. The Board's view on use of a 12 percent ROI guideline in international rate cases will be articulated fully in a subsequent order, and National has presented no arguments which would convince us that this practice is unreasonable or that it constitutes promulgation of a rule without proper notice as defined by section 551 and 553 of the Administrative Procedure Act. The proper return on investment is an issue in the North Atlantic Fare Investigation, Docket 27918, which National cites. Pending completion of that proceeding, however, the Board is not enjoined from making appropriate adjustments to the carriers' economic justification for IATA agreements.

In this connection, we are not persuaded that our adjustment to National's forecast load factor was wrong. National forecast a load factor of 53.8 percent for the year ending March 1978, compared to load factors of 58.4 percent and 57.3 percent during the historical periods ended September 1976 and December 1976, respectively. The Board upped National's forecast load factor to the December 1976 year-end figure of 57.3 percent. National argues that it cannot maintain this historical load-factor level since it will suffer increased competition from British Airways, which has increased its frequencies and no longer restricts the number of seats available for sale. We do not believe National has made a convincing case that it will lose such a significant amount of traffic to British Airways that it will not be able to achieve the historical load factor. The Miami-London market has shown healthy growth—enough, we believe, for both carriers to achieve good load factors as high as those already experienced. Mindful of National's allegations, we have reviewed even more recent data, for the year ended March 31, 1977 (a period when Nation's results were not colored by the September 1, 1975—January 20, 1976 strike), and find that the carrier achieved a 62.5 percent load factor during the period. Its forecast for March 1978 reflects traffic growth of only 2.9 percent over the year ended March 1977, compared to a capacity increase of 19.3 percent. In these circumstances, the Board cannot conclude that our adjustments in Order 77–5–91, holding National to a 57.3 percent load factor, were unreasonable.[8]

The three carriers also argue that the Board ignored the undercuts via Miami of fares from other U.S. cities to London and the injury to Pan American and TWA which would allegedly result from holding Miami-London fares at status quo. The carriers cite, for example, that the 22/45-day excursion fare from New Orleans to London is $24 or $44 lower via Miami than via New York, depending on season. The Board gave most careful consideration to this argument and concluded that the carriers had made no showing that this problem is so serious as to justify approval of otherwise unwarranted increases in transatlantic fares to/from Miami. It is strange indeed that until Pan American filed its instant petition, no U.S. or foreign-flag transatlantic carrier provided the Board with any worthwhile analysis of the undercuts, although the U.S. carriers all alleged significant impact. Nonetheless, while the analysis submitted by Pan American is useful, it does not demonstrate that Pan American or TWA would suffer such an adverse impact as to warrant approval of otherwise unwarranted Miami-London fare increases. Neither Pan American nor TWA has provided an estimate of the diversion and dilution they anticipate, or of the damage they have suffered from undercuts via Miami which have been in existence for some time. In any event, it is doubtful that all the interior U.S.-New York-Europe fares cited by Pan American have to be reduced to the level of the combination over Miami in order to prevent diversion of traffic via Miami. A large number of the undercuts listed by Pan American amount to $20 or less, and if, as the carrier contends, New York is such a superior gateway for transatlantic travel, then few passengers would inconvenience themselves by flying via Miami for such a small savings. Furthermore, even assuming Pan American and TWA hold these fares to the level of the Miami combination, and therefore suffer the maximum possible revenue dilution, the information supplied by Pan American leads to the conclusion that such dilution would be de minimis, amounting to less than one-tenth of one percent of its transatlantic passenger revenues.[9]

Accordingly, it is ordered, That:

The petitions of National Airlines, Inc. and Pan American World Airways, Inc. for reconsideration of Order 77–5–91 be denied.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.[10]

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-22567 Filed 8-4-77;8:45 am]

[Docket Nos. 3050, etc.; Order 77–7–151]

NORTH CENTRAL AIRLINES ET AL.

Order Regarding Baltimore-Detroit Nonstop Proceeding

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 29th day of July 1977.

On February 15, 1977, North Central Airlines filed an application for nonstop authority on a subsidy-ineligible basis, between Baltimore, Maryland, and Detroit, Michigan. Contemporaneously therewith, the State of Maryland and North Central filed a joint petition for an order to show cause or, in the alternative, a motion for hearing on the application. If awarded the authority requested, North Central proposes to provide first single-plane service between Baltimore,

[8] The process of adjustment was indicated clearly in Appendix B of the Board's order. The procedure employed was the standard DPFI methodology for making a load factor adjustment. This adjustment reduces capacity to the required load factor and uses the resulting percentage reduction to decrease direct operating costs, and makes the same percentage adjustment to 75 percent of the carrier's investment and interest expense. Order 77–5–91 did not, as National contends, violate section 706 of the Administrative Procedure Act. Section 706 merely sets forth the scope of judicial review of agency orders, providing that the reviewing court shall set aside actions found to be, inter alia, "arbitrary, capricious, an abuse of discretion * * *," or "unsupported by substantial evidence * * *" The Board's action, which was based on National's own justification and its regular Form 41 reports, and employed standard regulatory methodology of long usage, easily passes these tests.

[9] In reviewing Pan American's assertions, we took the 17 U.S. cities for which the carrier supplied North Atlantic passenger enplanements, applied Pan American's own traffic distribution by fare category in conjunction with the cited undercuts. The maximum possible revenue dilution on this traffic would range from $159,000 to $290,000 depending on seasonality, compared to Pan American's forecast third and fourth freedom passenger revenue of $333,991,000.

[10] All Members concurred except Chairman Kahn who did not participate.

on the one hand, and Milwaukee, and Green Bay, Wisconsin; Lansing, Grand Rapids, Escanaba, and Marquette, Michigan, on the other hand. Additionally, the carrier proposes first single-carrier service between Baltimore, on the one hand, and Madison, Marinette, and Wausau/Stevens Point, Wisconsin; Muskegon, Iron Mountain, Hancock, and Kalamazoo/Battle Creek, Michigan, on the other.

In support of their joint petition, Maryland and North Central allege that the carrier would provide two daily nonstop round trips in the market with DC-9-30 aircraft. The parties state that these flights would be scheduled to complement the single round trip in the market now operated by the incumbent, United. The petitioners argue at length that the Baltimore-Detroit market has been subject to a history of serious service deficiencies, culminating in United's currently inadequate service. Petitioners' dissatisfaction with United's service stems from their belief that United has focused on the parallel Detroit-Washington (National) market and has provided the Baltimore-Washington International Airport (BWI) with only a marginal level of service due to its perceived satellite status. Maryland and North Central also contend that the Baltimore-Detroit authority does not efficiently integrate with United's system since the carrier is "boxed in at Baltimore" and its use of Detroit as an active connecting center has declined. In contrast, although North Central's application involves an extension outside its present system to Baltimore, the petitioners maintain that the requested authority will effectively integrate into North Central's predominantly east-west system. According to Maryland and North Central, an award of Baltimore-Detroit non-stop authority to the carrier would: (1) insure improved service in this market since North Central's operations would be provided exclusively at BWI; (2) provide first single-plane and single-carrier service in the numerous markets recited above; (3) reduce North Central's subsidy need in the first normal year of operations by more than $173,000 using Subpart K methodology or by over $759,000 employing functional costing; (4) cause only minimal diversion from United amounting to only .03% or .04% of the incumbent carrier's fiscal year 1976 revenues, depending upon the methodology employed; (5) result in significant strengthening of North Central's route system by increasing the average hop and passenger haul of the carrier.

Answers in support of the joint petition were filed by Delta County Airport Board, Marquette Area Chamber of Commerce, Marquette County Airport Committee, Brown County and the Green Bay Area Chamber of Commerce, the Greater Detroit Chamber of Commerce and Board of Wayne County Road Commissioners, and the Michigan Department of State Highways and Transportation, Aeronautics Commission. The City of Grand Rapids, the Grand Rapids Area Chamber of Commerce, and the County of Kent jointly petitioned for leave to intervene.

Both Allegheny Airlines and Northwest Airlines filed applications for nonstop authority between Detroit and Baltimore, motions to consolidate their applications with that of North Central, and answers to the joint petition of Maryland and North Central. In their respective answers, both Allegheny and Northwest oppose acting upon North Central's application by show-cause procedures, relying upon the doctrine of *Ashbacker Radio Corporation* v. *F.C.C.*, 326 U.S. 327 (1945) in support of their positions. Further, Allegheny notes that while North Central's application would involve a major off-route extension, Allegheny already serves both Detroit and Baltimore and would only require the removal of its one-stop restriction to provide nonstop service in the market. Northwest contends that it can provide the same principal service benefits as North Central, that it has stronger authority at Detroit, and that, as principal carrier in the Detroit-Washington (National) market, it may suffer serious diversion should a carrier other than itself be awarded the Detroit-Baltimore authority in issue.

United filed a consolidated answer to the application of North Central and joint petition of Maryland and North Central, objecting both to the use of show-cause procedures, and the petitioners' alternative motion for hearing. In support of its position, United questions whether the Detroit-Baltimore market is capable of supporting two carriers, arguing that: (1) the market is currently receiving adequate service, (2) United's own attempt to operate a second daily round-trip flight in the market in the first half of 1976 generated an average load factor of only 32 percent; (3) North Central's passenger and revenue forecasts are exaggerated; and (4) according to United's forecast, North Central would suffer a net loss, after return and tax, which would effectively increase the carrier's subsidy by lowering the earnings on its subsidy ineligible system.

Maryland and North Central filed a joint motion for leave to file an unauthorized document, accompanied by a joint reply directed solely to the answer of United.[1] In its joint reply, Maryland and North Central continue to urge the Board to set the application of North Central for hearing; however, the petitioners concede that the issuance of an order to show cause with respect to the authority requested is no longer appropriate in light of outstanding competing applications of Allegheny and Northwest.

[1] We shall grant the joint motion of Maryland and North Central for leave to file an otherwise unauthorized document. The joint reply is brief, and will not unduly expand the record, delay any proceeding, or prejudice and party.

Upon consideration of the above pleadings and of all relevant facts, we have decided to institute the Baltimore-Detroit Nonstop Proceeding for the purpose of considering whether the public convenience and necessity require competitive nonstop service between Baltimore and Detroit. Accordingly, we are consolidating for hearing the applications of North Central, Northwest, and Allegheny in Dockets 30501, 30573, and 30583, respectively.

The Board's O&D Traffic Survey shows the Baltimore-Detroit market as generating over 57,000 O&D plus interline connecting passengers in calendar 1975. While this level of traffic might not be sufficient by itself to justify granting priority of hearing to an application for competitive service in the market, it is probable that the Survey substantially understates the actual and potential traffic, in part because of the proximity of the Washington and Baltimore metropolitan areas and their respective airports. In this regard, we note that in the Washington-Baltimore Adequacy-of-Service Investigation, 30 C.A.B. 1215 (1960), the Board found that published origin-destination figures understate Baltimore's actual traffic. Similarly, there is reason to believe that 1975 survey figures understate the potential of the Baltimore-Detroit market. Total Baltimore-Detroit traffic declined in both 1974 and 1975. It appears likely that these decreases were the result, in whole or part, of severely depressed conditions in the automotive industry, which had a pronounced effect on the economy of Detroit. Against such a backdrop, we find that consideration of the competitive nonstop service in issue is justified in light of the possible passenger inconvenience being suffered by persons who live or work within readier access to Baltimore-Washington International Airport than to National Airport. We are also concerned with exploring means to minimize traffic congestion at National Airport.

Finally, while North Central has submitted an environmental evaluation along with its joint petition, Northwest and Allegheny have not submitted sufficient information for us to determine the environmental consequences of their certificate amendment applications at this time. Therefore, we will require Northwest and Allegheny to file the information set forth in Part 312 of the Board's Procedural Regulations. We will allow these carriers, and all other carriers filing applications in this proceeding, 30 days from the date of adoption of this order to file their environmental evaluations.

Accordingly, it is ordered, That:

1. The joint motion of the State of Maryland and North Central Airlines for hearing is granted;

2. To the extent not granted in paragraph 1, above, the joint petition of the

State of Maryland and North Central Airlines is denied;

3. A proceeding to be known as the Baltimore-Detroit Nonstop Proceeding, Docket 31212, is instituted and shall be set for hearing before an Administrative Law Judge of the Board at a time and place hereinafter designated, as the orderly administration of the Board's docket permits;

4. The proceeding instituted in paragraph 3, above, shall include consideration of the following issues:

(a) Do the public convenience and necessity require the certification of an air carrier or air carriers to engage in competitive nonstop air transportation between Baltimore, Maryland, and Detroit, Michigan?

(b) If the answer to (a) is in the affirmative, which air carrier(s) should be authorized to engage in such service? and

(c) What terms, conditions and/or limitations, if any, should be placed on the operation of such carrier(s)?

5. Any authority awarded in this proceeding shall be granted without eligibility for subsidy;

6. Insofar as they conform to the scope of the proceeding set forth in paragraph 4, above, the applications of North Central Airlines in Docket 30501, Northwest Airlines in Docket 30573, and Allegheny Airlines in Docket 30583, are consolidated with the proceeding instituted by paragraph 3, above;

7. The State of Maryland, United Air Lines, Delta County Airport Board, Marquette Area Chamber of Commerce, Marquette County Airport Committee, Brown County and the Green Bay Area Chamber of Commerce, the Greater Detroit Chamber of Commerce and Board of Wayne County Road Commissioners, the Michigan Department of State Highways and Transportation, Aeronautics Commission, the City of Grand Rapids, the Grand Rapids Area Chamber of Commerce, and the County of Kent are made parties to the proceeding instituted by paragraph 3, above;

8. The joint motion of the State of Maryland and North Central Airlines for leave to file an unauthorized document is granted;

9. Northwest Airlines, Allegheny Airlines and all other carriers filing applications in this proceeding shall file environmental evaluations pursuant to section 312.12 of the Board's Procedural Regulations within 30 days of adoption of this order;

10. Applications, motions to consolidate and petitions for reconsideration of this order shall be filed within 20 days from the service date of this order and answers thereto shall be filed within 10 days thereafter; and

11. This order shall be served upon all parties to the proceeding instituted by paragraph 3, above, and all persons contained in the service list attached to the joint petition of the State of Maryland and North Central Airlines, Inc. for an order to show cause or, in the alternative, motion for hearing.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,[2]
Secretary.

[FR Doc.77-22569 Filed 8-4-77;8:45 am]

[Docket Nos. 30679, 29312; Order 77-7-144]

SOUTHERN AIRWAYS, INC.

Order Regarding Florida-Atlanta Competitive Nonstop Case

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 28th day of July 1977.

INTRODUCTION

On April 9, 1976, the County of Volusia, Florida, the City of Daytona Beach, Florida, the Volusia County Airports Advisory Board, the Volusia County Council of Governments, and the Daytona Beach Chamber of Commerce (the Daytona Beach Parties) petitioned the Board for an investigation of the need for first competitive nonstop service between Daytona Beach and Atlanta. On April 12, 1976, the Sarasota-Manatee Airport Authority, the Manatee County Chamber of Commerce, and the Sarasota County Chamber of Commerce (the Sarasota Parties) also petitioned the Board to institute an investigation of the need for an additional air carrier at Sarasota-Bradenton, and for competitive nonstop service between Sarasota and Atlanta and Daytona Beach and Sarasota-Brandenton. By Order 77-3-167, the Board instituted the Atlanta-Daytona Beach/Sarasota-Bradenton Nonstop Proceeding, Docket 30679, to examine the need for first competitive service in the Atlanta-Daytona Beach and Atlanta-Sarasota markets.

On May 25, 1976, Southern Airways, Inc., filed an application in Docket 29312 for a certificate amendment to add a new segment in whole or in part to its Route 98. The new authority would permit operations between the terminal point Atlanta, Ga., the intermediate points Tallahassee, Panama City, Eglin A.F.B., Pensacola, Tampa-St. Petersburg-Clearwater, Sarasota-Bradenton, Orlando, Gainesville, Jacksonville, Daytona Beach, Melbourne, West Palm Beach, Ft. Lauderdale, and Miami, Fla., and the terminal point Key West, Fla.

On August 30, 1976, civic representatives from Tallahassee[1] moved for hearing on Southern's application "insofar as it promises new and improved air transportation services for Tallahassee." The Tallahassee parties argue that Tallahassee is the state capitol, the home of three universities, and the economic center of Leon County which has experienced rapid population growth since 1970; that the present carriers authorized to serve Tallahassee are not providing the necessary service in Tallahassee's intra-Florida markets; that traffic to and from Tallahassee responds well to service improvements; and, that the Board indicated (in Order 69-9-132) that it would institute an investigation into the air service needs of those Florida points north of Miami.

Southern and a number of civic parties[3] have filed answers in support of the Tallahassee motion. Air Sunshine, Delta Air Lines and Eastern Air Lines have filed answers in opposition.

DISCUSSION

The Board has decided to add the issue of new service in the Tallahassee-Atlanta market to the pending Atlanta-Daytona Beach/Sarasota-Bradenton Nonstop Proceeding, Docket 30679. We have also decided not to add any other markets to that proceeding nor to institute separate cases with respect to the remaining Tallahassee markets.

We believe that the addition of the Tallahassee-Atlanta market to the pending Daytona/Sarasota case represents an appropriate use of the Board's resources. The Tallahassee-Atlanta market is the largest monopoly market encompassed by the Tallahassee parties' motion, having generated 86,180 local O&D and interline connecting passengers in the year ended December 31, 1975 (over 235 passengers per day), and is slightly larger than the Atlanta-Sarasota/Bradenton market already in issue. Notwithstanding the general decline in growth which characterized nationwide air traffic in recent years, the Tallahassee-Atlanta market grew at a rate of 11.7 percent per year between 1970 and 1975. Continuation of this traffic growth rate would produce a market in excess of 120,000 annual passengers (or about 329 per day) by 1978. Eastern is the monopoly nonstop operator while Southern, which holds restricted authority in the market, operates a one-stop round trip daily except Saturday.

Equally important, the market presents the same basic issue of first competitive service between the major connecting hub at Atlanta, and an important Florida community, including the opportunity for the institution of improved direct service via Atlanta from Tallahassee to points north and west of Atlanta. It also necessarily includes the question of whether a restriction in the certificate of a local service carrier should be lifted in order to permit that carrier to provide nonstop competitive service. Eastern is the incumbent carrier in all three Atlanta-Florida markets while Southern is already a party to Docket 30679. Under all these circumstances, we believe that the modest expansion of the Daytona Beach-Sarasota

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[2] All Members concurred.

[1] The City of Tallahassee and the Tallahassee Chamber of Commerce (the Tallahassee Parties) jointly.

[3] The Atlanta parties, Gainesville, Broward County, the Fort Walton Beach parties, the Satasota-Manatee Airport Authority, the Pensacola parties, and the Tampa Bay parties (Counties of Hillsborough and Pinellas, Fla., the Greater Tampa Chamber of Commerce, and the City of Tampa).

proceeding to include an additional, reasonably large Atlanta-Florida market will not unduly expand the case. On the contrary, the examination of the need for competitive service between Atlanta and Tallahassee can be conducted with a minimum of additional time and effort.

None of the other markets presents the same combination of size and potential service benefits to warrant separate investigation. Nor do they pose issues sufficiently related to those under consideration in Docket 30679 so that consolidation would be conducive to the proper dispatch of the Board's business. See Part 399.60 of the Board's Policy Statements and Rule 12 of the Board's Rules of Practice. All of the remaining Tallahassee markets are smaller than the Atlanta market, service is reasonably good, and the markets are not of a size which would warrant a commitment of time or effort looking toward additional authorizations. Furthermore, all are intra-Florida markets which, in contrast to Atlanta, will not serve as useful gateways to beyond points. Improved direct access to points north or west of Atlanta, including the Midwest, was, of course, at the heart of the communities' petitions which led to institution of the Atlanta-Daytona Beach/Sarasota case. See Order 77-3-167, pp. 1-2.

In reaching this conclusion, we are not suggesting that improved air service is not desirable or that the existing service is necessarily acceptable for the longer term. Rather, we are indicating our judgment that, at the present time, the Board's workload should be directed to applications and requests which hold promise of greater public benefits. While we fully recognize, in this connection, that the Board in 1969, indicated that it had "* * * decided to institute an investigation to determine air service requirements at various Florida points north of Miami and between these points and Atlanta * * *,"[3] we believe that the press of competing applications and the changes in circumstances which have ocurred in the intervening years require that we limit our consideration to the needs of the Atlanta-Tallahassee market.

We do not believe that consideration of the service needs of the remaining markets, either in the pending case or in other proceedings, is warranted. The Tallahassee-Miami market is the second largest market for which the Tallahassee parties seek improved service. It generated 76,000 passengers in 1975. Unlike the Atlanta-Tallahassee market, however, two carriers (Southern and Eastern) already hold nonstop authority, although the service provided is generally one-stop. (Eastern provides two round trips per day via Tampa; Southern provides four round trips per day via Orlando.) Given other, more pressing needs, we are unprepared to consider the need for a third nonstop authorization in the market.

The Tallahassee-Orlando market generated only 46,000 local O&D and interline connecting passengers in 1975. Southern provides six daily nonstop round trips in this market and operated at an average load factor of 54 percent in 1975 and 55 percent for the first eight months of 1976.

The Tallahassee-Tampa market, with 46,000 local O&D and interline connecting passengers in 1975, is identical in size to Tallahassee-Orlando. Eastern provides two daily nonstop round trips in this city pair, and its service is supplemented by the services of Sun Air Lines and Air Florida (two intra-Florida carriers) which provide a total of four nonstop round trips per day in the market. Eastern experienced an average load factor of 64 percent in 1975 and this decreased to 60 percent for the first eight months of 1976.

The Tallahassee-Eglin A.F.B./Panama City/Pensacola/Sarasota/Fort Lauderdale/Jacksonville markets are smaller, single-plane markets which collectively generated 23,000 local O&D interline connecting passengers in 1975, or only 63 per day.[4] In each of these markets, at least one of three certificated carriers, Eastern, National, or Southern, holds nonstop authority. Air Florida, the commuter airline, provides the only single-plane service between Tallahassee and Sarasota/Bradenton.

Tallahassee-Daytona Beach/Gainesville/Key West/Melbourne/West Palm Beach do not enjoy single-plane service; however, they generated a combined traffic total of only 11,000 local O&D and interline connecting passengers in 1975.[5] Eastern, National or Southern holds nonstop authority in each of the city-pairs save Tallahassee-Key West, where no carrier is presently certificated, and Tallahassee-Daytona Beach where Eastern and National hold one-stop rights.

Conclusion

We are mindful of the Tallahassee parties' desire for improved air service and our obligation to foster the development of a sound air transportation system. In view of our current commitment to a number of ongoing routes proceedings, as well as numerous other existing hearing matters, the Board must be guided by its obligation to hear those requests which promise the greatest public benefits. These factors lead us to conclude that consideration of the need for first competitive service in the Tallahassee-Atlanta market only, and consideration of that need in connection with the pending Atlanta-Daytona Beach/Sarasota case, is required by the public interest and in keeping with the proper dispatch of the Board's business.

Southern's application in Docket 29312 was dismissed by Order 77-3-167. Consequently, the carrier, and other interested applicants, will be required to file applications, along with appropriate motions to consolidate, in Docket 30679. The motions to consolidate, along with all other matters still pending in Docket 30679, will be disposed of by subsequent order. In this connection, the presiding administrative law judge is authorized, of course, to establish a new date for the prehearing conference in order to allow the orderly disposition of pending matters.

Accordingly, it is ordered, That: 1. The motion of the City of Tallahassee and the Tallahassee Chamber of Commerce, insofar as it requests an immediate hearing with respect to the need for first competitive nonstop service in the Tallahassee-Atlanta market, be granted;

2. This proceeding shall hereafter be known as the Florida-Atlanta Competitive Nonstop Case, Docket 30679;

3. The proceeding shall include consideration of the following issues:

a. Do the public convenience and necessity require the certification of an air carrier or air carriers to engage in nonstop air transportation between Atlanta, Georgia, on the one hand, and Daytona Beach, Sarasota-Bradenton, and/or Tallahassee, Florida, on the other hand?

b. If the answer to (a) is in the affirmative, which air carrier or air carriers should be authorized to engage in such service?

c. What terms, conditions, and/or limitations, if any, should be attached to any new authority which may be awarded?

4. Any authority granted in said proceeding shall be in the form of a new segment and shall be ineligible for Federal subsidy;

5. Applications within the expanded scope of the proceeding and motions to consolidate shall be filed within twenty (20) days from the date of service of this order, and answers thereto shall be filed within ten (10) days thereafter; and

6. Except to the extent granted here, the motion of the City of Tallahassee and the Tallahassee Chamber of Commerce filed in Docket 29312 be denied, and Docket 29312 is closed.[6]

This order will be published in the Federal Register.

By the Civil Aeronautics Board.

Phyllis T. Kaylor,[7]
Secretary.

[FR Doc.77-22568 Filed 8-4-77;8:45 am]

[3] Southern Airways Route Realignment Investigation, Order 69-9-132, September 24, 1969, p. 6.

[4] The 1975 traffic in certain of these markets is slightly understated. National was not operating due to strike from September 1, 1975, through January 7, 1976. Also, the traffic of commuter operations and the intra-Florida airlines is not included in the Board's O&D surveys.

[5] See footnote (4) above.

[6] Pleadings filed jointly in Dockets 29312 and 30679 shall be considered in connection with Docket 30679.

[7] All members concurred.

DEPARTMENT OF AGRICULTURE

Forest Service

ENVIRONMENTAL STATEMENTS UNDER PREPARATION AS OF JUNE 15, 1977

A list of environmental statements is here published to provide timely public information on the status of Forest Service environmental statements under preparation as of June 15, 1977. Persons interested in a particular action and environmental statement should contact the responsible official directly.

For ease in use of this list, statements are grouped by Forest Service organizational units proposing the action. Statements marked with an asterisk indicate, in total or in part, land management planning, developments, or activities within inventoried roadless areas. National Forest inventoried roadless areas are defined as roadless and undeveloped areas 5,000 acres or larger, except that smaller areas adjoining existing Wilderness and Primitive Areas could be included. Existing Wilderness and Primitive Areas are excluded from this definition.

Forest Service field addresses are given at the end of the listing of environmental statements.

EINAR L. ROGET,
Deputy Chief, Forest Service.

JULY 29, 1977.

FOREST SERVICE ENVIRONMENTAL STATEMENTS UNDER PREPARATION AS OF JUNE 15, 1977

Washington Office, USDA Forest Service, 12th St. and Independence Ave. SW., Washington, D.C. 20250.

Title of environmental statement	Location of proposal	Nature of proposal (i.e., land use, herbicides, etc.)	Responsible official	Date draft filed with Council on Environmental Quality (or estimated date)	Estimated date of final
*Great Bear Wilderness Study	Flathead, Lewis and Clark National Forests, Mont.	Wilderness study	Chief	July 1977	
*A Proposal to Reconstruct Big Creek Dam Using Mechanized Equipment.	Bitterroot National Forest (Selway-Bitterroot Wilderness), Mont.	Dam reconstruction	do	May 1977	July 1977.
*Elkhorn Wilderness Study Area	Helena National Forest, Mont	Wilderness study	do	January 1978	September 1978.
*St. Vrain Wilderness Study	Arapaho and Roosevelt National Forests, Colo.	do	do	November 1976	July 1977.
Comanche-Big South	Roosevelt National Forest, Colo	Wild and scenic river proposal	do	May 1978	December 1978.
Phelps Dodge (Copper Basin)	Prescott National Forest, Ariz	Land exchange	do	March 1976	July 1977.
Flaming Gorge National Recreation Area.	Ashley National Forest, Utah-Wyoming.	Management plan	do	August 1976	December 1977.
Salmon River Wild and Scenic River	Idaho	Legislation	do	June 1975	September 1977.
*Teton Corridor Wilderness Study-Proposal.	Bridger-Teton National Forest, Wyo	do	do	September 1976	July 1977.
*Snow Mountain	Mendocino National Forest, Calif	Wilderness study	do	January 1978	July 1978.
Tuolumne Wild and Scenic River Study.	Stanislaus National Forest, Calif	Wild and scenic river study	do	October 1977	April 1978.
*North Fork American River Wild and Scenic.	Tahoe National Forest, Calif	do	do	December 1977	December 1978.
*North Fork American River Wilderness Study Area.	do	Wilderness study	do		
Mount Shasta Wilderness Study Area	do	do	do	October 1977	January 1978.
*Sheep Mountain Wilderness Study Area.	Angeles National Forest, Calif	do	do	January 1978	July 1978.
*Cougar Lakes	Gifford Pinchot and Snoqualmie National Forests Wash.	do	do	June 1977	July 1978.
*Illinois River Study	Siskiyou National Forest, Oreg	Legislation	do	May 1977	March 1978.
Lower Minam	Wallowa-Whitman National Forest, Oreg	Wilderness study	do	July 1977	June 1978.
Lake Forest Enterprises	Superior National Forest, Minn	Land exchange	do	July 1976	October 1977.
AuSable Wild and Scenic River Study	Huron National Forest, Mich	Legislation	do	August 1977	September 1978.
Manistee Wild and Scenic River Study	Manistee National Forest, Mich	do	do	February 1978	Do.
Round Lake Wilderness Study Area	Chequamegon National Forest, Wis	do	do	December 1977	October 1978.
Flynn Lake Wilderness Area	do	do	do	do	Do.
Cranberry Wilderness Area	Monongahela National Forest, W. Va	do	do	October 1977	April 1978.
*Granite	Tongass National Forest, Alaska	Timber sale	do	September 1977	April 1978.
*Alaska Lumber and Pulp Operating Period 1981-86.	do	do	do	July 1979	December 1979.
*Ketchikan Pulp Co. 1979-84 Operating Period.	do	do	do	December 1977	July 1978.
Sopchoppy Wilderness Study Plan	Apalachicola National Forest, Fl	Legislation	do	November 1977	March 1978.

Regional office, region 1—Northern Region, USDA, Forest Service, Federal Bldg., Missoula, Mont. 59807

Title of environmental statement	Location of proposal	Nature of proposal (i.e., land use, herbicides, etc.)	Responsible official	Date draft filed with Council on Environmental Quality (or estimated date)	Estimated date of final
Beaverhead National Forest	Beaverhead National Forest, Mont	Land management plan	Regional forester	February 1977	September 1977.
Sapphires	Bitterroot National Forest, Mont	do	do	September 1977	March 1978.
*Bertie Lord-Meadow-Cameron	do	do	do	August 1977	December 1977.
Timber Management	do	Rescuree plan	do	September 1977	January 1978.
*Lowell	Clearwater National Forest, Idaho	Land management plan	do	March 1976	August 1977.
Clearwater Working Circle Timber Management Plan.	do	Revised timber management plan.	do	September 1977	March 1978.
Clearwater-St. Joe Divide	Clearwater and Panhandle National Forests, Idaho.	Land management plan	do	November 1977	
Silvicultural Use of Herbicides in Northern Idaho.	do	Herbicide use	do	July 1977	September 1977.
Pryor Mountain Complex	Custer National Forest, Mont	Land management plan	do		
Ashland	Custer National Forest, Mont	do	do	September 1977	December 1977.
Beartooth Face [1]	Custer and Gallatin National Forests, Mont.	do	do	do	March 1978.
Beartooth Plateau [2]	Custer, Gallatin, and Shoshone National Forests, Mont. and Wyo.	do	do	July 1976	December 1977.
Coeur d'Alene	St Joe National Forest, Idaho	do	do	July 1977	
Big Creek/North Fork	do	do	do	September 1977	
Smith Creek	Idaho-Panhandle National Forests, Idaho.	do	do	July 1975	July 1977.
Tungsten	do	do	do	August 1977	
Upper Priest	Kaniksu National Forest, Idaho	do	do	September 1977	
Upper Rock Creek	Deerlodge National Forest, Mont	do	do	Fubruary 1977	August 1977.
Little Boulder-Whitetail	do	do	do	September 1977	January 1978.
Eastside-Lockhart-Browns Gulch	do	do	do	March 1978	July 1978.
Highlands	do	do	do	November 1978	March 1979.
Anaconda/Hamilton Transmission Line.	Deerlodge and Bitterroot, Lolo National Forests, Mont.	Powerline	Forest supervisors	March 1978	July 1978.
Anaconda	Deerlodge National Forest, Mont	Land Management plan	Regional forester	June 1978	September 1978.
Island	Flathead National Forest, Mont	do	do	October 1977	April 1978.
Logan	do	do	do	August 1977	February 1978.

Title of environmental statement	Location of proposal	Nature of proposal (i.e., land use, herbicides, etc.)	Responsible official	Date draft filed with Council on Environmental Quality (or estimated date)	Estimated date of final
*Hornet	Kootenai National Forest, Mont	do	do	April 1977	October 1977.
Pinkham-Alkali-Fortine	do	do	do	March 1977	September 1977.
*Vermillion-Beaver-Marten	do	do	do	August 1977	February 1978.
*Lick Mountain-Rock Candy	do	do	do	July 1977	January 1978.
*Star	do	do	do	September 1977	March 1978.
Ziegler	do	do	do	October 1977	April 1978.
*Hoodoo-Fisher	do	do	do	December 1977	June 1978.
Rocky Mountain Fronrt	Lewis and Clark National Forest, Mont	do	do	June 1977	December 1977.
Smith River and Logging Pilgrim	do	do	do	December 1977	June 1978.
Yogo-Bear and Dry Wolf	do	do	do	July 1978	
*Placid-Blanchard	Lolo National Forest, Mont	do	do	February 1977	September 1977.
*Big Hole	do	do	do	May 1976	Do.
East Shore Flathead Lake	Flathead National Forest, Mont	do	do	June 1977	November 1977.
*Hungry Horse West	do	do	do	December 1977	June 1978.
West Half Yellowstone	do	do	do	October 1977	January 1978.
Hilgard-Taylor	do	do	do	June 1978	October 1978.
Buck Creek-Yellow Mule	do	Road construction	do	September 1976	July 1977.
Mike Horse	Helena National Forest, Mont	Land management plan	do	December 1977	June 1978.
Magpie Confederate	do	do	do	July 1976	January 1978.
Colorado-Unionville-Travis	do	do	do	November 1976	June 1978.
East Belt	do	do	do	September 1977	March 1978.
Nevada-Stemple-Little Prickly Pear	do	do	do	December 1978	
*Keeler	Kootenai National Forest, Mont	do	do	July 1977	December 1977.
*West End	Lolo National Forest, Mont	do	do	August 1977	January 1978.
*Lower Rock Creek	do	do	do	September 1977	March 1978.
*Sacajawea-Cutoff	do	do	do	August 1977	January 1978.
West Nezperce	Nezperce National Forest, Idaho	do	do	January 1979	June 1979.
*Gospel Hump	do	do	do	October 1978	March 1979.
Meadow Creek	do	do	do	January 1978	June 1978.
Hot Point	do	do	do	September 1977	February 1978.
Timber Management Plan	do	do	do	do	Do.
Western Spruce Budworm Management	Northern region Montana, Idaho, North and South Dakota.	Management of spruce budworm.	do	March 1977	July 1977.

Regional office, region 2—Rocky Mountain Region, USDA, Forest Service, 11177 West 8th Ave., P.O. Box 25127, Denver, Colo. 80225

*Boulder Grand Divide	Arapaho and Roosevelt National Forests, Colo.	Land management plan	Regional forester	November 1976	July 1977.
*East Grand County	Arapaho National Forest, Colo	do	do	August 1977	February 1978.
Norbeck Wildlife Preserve	Black Hills National Forest, S. Dak. and Wyo.	do	do	July 1977	December 1977.
*East River	Gunnison National Forest, Colo	do	do	December 1975 (amended July 1977).	September 1977.
*Grand Mesa-Muddy Creek and West Elk.	Gunnison and Grand Mesa National Forests, Colo.	do	do	June 1978	September 1978.
*North Hayden	Medicine Bow National Forest, Wyoming.	do	do	December 1977	June 1978.
*Huston Park Area (Proposed Cheyenne Water Diversion Project).	do	do	do	December 1976	July 1977.
Bear Creek Uranium Project	do	Mineral development	Regional forester, USGS and NRC.	do	Do.
Management of Prairie Dogs	All lands administered as a part of the Nebraska National Forest, South Dakota and Nebraska.	Management of prairie dogs	Forest supervisor	June 1977	October 1977.
*Southern San Juan	Rio Grande and San Juan National Forest's, Colo., Carson National Forest, N. Mex.	Land management plan	Regional forester	September 1977	July 1978.
*South Fork	Rio Grande National Forest, Colo	do	do	Deferred, pending legislation involving Goose Creek (Deep Creek-Decker Creek-RD roadless area).	
Timber Management Supplement	do	Resource plan	do	July 1977	
Comanche-Big South Unit	Roosevelt National Forest Colo	Land management plan	do	May 1978	December 1978.
Timber Management	do	Resource plan	do	February 1978	August 1978.
*Bears Ears Unit	Routt National Forest, Colo	Land management Plan	do	June 1976	September 1977.
*Williams Fork	do	do	do	October 1977	July 1978.
*Arkansas Planning Unit	San Isabel National Forest, Colo	do	do	November 1977	March 1978.
*Dolores	San Juan National Forest, Colo	do	do	September 1976	September 1977.
*Pagosa Springs	do	do	do	August 1977	February 1978.
*South Animas	do	do	do	September 1977	March 1978.
*Piedra	do	do	do	January 1978	July 1978.
*DuNoir Special Management Unit	Shoshone National Forest, Wyo	do	do	July 1977	November 1977.
*Beartooth Plateau Unit (with region 1).	Shoshone, Gallatin, and Custer National Forests, Montana and Wyoming	do	do	July 1976 (supplement July 1977).	October 1977.
*Thompson Creek and Upper Crystal Units.	White River National Forest, Colo.	do	do	August 1976	November 1977.
*Upper Eagle Unit	do	do	do	August 1977	January 1978.
*Eagle-Aspen	do	do	do	March 1977	July 1977.
Timber Management	do	Resource plan	do	February 1976	do

Regional office, region 3—Southwestern Region, USDA, Forest Service, 517 Gold Avenue SW., Albuquerque, N. Mex. 87102

Title of environmental statement	Location of proposal	Nature of proposal (i.e., land use, herbicides, etc.)	Responsible official	Date draft filed with Council on Environmental Quality (or estimated date)	Estimated date of final
Barometer	Apache-Sitgreaves National Forest, Ariz.	Land management plan	Regional forester	July 1977	January 1978.
Sitgreaves	do	Resource plan	do	do	Do.
*Manzano Mountain	Cibola National Forest, N. Mex.	Land management plan	do	June 1977	December 1977.
Cinder Hills	Coconino National Forest, Ariz.	do	do	March 1978	October 1978.
Oak Creek	do	do	do	January 1979	June 1979.
Huachuca	Coronado National Forest, Ariz.	do	do	July 1977	November 1977.
Rosemont	do	Land exchange	Forest supervisor	do	Do.
*Gila	Gila National Forest, N. Mex.	Resource plan	Regional forester	October 1978	June 1979.
*Gilita Unit	do	Land management plan	do	September 1977	February 1978.
Algaecide Treatment	do	Weed control	Forest supervisor	December 1976	July 1977.
Geothermal Leasing	do	Mineral leasing	do	June 1977	December 1977.
Williams Unit	Kaibab National Forest, Ariz.	Land management plan	Regional forester	September 1977	February 1978.
South Kaibab	do	Resource plan	do	do	Do.
Eagle Creek Dam and Reservoir	Lincoln National Forest, N. Mex.	City water storage	Forest supervisor	April 1977	October 1977.
*Ruidoso Unit	do	Land management plan	Regional forester	January 1978	April 1978.
Cloudcroft Unit	do	do	do	July 1979	November 1978.
*Thumb Butte Unit	Prescott National Forest, Ariz.	do	do	June 1978	September 1978.
*Tesuque Unit (Santa Fe Unit Enlarged.	Santa Fe National Forest, N. Mex.	do	do	December 1977	June 1979.
*Pecos Unit	do	do	do	September 1977	December 1977.
*Upper Salt Unit	Tonto National Forest, Ariz.	do	do	June 1978	November 1978.

Regional office, region 4—Intermountain Region, USDA, Forest Service, 324–25th St., Ogden, Utah 84401

Title of environmental statement	Location of proposal	Nature of proposal (i.e., land management, herbicide, etc.)	Responsible official	Date draft filed with Council on Environmental Quality (or estimated date)	Estimated date of final
Timber Management Plan	Ashley National Forest, Utah	Resource plan	Regional forester	May 1977	December 1977.
*High Uintas South Slope	do	Land Management plan	do	August 1977	February 1978.
*Daggett-Flaming Gorge	do	do	do	October 1977	April 1978.
Timber Management Plan	Boise National Forest, Idaho	Resource plan	do	May 1976	December 1977.
*Landmark Planning Unit (amended final).	do	Land Management plan	do	do	September 1977.
*Union Pass Planning Unit	Bridger-Teton National Forest, Wyo.	do	do	January 1977	October 1977.
*Greys-Salt River Planning Unit	do	do	do	August 1977	March 1978.
*Timber Management Plan	do	Resource plan	do	September 1977	March 1978.
*Diamond Creek Planning Unit	Caribou National Forest, Idaho	do	do	May 1976	October 1977.
*Bear River Planning Unit	do	do	do	June 1977	November 1977.
*Challis-Squaw Creek Planning Unit	Challis National Forest, Idaho	do	do	December 1977	June 1978.
*Paunsaugunt-Sevier Planning Unit	Dixie National Forest, Utah	do	do	July 1977	December 1977.
*Fremont Planning Unit	Fishlake National Forest, Utah	do	do	September 1977	Do.
*Tushar Mountains Planning Unit	do	do	do	May 1978	November 1978.
*Mount Moriah Planning Unit	Humboldt National Forest, Nev.	do	do	October 1977	June 1978.
*Moab Planning Unit	Manti-LaSal National Forest, Colo.-Utah.	do	do	January 1978	April 1978.
*Ferron-Price Planning Unit	Manti-LaSal National Forest, Utah	do	do	do	July 1978.
*Warren Planning Unit	Payette National Forest, Idaho	do	do	November 1977	March 1978.
*McCall Planning Unit	do	do	do	September 1977	December 1977.
*Timber Management Plan	Salmon National Forest, Idaho	Resource plan	Regional forester	June 1978	December 1978.
*Leesburg Planning Unit	do	Land Management Plan	do	June 1977	September 1977.
*Leadore Planning Unit	do	do	do	do	Do.
*Divide Planning Unit	do	do	do	January 1978	June 1978.
*Albion Planning Unit	Sawtooth National Forest, Idaho	do	do	September 1977	February 1978.
*Island Park Planning Unit	Targhee National Forest, Idaho	do	do	July 1977	January 1978.
*Big Hole Mountains Planning Unit	do	do	do	November 1977	March 1978.
*Timber Management Plan	do	Resource plan	do	February 1978	August 1978.
Island Park Geothermal Leasing	do	do	Forest supervisor	July 1978	January 1979.
*Alpine Planning Unit	Toiyabe National Forest, Nevada-California.	Land management plan	Regional forester	June 1976	August 1977.
*Hobble-Diamond Planning Unit	Uinta National Forest, Utah	do	do	September 1977	February 1978.
*North Slope Planning Unit	Wasatch National Forest, Utah	do	do	March 1976	September 1977.
*Salt Lake	do	do	do	July 1977	December 1977.

Regional office, region 5—California Region, USDA, Forest Service, 630 Sansome St., San Francisco, Calif. 94111

Title of environmental statement	Location of proposal	Nature of proposal (i.e., land use, herbicide, etc.)	Responsible official	Date draft filed with Council on Environmental Quality (or estimated date)	Estimated date of final
*San Gabriel	Angeles National Forest, Calif.	Land management plan	Regional forester	May 1977	October 1977.
Bouquet Canyon	do	Recreation plan	do	September 1977	March 1978.
*Trabuco	Cleveland National Forest, Calif.	Land management plan	do	August 1977	Do.
*Descanso	do	do	do	June 1979	June 1980.
Volcanoville	Eldorado National Forest, Calif.	do	do	June 1976	July 1977.
Timber Management Plan	do	Resource plan	do	March 1977	August 1977.
Sierra Ski Ranch	do	Winter sports	Forest supervisor	do	July 1977.
*Mammoth	Inyo National Forest, California	Land management plan	Regional forester	December 1977	June 1978.
Mono Basin	do	do	do	do	do.
*Bishop Creek	do	do	do	July 1977	December 1977.
Timber Management Plan	do	Resource plan	do	June 1978	December 1978.
Long Valley KGRA	Inyo National Forest and associated national resource lands.	Geothermal leasing, exploration, and development.	Forest supervisor Inyo National Forest, and Bakersfield district manager, BLM.	do	do.
*North Siskiyou	Klamath National Forest, Calif., Rogue River National Forest, Oreg., Siskiyou National Forest, Oreg.	Land management plan	Regional forester	May 1978	do.
*Almanor Planning Unit	Lassen National Forest, Calif.	do	do	August 1977	June 1978.
Big Sur Coastal	Los Padres National Forest, Calif.	do	do	December 1976	July 1977.
*Mt. Pinos	do	do	do	June 1978	December 1978.
*Middle Eel Planning Unit	Mendocino National Forest, Calif.	do	do	March 1978	September 1978.
Mendocino National Forest Timber Management Plan.	do	Resource plan	do	September 1977	February 1978.
*Medicine Lake	Modoc National Forest, Calif.	Land management plan	do	July 1977	November 1977.
Warner Mountain	do	do	do	December 1977	May 1978.
*Mohawk Planning Unit	Plumas National Forest, Calif.	do	do	July 1976	July 1977.
*Feather River	do	do	do	March 1978	December 1978.
Twin Valley	do	do	do	October 1979	July 1980.
Eastern Plumas	do	do	do	November 1979	June 1981.
Timber Management Plan	Angeles, Cleveland, Los Padres, and San Bernardino National Forests, Calif.	Resource plan	do	July 1977	September 1977.
Big Bear Basin	San Bernardino National Forests, Calif.	Land management plan	do	do	December 1977.
*Plateau	Sequoia National Forests, Calif.	do	do	November 1978	April 1979.
*Hume	do	do	do	May 1979	October 1979.
*Tule	do	do	do	May 1980	November 1980.
*South Fork Mountain	Shasta-Trinity National Forests, Calif.	do	do	August 1977	November 1977.
*Girard-McCloud	do	do	do	September 1977	December 1977.
Rancheria	Sierra National Forests, Calif.	do	do	September 1976	July 1977.
*Eastern	do	do	do	September 1977	March 1978.
*Huntington-Dinkey	do	do	do	April 1978	September 1978.
Chiquito-Bass Lake	do	do	do	July 1978	January 1979.
*Mariposa	do	do	do	November 1978	April 1979.
Timber Management Plan	do	Resource plan	do	September 1977	February 1978.
Fox Supplement	do	Land management plan	do	do	February 1978.
*Chimney Rock Section of G-O Road	do	Project	do	July 1977	November 1977.
Timber Management Plan	Tahoe National Forest, Calif.	Resource plan	do	September 1977	January 1978.
*Foresthill-Hell Hole	Tahoe and Eldorado National Forest, Calif.	Land management plan	do	October 1978	June 1979.
*Nevada City	Tahoe National Forest, Calif.	do	do	October 1979	May 1980.
Downieville	do	do	do	October 1980	May 1981.
*Unit Plan for National Forest lands in Tahoe Basin Management Unit.	Lake Tahoe Basin	do	do	October 1978	July 1979.

Regional office, region 6—Pacific Northwest Region, USDA, Forest Service, 319 SW. Pine St., Portland, Oreg. 97208

Title of environmental statement	Location of proposal	Nature of proposal (i.e., land use, herbicides, etc.)	Responsible official	Date draft filed with Council on Environmental Quality (or estimated date)	Estimated date of final
*Colville-East	Colville, National Forest, Wash.	do	do	November 1977	June 1978.
*Harvey Creek	do	do	do	October 1977	May 1978.
*Kettle Range	do	do	do	December 1976	October 1977.
*Sullivan-Salmo	do	do	do	June 1977	January 1978.
*Tonasket	Colville and Okanogan National Forests, Wash.	do	do	September 1977	April 1978.
*10-Yr Timber Management Plan	Colville National Forest, Wash.	Resource plan	do	October 1977	June 1978.
*Deschutes	Deschutes National Forest, Oreg.	Land management plan	do	August 1977	January 1978.
*Panhandle	Deschutes, Umpqua and Winema National Forests Oreg.	do	do	March 1978	December 1978.
*Fremont	Fremont National Forest, Oreg.	do	do	December 1977	May 1978.
*10-Yr Timber Management Plan	Lakeview Federal Sus. yield unit, Fremont National Forest, Oreg.	Resource plan	do	July 1977	December 1977.
*10-Yr Timber Management Plan	Klamath Basin W.C., Fremont and Winema National Forests, Oreg.	do	do	do	March 1978.
*Bear Creek	Gifford Pinchot National Forest, Wash.	Land management plan	do	June 1977	November 1977.
*Cowlitz	do	do	do	October 1977	April 1978.
*Lone Tree	do	do	do	November 1977	May 1978.
*Trapper-Siouxon	do	do	do	April 1976	July 1977.
Upper Cispus	do	do	do	July 1977	January 1978.
*Naches-Tieton-White River	Gifford Pinchot, Mount Baker-Snoq. and Wenatchee National Forests, Wash.	do	do	June 1977	July 1978.
*Desolation	Malheur, Umatilla, and Wallowa-Whitman National Forests, Oreg.	do	do	February 1978	August 1978.
*John Day	Malheur and Umatilla National Forests, Oreg.	do	do	February 1976	February 1978.

Title of environmental statement	Location of proposal	Nature of proposal (i.e., land use, herbicides, etc.)	Responsible official	Date draft filed with Council on Environmental Quality (or estimated date)	Estimated date of final
*Silvies-Malheur	Malheur, Ochoco and Wallowa-Witman National Forests, Oreg.	do	do	July 1977	April 1978.
*South Fork	Malheur and Ochoco National Forests, Oreg.	do	do	May 1976	November 1977.
*10-Year Timber Management Plan	Malheur, Umatilla and Wallowa-Whitman National Forests, Oreg.	Resource Plan	do	November 1977	March 1978.
Green River	Mount Baker-Snoq. National Forest, Wash.	Watershed Mangement plan	do	February 1979	November 1979.
*Mt. Baker	do	Land management plan	do	August 1977	February 1978.
*Skykomish	Mount Baker-Snoq. and Wenatchee National Forests, Wash.	do	do	September 1977	June 1978.
*10-Yr Timber Management Plan	Mount Baker-Snoq. National Forest, Wash.	Resource plan	do	March 1978	November 1978.
*Badger-Jordan	Mount Hood National Forest, Oreg	Land Management plan	do	December 1976	October 1977.
*Bull Run	do	do	do	August 1976	January 1978.
*Clackamas	do	do	do	June 1978	November 1978
*Mt. Hood Interagency	do	do	do	March 1976	August 1977.
Mount Hood Meadows	Mount Hood National Forest, Oreg	Ski area development	Forest Supervisor	May 1977	October 1977.
*10-Yr Timber Management Plan	do	Resource plan	Regional Forester	August 1976	August 1977.
Grassland	Ochoco National Forest, Oreg	Land Management plan	do	August 1978	January 1979.
*Ochoco-Crooked River	do	Land Management plan	do	September 1977	March 1978.
*10-Yr Timber Management Plan	do	Resource plan	do	April 1977	November 1977.
*North Central Washington Spruce Budworm Project.	Okanogan and Wenatchee National Forests, Wash.	Infestation evaluation	do	February 1977	August 1977.
*Canal Front	Olympic National Forest, Wash	Land Management plan	do	March 1978	August 1978.
*10-Yr Timber Management Plan	Shelton Sus. yield unit, Olympic National Forest, Wash.	Resource plan	do	January 1978	May 1978.
Do	Olympic W. C. Olympic National Forest, Wash.	do	do	November 1978	March 1979.
Do	Rogue River National Forest, Oreg	do	do	September 1977	March 1978.
*McLoughlin-Klamath	Rogue River and Winema National Forests, Oreg.	Land Management plan	do	April 1977	December 1977.
*North Siskiyou	Rogue River and Siskiyou National Forests, Oregon and Klamath National Forest, Calif.	do	do	March 1978	December 1978.
Upper Rogue	Rogue River and Umpqua National Forests Oreg.	do	Regional forester	November 1977	April 1978.
*Chetco-Greyback	Siskiyou National Forest, Oreg	do	do	July 1977	December 1977.
Coquille	do	do	do	January 1978	December 1978.
*Rogue-Illinois	do	do	do	November 1976	July 1977.
*10-Year Timber Management Plan	do	Resource plan	do	September 1977	March 1978.
*Alsea	Siuslaw National Forest, Oreg	Land Management plan	do	August 1978	February 1979.
*Hebo	do	do	do	August 1977	May 1978.
Siuslaw	Siuslaw National Forest, Oreg	Land management plan	do	April 1979	October 1979.
*10-Yr Timber Management Plan	do	Resource plan	do	December 1977	June 1978.
*Elgin	Umatilla National Forest, Oreg	Land management plan	do	November 1977	May 1978.
*Grande Ronde	Umatilla and Wallowa-Whitman National Forests, Oreg.	do	do	August 1976	November 1976.
*Heppner	Umatilla National Forest, Oreg	do	do	March 1978	October 1978.
*Umpqua	Umpqua National Forest, Oreg	do	do	June 1977	November 1977.
Applegate Creek Water Impoundment	do	Water project	Forest supervisor	August 1977	January 1978.
*10-Yr Timber Management Plan	do	Resource plan	Regional forester	March 1977	October 1977.
*Burnt Powder	Wallowa-Whitman National Forest, Oreg	Land managment plan	do	September 1977	February 1978.
Mount Howard	do	Recreation development	Forest supervisor	January 1978	June 1978.
Kittitas	Wenatchee National Forest, Wash	Land management plan	Regional forester	November 1977	May 1978.
*Bellnap Springs	Willamette National Forest, Oreg	Geothermal development	do	December 1977	Do.
Breitenbush	do	do	do	October 1976	October 1977.
Chiloquin	Winema National Forest, Oreg	Land management plan	do	November 1978	April 1979.

Regional Office, region 8—Southern Region, USDA, Forest Service, 1720 Peachtree Rd., NW., Atlanta, Ga. 30309

Conecuh	Conecuh National Forest, Ala	do	do	November 1976	September 1977.
Lake Russell	Chattahoochee National Forest, Ga	do	do	February 1978	November 1978.
Oconee	Oconee National Forest, Ga	do	do	August 1978	February 1979.
South Skeps	Chattahoochee National Forest, Ga	do	do	September 1976	February 1978.
Chattahoochee Timber Plan	do	Resource plan	do	February 1978	August 1978.
Laurel River	Daniel Boone National Forest, Ky	Land management plan	do	February 1976	September 1977.
Licking River	do	do	do	October 1977	January 1978.
Cumberland River	do	do	do	December 1977	May 1978.
Beaver Creek Wilderness	do	Prospecting	do	February 1977	November 1977.
Ocala Timber Plan	Ocala National Forest, Fla	Resource plan	do	November 1977	March 1978.
Wakulla	Apalachicola National Forest, Fla	Land management llan	do	do	May 1978.
Francis Marion	Francis Marion National Forest, S.C	do	do	April 1977	September 1977.
Massanutten	George Washington National Forest, Va	do	do	July 1976	December 1977.
Cave Mountain Lake	Jefferson National Forest, Va	do	do	February 1974	September 1977.
Mt. Rogers NRA	do	Resource plan	do	September 1977	July 1978.
High Knob	do	Land management plan	do	December 1977	June 1978.
Revised 10-Yr Timber Plan	do	Resource plan	do	August 1977	April 1978.
Vernon	Kisatchie National Forest, La	Land management plan	do	September 1976	August 1977.
Kisatchie	do	do	do	October 1977	March 1978.

Title of environmental statement	Location of proposal	Nature of proposal (i.e., land use, herbicides, etc.)	Responsible official	Date draft filed with Council on Environmental Quality (or estimated date)	Estimated date of final
Holly Spring-Tombigbee Timber Plan	Holly Spring-Tombigbee National Forest, Miss.	Resource plan	do	March 1977	September 1977.
Black Creek	Desota National Forest, Miss.	Land management plan	do	October 1977	January 1978.
Croatan Timber Plan	Croatan National Forest, N.C.	Resource plan	do	December 1977	September 1978.
Fourche La Fave	Ouachita National Forest, Ark.	Land management plan	do	October 1977	May 1978.
Maumelle-Saline	do	do	do	October 1977	February 1978.
Tiak	do	do	do	December 1976	October 1977.
Talimena	do	do	do	November 1977	June 1978.
Ouachita Timber Plan	do	Resource plan	do	October 1977	April 1978.
Ozark Timber Plan	Ozark National Forest, Ark.	do	do	April 1977	November 1977.
St. Francis	St. Francis National Forest, Ark.	Land management plan	do	April 1976	August 1977.
Wedington	Ozark National Forest, Ark.	do	do	August 1977	March 1978.
Lee Creek	do	do	do	October 1977	Do.
Mulberry	do	do	do	December 1977	May 1978.
Sabine	Sabine National Forest, Tex.	do	do	Deferred	
Sam Houston	Sam Houston National Forest, Tex.	do	do	do	
Angelina Timber Plan	Angelina National Forest, Tex.	Resource plan	do	do	
Davy Crockett Timber Plan	do	do	do	do	
Caribbean	Caribbean National Forest, Puerto Rico.	Land management plan	do	January 1978	August 1978.
Osceola	Osceola National Forest, Fla.	do	do	July 1978	January 1979.
Piedmont Working Circle Timber Plan	Sumter National Forest, N.C.	Resource plan	do	July 1978	Do.
Evangeline	Kisatchie National Forest, La.	Land management plan	do	November 1977	May 1978.

Regional office, region 9—Eastern Region, USDA, Forest Service, 633 West Wisconsin Avenue, Milwaukee, Wis. 53203

Buzzard Swamp Unit	Allegheny National Forest, Pa.	do	do	October 1976	September 1977.
Mill Creek Unit	do	do	do	June 1978	December 1978.
Timber Management Plan	do	Resource plan	do	November 1976	August 1977.
Do.	Chequamegon National Forest, Wis.	do	do	October 1976	September 1977.
Do.	Green Mountain National Forest, Vt.	do	do	December 1976	July 1977.
Do.	Hiawatha National Forest, Mich.	do	do	September 1977	March 1978.
Willow Springs Unit	Mark Twain National Forest, Mo.	do	do	September 1976	August 1977.
Fredericktown Unit	do	do	do	August 1978	February 1979.
Salem/Potosi Unit	do	do	do	February 1979	August 1979.
Monongahela	Monongahela National Forest, W. Va.	do	do	February 1977	September 1977.
Spruce Knob Lakes Recreation Complex.	do	Recreation	do	August 1977	January 1978.
Shavers Fork Unit	do	Land management plan	do	September 1977	February 1978.
Fluorspar Activities in Lust Creek	Shawnee National Forest, Ill.	Mining related	Forest supervisor	June 1977	December 1977.
Waterville Unit	White Mountain National Forest, N.H.	Land management plan	Regional forester	do	November 1977.
Presidential Unit	do	do	do	October 1977	March 1978.
Wild River Unit	do	do	do	April 1978	September 1978.

Regional office, region 10—Alaska Region, USDA, Forest Service, P.O. Box 1628, Juneau, Alaska 99802

Title of environmental statement	Location of proposal	Nature of proposal (i.e., land use, herbicides, etc.)	Responsible official	Date draft filed with Council on Environmental Quality (or estimated date)	Estimated date of final
1976-86 Chugach National Forest Timber Management Plan Revision.	Chugach National Forest, Alaska	Program plan	Forest supervisor	September 1977	March 1978.
*Cannery Creek	do	Timber sale	do	January 1977	August 1977.
*Phase II, Upper Prince William Sound	do	Land use plan	Regional forester	August 1977	February 1978.
*Valley Timber Sale	do	Timber sale	Forest supervisor	September 1976	July 1977.
Naked Island	do	do	do	March 1977	October 1977.
Siwash Bay	do	do	do	August 1977	January 1978.
Chugach Moose-Fire Management Program.	do	Prescribed burning	do	March 1977	August 1977
Copper River	Chugach National Forest, Alaska	Land management plan	Regional forester	March 1978	July 1978.
*Seal Creek	Tongass National Forest, Alaska	Timber sale	Forest supervisor	August 1978	January 1979.
Cowee Creek	do	do	do	May 1978	Do.
*Karta	do	Land management plan	Regional forester[1]	August 1976	Postponed.
*Dall Island	do	do	do	September 1978	February 1979.
*TODAHL	do	Timber sale	do	August 1977	December 1977.
*Patterson River	do	do	Forest supervisor	September 1977	February 1978.
*Rocky Pass	do	Land management plan	Regional forester	July 1977	December 1977.
Management Plan	do	do	do	December 1978	June 1979.
SE. Alaska Area Guide Tongass National Forest.	All areas	Area guide	do	April 1977	November 1977.

[1] Custer National Forest is the lead forest.
[2] Shoshone National Forest, R-2 is lead forest, originally the Beartooth Highway Planning Unit.

FOREST SERVICE FIELD ADDRESSES

Northern Region, R-1, USDA, Forest Service, Federal Building, Missoula, Montana 59807.
Southwestern Region, R-3, USDA, Forest Service, 517 Gold Avenue, SW., Albuquerque, New Mexico 87102.
California Region, R-5, USDA, Forest Service, 630 Sansome Street, San Francisco, California 94111.
Southern Region, R-8, USDA, Forest Service, 1720 Peachtree Road, NW., Atlanta, Georgia 30309.
Alaska Region, R-10, USDA, Forest Service, P.O. Box 1628, Juneau, Alaska 99802.
Southeastern Area, S&PF, SA, USDA, Forest Service, 1720 Peachtree Road, NW., Atlanta, Georgia 30309.
Rocky Mountain Region, R-2, USDA, Forest Service, POB 25127, 11177 West Eighth Avenue, Denver, Colorado 80225.
Intermountain Region, R-4, USDA, Forest Service, 324 25th Street, Ogden, Utah 84401.
Pacific Northwest Region, R-6, USDA, Forest Service, 319 SW Pine Street, Portland, Oregon 97208.
Eastern Region, R-9, USDA, Forest Service, 633 W. Wisconsin Avenue, Milwaukee, Wisconsin 53203.
Northeastern Area, S&PF, NA, USDA, Forest Service, 6816 Market Street, Upper Darby, Pennsylvania 19082.

[FR Doc.77-22315 Filed 8-4-77;8:45 am]

Forest Service

LOWER MINAM WILDERNESS STUDY AREA REPORT

Public Hearing

Notice is hereby given that a public hearing will be held, beginning at 9 a.m. on October 15, 1977, in the Eastern Oregon State College Classroom Building Auditorium, La Grande, Oreg., on a proposal for the future management of the Lower Minam Wilderness Study Area comprised of approximately 34,000 acres within the Wallowa-Whitman National Forest in the Counties of Union and Wallowa in the State of Oregon.

A brochure containing a map and information about the proposal may be obtained from the Forest Supervisor, Wallowa-Whitman National Forest, P.O. Box 907, Baker, Oreg. 97814.

Individuals and organizations may express their views by appearing at this hearing, or may submit written comments for inclusion in the official record to the Forest Supervisor, P.O. Box 907, Baker, Oreg. 97814. Those persons wishing to present oral testimony at the hearing should notify the Forest Supervisor, P.O. Box 907, Baker, Oreg. 97814, prior to October 8, 1977.

Dated: July 29, 1977.

R. A. RESLER,
Acting Chief, Forest Service.

[FR Doc.77-22613 Filed 8-4-77;8:45 am]

PACIFIC CREST NATIONAL SCENIC TRAIL ADVISORY COUNCIL

Meeting

The Pacific Crest National Scenic Trail Advisory Council will meet on August 29-31, 1977, at the Thunderbird Inn at the Quay in Vancouver, Wash. The meeting will begin on August 29 at 1 p.m. On August 31, a field trip to view portions of the trail, on or near the Gifford Pinchot National Forest, begins at 8 a.m.

The purpose of the meeting is to provide orientation to the Council members and to receive Council recommendations. The meeting will include a review of trail status through council and agency reports, discussion of sanitation measures needed, status of rights-of-way and use of volunteers.

The meetings will be open to the public. Persons who wish additional information concerning the meeting should contact Donald A. Warman, Recreation Staff, Pacific Northwest Region, Forest Service, P.O. Box 3623, Portland, Oreg. 97208, phone 503-221-3644.

CHESTER A. SHIELDS,
Acting Deputy Chief.

[FR Doc.77-22614 Filed 8-4-77;8:45 am]

Office of the Secretary

NATIONAL FOREST SYSTEM ADVISORY COMMITTEE

Notice of Intent To Establish

The Secretary of Agriculture proposes to establish a National Forest System Advisory Committee in compliance with Section 11 of the National Forest Management Act of 1976 (Pub. L. 94-588) for a two-year period.

The purpose of this Committee is to advise the Secretary of Agriculture on questions of policy, programs, and procedures affecting the administration of the National Forest System.

The Secretary has determined that establishment of the Committee is necessary and in the public interest in connection with the duties imposed on the Department of Agriculture and the Forest Service by law.

Comments of interested persons concerning the establishment of this Committee may be submitted to the Forest Service, USDA, National Forest System, Room 3021-S, P.O. Box 2417, Washington, DC 20013, on or before August 22, 1977.

All written submissions made pursuant to this notice will be available for public inspection in the Office of the Deputy Chief for National Forest System during regular business hours (7 CFR 1.27(b)).

HOWARD W. HJORT,
Director of Economics, Policy Analysis and Budget.

AUGUST 2, 1977.

[FR Doc.77-22529 Filed 8-4-77;8:45 am]

COMMISSION ON CIVIL RIGHTS

ALASKA ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights that a planning meeting of the Alaska Advisory Committee (SAC) of the Commission will convene at 9:00 a.m. and will end at 12:00 noon on August 27, 1977, in the Captain Cook Hotel, 5th and K Streets, Anchorage, Alaska 99501.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Northwestern Regional Office of the Commission, 915 Second Avenue, Room 2852, Seattle, Washington 98174.

The purpose of this meeting is to review proposal for SAC project.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., August 2, 1977.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc.77-22558 Filed 8-4-77;8:45 am]

ILLINOIS ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights that a planning meeting of the Illinois Advisory Committee (SAC) of the Commission will convene at 10:00 a.m. and will end at 3:00 p.m. on September 6, 1977, in the Midwestern Regional Office Conference Room, 230 South Dearborn Street, Chicago, Illinois 60604.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Midwestern Regional Office of the Commission, 230 South Dearborn Street, 32nd Floor, Chicago, Illinois 60604.

The purpose of this meeting is to discuss Chicago Desegregation progress; prepare report for total SAC and Special Education Program for Handicapped Children; select cities to be visited.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., August 2, 1977.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc.77-22559 Filed 8-4-77;8:45 am]

ILLINOIS ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights that a planning meeting of the Illinois Advisory Committee (SAC) of the Commission will convene at 10:00 a.m. and will end at 3:00 p.m. on September 12, 1977 in the Midwestern Conference Room 3280, 230 South Dearborn Street, Chicago, Illinois 60604.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Midwestern Regional Office of the Commission, 230 South Dearborn Street, 32nd Floor, Chicago, Illinois 60604.

The purpose of this meeting is to discuss reports from Education Subcommittee. Plan future meetings, place and dates. Plan activities for calendar year Jan.–Dec. 1978.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., August 2, 1977.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc.77-22560 Filed 8-4-77;8:45 am]

MINNESOTA ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights that a planning meeting of the Minnesota Advisory Committee (SAC) of the Commission will convene at 5:00 p.m. and will end at 9:00 p.m. on September 9, 1977, in the St. Paul Holiday Inn, 161 St. Anthony St. Paul, Minnesota 55103.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Midwestern Regional Office of the Commission, 230 South Dearborn Street, 32nd Floor, Chicago, Illinois 60604.

The purpose of this meeting is to: (1) Discuss action on American Indian women problems; (2) Preparations for American Indians report release; (3) Proposal for Police/Community Relations study.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., August 2, 1977.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc.77-22561 Filed 8-4-77;8:45 am]

CIVIL SERVICE COMMISSION

DEPARTMENT OF AGRICULTURE

Title Change in Noncareer Executive Assignment

By notice of October 9, 1973, FR Doc. 73-21478, the Civil Service Commission authorized the Department of Agriculture to make a change in title of the position of Assistant Administrator, International Trade, Foreign Agricultural Service. This is notice that the title of this position is now being changed to Assistant Administrator, International Trade Policy, Foreign Agricultural Service.

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

[FR Doc.77-22554 Filed 8-4-77;8:45 am]

DEPARTMENT OF THE INTERIOR

Title Change in Noncareer Executive Assignment

By notice of February 4, 1976, FR Doc. 76-3376 the Civil Service Commission authorized the Department of the Interior to fill by noncareer executive assignment the position of Deputy Assistant Secretary —Land and Water Resources (Program Analysis). This is notice that the title of this position is now being changed to Deputy Assistant Secretary—Land and Water Resources.

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

[FR Doc.77-22555 Filed 8-4-77;8:45 am]

DEPARTMENT OF COMMERCE

Domestic and International Business Administration

FOREIGN EXCESS PROPERTY

Proposal To Revise General Determination No. 1 (Revised)

AGENCY: Domestic and International Business Administration.

ACTION: Notice of Intent to amend General Determination No. 1 (Revised) (38 FR 20484 et seq.).

SUMMARY: It is proposed to amend Foreign Excess Property General Determination No. 1 (Revised) by broadening the scope of certain categories of property presently covered by general determination and by including new categories of property, the importation of which would relieve domestic shortages or otherwise be beneficial to the economy of this country.

DATE: Comments due August 19, 1977. Any written communication in connection with this notice should be addressed to:

Foreign Excess Property Officer, Room 6895, U.S. Department of Commerce, Washington, D.C. 20230.

FOR ADDITIONAL INFORMATION CONTACT:

Mr. Frank Creel, who can be reached by telephone on 202-377-4913.

SUPPLEMENTARY INFORMATION: Section 302.4 of the Department of Commerce Foreign Excess Property Regulations (15 CFR Part 302) authorizes the Deputy Assistant Secretary for Resources and Trade Assistance to make a general determination that the importation of particular foreign excess property (FEP) would relieve domestic shortages or otherwise be beneficial to the economy of this country and to amend or withdraw any general determination he may issue. Inclusion of property on general determination facilitates the processing of applications to import FEP by avoiding the otherwise applicable case-by-case internal review. Moreover, persons proposing to purchase FEP abroad are put on notice that authorization to import property covered by general determination will be granted, provided all other requirements of the FEP Regulations are satisfied.

Interested parties are invited to submit written comments concerning the proposed amendments to General Determination No. 1 (Revised). All timely comments will be carefully considered prior to publication of the revised general determination in the FEDERAL REGISTER.

It is proposed to issue General Determination No. 1 on or about September 1, 1977. It is further proposed that General Determination No. 1 will be effective on August 5, 1977. The proposed provisions are less restrictive than those currently in force and delaying their effect would only result in the extension of the more involved application procedures required for foreign excess property not included in General Determination No. 1 (Revised).

It is proposed to amend General Determination No. 1 (Revised) to read as follows:

GENERAL DETERMINATION NO. 1

Importation of foreign excess property consisting of the following listed items would relieve domestic shortages or would otherwise be beneficial to the economy of this general determination and to the requirements of § 302.4 of the Foreign Excess Property Regulations (15 CFR Part 302), foreign excess property specified below may be imported into the United States, unless otherwise prohibited by law.

(a) Used non-combat military motor vehicles. All used non-combat military motor vehicles, irrespective of rated capacity, including general purpose trucks such as cargo, carryall, chassis, panel, pickup, dump, platform, prime mover and stake; special purpose trucks such as shop van, medical van, laboratory, fluid tank, wrecker, and ambulance; and jeeps. This provision does not include passenger cars.

(b) Used parts and components for non-combat military motor vehicles.

(c) Combat military motor vehicles and parts and components thereof.

NOTE.—Military motor vehicles enumerated on the U.S. Munitions Import List are also subject to the import permit requirements of the Department of the Treasury under the Mutual Security Act of 1954, as amended. See 26 CFR Part 180.

(d) Pneumatic tires and inner tubes, excluding passenger car tires and inner tubes. Unused tires subject to this general determination shall prior to entry into the customs territory of the United States (i) be branded with the letters "N.F.C." (Not First Class) in one inch type on each sidewall of each tire so as to be clearly visible above the bead area, or (ii) be buffed so as to remove from each sidewall thereof the name of the manufacturer and trade name(s). Inner tubes must be stamped with indelible ink in one inch block type with the letters "N.F.C.".

(e) Used power transformers, 10001 kilovolt-amperes and above.

(f) Compressed gas cylinders.

(g) Metal scrap, ferrous and non-ferrous.

(h) Used ships, boats, floating equipment (including barges, dry docks and pontoons),

and parts and components thereof. (Excludes battleships, cruisers, aircraft carriers, destroyers and submarines which are not subject to the provisions of the Federal Property and Administrative Services Act of 1949, as amended; 40 U.S.C. 472(d)(2)).

Any of the property described above may be entered into the economy of the United States on presentation of the original FEP Import Authorization to the District Director of Customs for his endorsement at the time of entry: *Provided*, The requirements in paragraph (d) above relating to unused pneumatic tires and innertubes are complied with to the satisfaction of the District Directors of Customs at the port of entry.

Nothing in General Determination No. 1 shall be construed to exempt the importer from presentation of such other entry documents, or conforming with any procedures, required by the U.S. Customs Service.

General Determination No. 1 may be amended or withdrawn by the Deputy Assistant Secretary and notice of such amendment or withdrawal shall be published in the FEDERAL REGISTER (15 CFR 302.4.)

Dated: August 2, 1977.

ROBERT E. SHEPHERD,
Deputy Assistant Secretary for Resources and Trade Assistance.

[FR Doc.77-22572 Filed 8-4-77;8:45 am]

National Oceanic and Atmospheric Administration

ATLANTIC FOREIGN PELAGIC LONGLINE FISHERY

Preliminary Management Plan; Public Hearing Change

Notice is hereby given of a change in the meeting date as published in the FEDERAL REGISTER on July 29, 1977 (42 FR 38625) for a public meeting concerning a draft environmental impact statement for the proposed implementation of a preliminary management plan for the Atlantic Foreign Pelagic Longline Fishery.

The meeting scheduled for August 26, 1977, at the Club Nautico, San Juan, Puerto Rico, 4 to 7 p.m. will now be held on August 24, 1977 at 4:30 to 6:30 p.m. The location remains unchanged.

Dated: August 2, 1977.

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

[FR Doc.77-22619 Filed 8-4-77;8:45 am]

ATLANTIC FOREIGN PELAGIC LONGLINE FISHERY

Preliminary Management Plan; Supplemental Notice of Public Hearing

Notice was given on July 22, 1977, (42 FR 37583) of the availability of a draft environmental impact statement for the proposed implementation of a Preliminary Management Plan (DEIS/PMP) for the Atlantic Foreign Pelagic Longline Fishery and meetings scheduled for public comment upon the DEIS/PMP.

Additional meetings have now been scheduled. Individuals or organizations wishing to comment on the DEIS/PMP may do so at public meetings to be held in conjunction with the South Atlantic Fishery Management Council, which is currently working on the Fishery Management Plan for this fishery. The times and locations are listed below:

AUGUST 22, 1977, SAVANNAH, GA.

Downtowner Motor Inn, 201 W. Oglethorpe Avenue, 7:30 to 10 p.m.

AUGUST 25, 1977, JACKSONVILLE, FLA.

Jacksonville City Council Chamber, City Hall—15th Floor, 220 E. Bay Street, 7:30 to 10 p.m.

AUGUST 26, 1977, CHARLESTON, S.C.

South Carolina Wildlife and Marine Resources Department, 217 Ft. Johnson Road, 7:30 to 10 p.m.

SEPTEMBER 1, 1977, MIAMI, FLA.

Southeast Fisheries Center, National Marine Fisheries Service, 75 Virginia Beach Drive, 7:30 to 10 p.m.

SEPTEMBER 2, 1977, WEST PALM BEACH, FLA.

West Palm Beach Fishing Club, 5th Street and Flagler, 7:30 to 10 p.m.

Copies of the DEIS/PMP 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 from the public may be submitted to the Regional Director not later than September 4, 1977 at the above address.

Dated August 2, 1977.

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

[FR Doc.77-22622 Filed 8-4-77;8:45 am]

NORTH PACIFIC FISHERY MANAGEMENT COUNCIL; SCIENTIFIC AND STATISTICAL COMMITTEE, AND ADVISORY PANEL

Public Meeting

Notice is hereby given of a meeting of the North Pacific Fishery Management Council established by Section 302, and its Scientific and Statistical Committee and Advisory Panel, established by Section 302(g) of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265).

The North Pacific Fishery Management Council has authority, effective March 1, 1977, over fisheries within the fishery conservation zone adjacent to the State of Alaska. 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 Scientific and Statistical Committee will assist the Council in development, collection, and evaluation of such statistical, biological, economic, social, and other scientific information as is relevant to the Council's development and amendment of any fishery management plan. The Advisory Panel contains broad representation from interests affected by Council activities in order to assist the Council in carrying out its functions under the Act.

The meetings will be held Thursday and Friday, August 25-26, 1977, in the Elk's Lodge, Kodiak, Alaska. The meetings will convene at 8:30 a.m., and adjourn at approximately 4:30 p.m. The meeting may be extended or shortened depending upon progress on the agenda.

PROPOSED AGENDA

1. Public hearings on Council management plans and activities.
2. Reports from Scientific and Statistical Committee and Advisory Panel.
3. Progress report and update from Council's Draft Management Planning teams.
4. Review of foreign fishing activities and permits for foreign fishing applications (if any).
5. Other Council business.

The meetings will be open to the public and there will be seating for approximately 100 members of the public available on a first-come, first-served basis.

Members of the public having an interest in specific items for discussion are also advised that agenda changes are at times made prior to the meeting. To receive information on changes, if any, made to the agenda, interested members of the public should contact on or about August 15, 1977:

Mr. Jim Branson, Executive Director, North Pacific Fishery Management Council, P.O. Box 3136 DT, Anchorage, Alaska 96813.

At the discretion of the Council, the Committee, or the Panel, as appropriate, interested members of the public may be permitted to speak at times which will allow orderly conduct of official business. Interested members of the public who wish to submit written comments should do so by addressing Mr. Jim H. Branson at the above address. To receive due consideration and to facilitate inclusion of these comments in the record of the meetings, typewritten statements should be received within 10 days after the close of the meetings.

Date: August 2, 1977.

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

[FR Doc.77-22620 Filed 8-4-77;8:45 am]

SOUTH ATLANTIC FISHERY MANAGEMENT COUNCIL

Supplemental Notice of Public Meetings

Notice was given in the FEDERAL REGISTER on July 18, 1977, (42 FR 36857) of meetings scheduled by the South Atlantic Fishery Management Council for the purpose of providing an opportunity for public input and to serve as a fact-finding mechanism relative to development of a fishery management plan for the domestic and foreign billfish fishery. Additional meetings have been scheduled. These meetings will convene at 7:30 p.m. and adjourn at 10:00 p.m. at the following locations and dates:

August 22, 1977—Downtowner Motor Inn, 201 W. Oglethorpe Avenue, Savannah, Georgia.
August 25, 1977—Jacksonville City Council Chamber, City Hall, 15th Floor, 220 East Bay Street, Jacksonville, Florida.
August 29, 1977—S. C. Wildlife and Marine Resources Dept., 217 Ft. Johnson Road, Charleston, South Carolina.
September 1, 1977—Southeast Fisheries Center, National Marine Fisheries Service, 75 Virginia Beach Drive, Miami, Florida.
September 2, 1977—West Palm Beach Fishing Club, 5th Street and Flagler, West Palm Beach, Florida.

Interested members of the public may present their views on matters related to the billfish fishery and on the management plan under development. Additional information relative to these meetings can be obtained by contacting:

Dr. Jackson Davis, Project Manager, Billfish Management plan, South Atlantic Fishery Management Council, 1 Southpark Circle, Suite 306, Charleston, South Carolina 29407.

Member of the public wishing to submit written comment should do so by addressing the Project Manager. To receive due consideration and facilitate inclusion of such statements in the record of the meetings, typewritten statements should be submitted by September 12, 1977.

Dated: August 2, 1977.

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

[FR Doc.77-22621 Filed 8-4-77;8:45 am]

Office of the Secretary

[Dept. Organization Order 20-3]

OFFICE OF BUDGET AND PROGRAM EVALUATION

Statement of Functions and Organization and Delegation of Authority

This order effective July 14, 1977 supercedes the material appearing at 38 FR 31548 of November 15, 1973.

SECTION 1. *Purpose.*—.01 This order prescribes the functions and organization of the Office of Budget and Program Evaluation (the "Office").

.02 This revision reflects the consolidation of the Office of Budget and Program Analysis and the Office of Program Evaluation, and the establishment of the positions of Deputy Director for Budget and Deputy Director for Program Evaluation (Section 2.).

SEC. 2. *Status and line of authority.*—.01 The Office of Budget and Program Evaluation (OBPE), a Departmental office, shall be headed by a Director who shall report and be responsible to the Assistant Secretary for Administration.

.02 The Deputy Director for Budget shall supervise the Budget Coordination and Reports Division and the program review staffs, advise and assist the Director as assigned with respect to the budget functions of the Office, perform the functions of the Director during the latter's absence, and serve as the Executive Secretary of the Department of Commerce Budget Committee.

.03 The Deputy Director for Program Evaluation shall advise and assist the Director in the area of program evaluation, including its relationship to zero-base budgeting, shall develop an annual program evaluation plan, and shall supervise the Program Evaluation Staff.

SEC. 3. *Functions.*—Pursuant to the authority vested in the Assistant Secretary for Administration by Department Organization Order 10-5, and subject to such policies and directives as the Assistant Secretary for Administration may prescribe, the Office shall:

a. Have Departmentwide staff responsibility for all matters relating to development of plans, guidance and program analysis to assure consistency of resource allocation with policies of the Department, budget formulation, presentation and justification and execution, analysis and reporting of fiscal and program status, and program evaluation; and

b. Establish and maintain a close working relationship with the Office of Management and Budget (OMB), the Budget and Appropriations Committees of the Congress, and other Government agencies as appropriate.

SEC. 4. *Specified authority.*—In addition to the authority implicit in and essential to carrying out the functions assigned to the Office and related to the exercise of such functions, the Director OBPE:

a. Is delegated the authority vested in the Assistant Secretary for Administration pertaining to budget planning and management, analysis and reporting of fiscal and program status, and program evaluation, subject to applicable provisions of law, regulation, and instructions of the Assistant Secretary; and

b. As the Departmental Budget Officer, shall be the adviser to, and representative of the Assistant Secretary for Administration and of the Department, on all program, budget and evaluation matters set forth in Section 3. of this order.

SEC. 5. *Organization.*—Under the direction and supervision of the Director, the functions of the Office shall be organized and carried out as provided below.

.01 The *Budget Coordination and Reports Division.* This Division shall:

a. Establish standards, criteria and procedures for preparing budget estimates and justifications, including the maintenance of the Budget and Program Analysis Handbook; and the development of standards, procedures and operational instructions for resource allocation systems in the Department, such as zero-base budgeting;

b. Coordinate budget programs and activities that require consolidated action by the Department, and coordinate the preparation of budget estimates.

c. Interpret OMB directives on budget matters;

d. Maintain information on the status of Congressional actions on the Department's budget;

e. Prepare budget summaries and analyses;

f. Maintain the Department's budget history;

g. Maintain liaison with OMB staff and with staffs of Budget and Appropriations Committees on budget matters as necessary to carry out the Division's responsibilities;

h. Establish reporting requirements from operating units on fiscal plans and status, budget execution, and program accomplishments; and analyze, consolidate or otherwise treat the reports as will best meet the needs of the Secretary and Secretarial Officers, incorporating material furnished by the Program Staffs; and

i. Prepare special reports or briefings for the Secretary and Secretarial Officers on significant fiscal, budget and program execution problems, incorporating material furnished by the Program Staffs.

.02 The *Business and Economics Programs Staff* and the *Science and Environment Programs Staff* for their respective areas of responsibility, as shown in Appendix A, shall:

a. Develop advance program guidance and plans for resource allocation in accordance with policy goals of the Department, and recommend new or revised policy positions which are associated with program development and budgeting;

b. Examine and analyze all budget proposals in terms of effective allocation of Departmental resources, conformance to policies, adequacy of justification and appropriation language, existence of statutory authorization, feasibility and economy of operations, accuracy and consistency of schedules, and for conformity with instructions governing submission of budget estimates;

c. Review zero-based decision packages for consistency with Departmental policy goals and priorities and make recommendations for changes in content and levels of resources to policy officials, including the Secretary and Under Secretary;

d. Participate in the identification of major issues and problems to be covered by special studies and evaluations;

e. Monitor, advise and assist operating units in the development and operation of systems for integrating the results of planning and programming with budgeting, including development of criteria for and review of program memoranda and special analytical studies for completeness, timeliness, adequacy, development of alternatives and factual content;

f. Review and evaluate the Department's program structure and recommend modifications as necessary;

g. Participate in the review of legislative proposals affecting the Department's plans and programs;

h. Examine and clear apportionment requests;

i. Provide technical assistance to operating units on budget matters;

j. Analyze fiscal and program plans and reprograming proposals for continuous review of the status of obligations, expenditures and program progress;

k. Evaluate budgeting policies and programs and make recommendations to appropriate officials for improvements; and

l. Provide continuous liaison and be the point of contact between officials in assigned program areas and appropriate staff of the Office of the Secretary and OMB on budget matters.

.03 The *Program Evaluation Staff* shall: a. Interpret Presidential initiatives in the areas of operational evaluation;

b. Conduct special studies to evaluate the effectiveness of Departmental programs in meeting objectives established through legislation or other appropriate authority;

c. Identify major program, or operational issues and problems, and undertake analyses to resolve them;

d. Advise and assist the Director, OBPE, and the operating units in the application of program evaluation techniques and systems requirements of zero-base budgeting; and

e. Advise and assist operating units in the development and operation of systems for the identification of program objectives and for the evaluation of the results of actions taken against these objectives.

SEC. 6. *Department of Commerce Budget Committee.*—The Department of Commerce Budget Committee shall consist of the Director as Chairman, and the budget officers and the officers responsible for program analysis in each operating unit. The Committee will meet on call from the Chairman for the purpose of advising and assisting in the development of budget policies and programs, and systems of integration of the results of zero-base budgeting throughout the Department.

ELSA A. PORTER,
Assistant Secretary for Administration.

APPENDIX A

AREAS OF RESPONSIBILITY FOR THE BUSINESS AND ECONOMICS PROGRAMS STAFF AND THE SCIENCE AND ENVIRONMENT PROGRAMS STAFF, OBPE

Business and Economics Program Staff

Office of the Secretary
Bureau of Economic Analysis
Bureau of the Census
Economic Development Administration
Regional Action Planning Commissions
Domestic and International Business Administration
Office of Minority Business Enterprise
U.S. Travel Service
Maritime Administration

Science and Environment Programs Staff

National Oceanic and Atmospheric Administration
National Bureau of Standards
Patent and Trademark Office
National Technical Information Service
Office of Telecommunications
National Fire Prevention and Control Administration

[FR Doc.77-22543 Filed 8-4-77;8:45 am]

OFFICE OF PROGRAM EVALUATION

Revocation

This order effective July 14, 1977, revokes the material appearing at 40 FR 56707 of December 4, 1975.

Revocation. Department Organization Order 20-13, dated October 22, 1975 is hereby revoked.

Explanation. The personnel, funds, property, and records of the Office of Program Evaluation have been consolidated with the Office of Budget and Program Analysis to form the Office of Budget and Program Evaluation.

ELSA A. PORTER,
Assistant Secretary for Administration.

[FR Doc.77-22544 Filed 8-4-77;8:45 am]

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

PROCUREMENT LIST 1977

Addition

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Addition 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: August 5, 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 April 1, 1977 the Committee for Purchase from the Blind and Other Severely Handicapped published a notice (42 F.R. 17510) of proposed additions to Procurement List 1977, November 18, 1976 (41 F.R. 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 7105

Frame, Picture, 7105-00-053-0170, 7105-00-061-5334, 7105-00-052-8697, 7105-00-052-8695.

The above for GSA Supply Distribution facilities in Regions 8, 9 and 10.

C. W. FLETCHER,
Executive Director.

[FR Doc.77-22547 Filed 8-4-77;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 a service to be provided by workshops for the blind or other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: September 8, 1977.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT:

C. W. Fletcher, 703-557-1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47 (a) (2), 85 Stat. 77.

If the Committee approves the proposed additions, all entities of the Government will be required to procure the commodities and service listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodities and service to Procurement List 1977, November 18, 1976 (41 F.R. 50975):

Class 3920

Truck, Hand, 3920-00-847-1305.

Class 8465

Suspenders, Individual Equipment Belt, 8465-00-001-6471.

SIC 7349

Janitorial Services, ERDA Offices at Rogers Hotel and First Street Bldg., Idaho Falls, Idaho.

C. W. FLETCHER,
Executive Director.

[FR Doc.77-22548 Filed 8-4-77;8:45 am]

COUNCIL ON ENVIRONMENTAL QUALITY

ENVIRONMENTAL IMPACT STATEMENTS

List of Statements Received

The following is a list of environmental impact statements received by the Council on Environmental Quality from July 25 through July 29, 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 19, 1977.) The thirty (30) day period for each final statement begins on the day the statement is made available to the Council and to commenting parties.

Copies of individual statements are available for review from the originating agency. Back copies are also available at 10 cents per page from the Environmental Law Institute, 1346 Connecticut Avenue, Washington, D.C. 20036.

DEPARTMENT OF AGRICULTURE

Contact: Mr. Errett Deck, Coordinator, Environmental Quality Activities, U.S. Department of Agriculture, Room 307A, Washington, D.C. 20250, 202-447-6827.

FOREST SERVICE

Final

Western Spruce Budworm Management Plan, July 26: Proposed is the management of western spruce budworm on 987,319 acres out of a total infestation of 3,151,985 acres. The preferred method of treatment is long-term silvicultural management on 934,019 acres and short-term aerial application of carbaryl (Sevin-4-oil) on 53,300 acres in the spring and summer of 1977. The application of Sevin will result in decline of population of some soil-inhabiting invertebrates, destruction of beneficial insect populations, and the elimination of honeybees in the treated areas. Comments made by: EPA, USDA, State and local agencies, concerned groups and individuals. (ELR Order No. 70906.)

DEPARTMENT OF COMMERCE

Contact: Dr. Sidney R. Galler, Assistant Secretary for Environmental Affairs, Environmental Affairs, Department of Commerce, Washington, D.C. 20230, 202-377-4335.

NAT'L OCEANIC AND ATMOSPHERIC ADMIN.

Draft

Atlantic Foreign Pelagic Longline Fishery—Preliminary Fisheries Management Plan, July 25: Proposed is the approval of a Preliminary Fisheries Management Plan for the Atlantic pelagic longline fishery off the Atlantic and Gulf of Mexico coasts and off Puerto Rico and the Virgin Islands. The proposed action provides for prohibition of the retention of all billfishes captured by foreign pelagic longline vessels and regulates the catch of sharks in the Fishery Conservation Zone. This action is expected to have beneficial effects on the environment at the local, regional, and international levels. (ELR Order No. 70899.)

Virgin Islands Coastal Zone Management,[1] Virgin Islands, July 28: The proposed action consists of approval and implementation of the Coastal Management Program of the Virgin Islands. Implementation of the project will restrict or prohibit certain land and water uses in parts of the Virgin Islands coasts, while promoting and encouraging development and use activities in other parts. The program will provide an improved decisionmaking process for determining coastal land and water uses and siting of facilities of national interest, and will lead to increased long-term protection and benefit from the State's coastal resources. (ELR Order No. 70920.)

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.

[1] Following consultation between CEQ and DOC/NOAA, the 45 day review period for this Draft EIS has been reduced by 15 days.

Draft

Delta Coves Subdivision, Permit, Contra Costa County, Calif., July 25: Delta Coves plans to provide building sites for 495 single family dwellings and 64 condominium units. This development would occupy 310 acres in the southeastern part of Bethel Island in the Sacramento-San Joaquin Delta. The development, in addition to providing residential lots, will include commercial and recreational facilities. A Department of the Army permit is required to breach the levee system and provide access for the proposed inland harbor/lagoon. (Sacramento District), (ELR Order No. 70900.)

Halstead Local Flood Protection (2), Harvey County, Kans., July 26: Proposed is the construction of a horseshoe levee on the northeast, and southeast boundaries of the city of Halstead, Kansas, in order to provide protection from periodic flooding. Project plans call for the enlargement of the river channel to a bottom width of 60 feet for a length of 3.5 miles, and the realignment of 800 feet of channel in the vicinity of Warkentin Homestead. A total of 240 acres of land and water would be required including 26 acres of flood plain forest, 4 acres of upland trees, 122 acres of cropland, and 23 acres of pastureland. (Tulsa District), (ELR Order No. 70909.)

Hocking River at Logan and Nelsonville (2), Ohio, July 28, Proposed is the construction of the Logan and Nelsonville Local Protection Projects on the Hocking River to be operated as units of the plan of water resources development for the Central Ohio Water Development Region. The proposed plan consists of approximately 5.4 miles of channel modification along the Hocking River and approximately 3,500 feet of earthen levee along the Hocking River and Oldtown Creek at Logan, Ohio. Associated recreation facilities at both Logan and Nelsonville include four stream access sites, 3.65 miles of biking and walking trails and development of two low density parks. (Huntington District) (ELR order No. 70922.)

South Harrisburg Flood Control Improvements, Pennsylvania, July 28: Proposed is a plan for flood control improvements for the Paxton Creek and Susquehanna River area, South Harrisburg, Pennsylvania. The plan calls for a flood wall approximately 4,200 feet in length which will provide protection against backwater flooding from the Susquehanna River. The Paxton Creek channel will be seized to accommodate the Agnes flood flow as modified by a detention reservoir at Asylum Run, and the flow in the existing Paxton Creek will be reversed and also diverted to the Susquehanna River in the area south of I-83. Twelve businesses will be evacuated or relocated. (Baltimore District) (ELR Order No. 70924.)

Brazos Island Harbor, Channel Improvement, Cameron County, Tex., July 27: Proposed is the enlargement of the turning basin, main channel, and entrance channel of the Brazos Island Harbor, Texas. The main channel would be deepened to 42 feet over a bottom width of 300 feet from the entrance channel to the turning basin extension, a distance of 14.8 miles. The turning basin extension would be deepened to 42 feet and widened to varying widths of 325 to 400 feet. Adverse effects are localized turbidity, destruction or disturbance of benthic communities, and release of some objectionable odors. (Galveston District), (ELR order No. 70915.)

Final

Walnut Creek Project, Contra Costa County, Calif., July 27: The Walnut Creek project, now 43% complete, consists of construction of rectangular concrete-lined channels and flood control structures in Walnut Creek and the lower reaches of its principal tributaries. Completed portions of the project have resulted in the elimination of most of the riparian vegetation on the surrounding flood plain and the intensive urbanization in the form of towns, housing developments, shopping centers, roads, and utilities. (Sacramento district.) Comments made by: EPA, DOI, USDA, State and local agencies, and concerned citizens. (ELR Order No. 70911.)

Dallas to Vancouver Channel, Columbia River, Oregon, Wash., July 25: Proposed is the continued maintenance of the navigation channel between Vancouver and The Dallas (River Mile 106 to River Mile 190) on the Columbia River to a 17-foot depth and 300-foot width and continuation of the present permit process in the same area. Included is the maintenance of pile dikes and other small navigation projects conducted by the Corps of Engineers within the project area. Locations of previous and future dredge and disposal sites are outlined. Adverse effects include removal of river bottom habitat and organisms. (Portland district.) Comments made by: EPA, DOC, DOI, FPC, AHP, USDA, State and local agencies, and concerned groups and individuals. (ELR Order No. 70903.)

ENERGY RESEARCH AND DEVELOPMENT ADMIN.

Contact: Mr. W. Herbert Pennington, Office of NEPA Coordination, Energy Research and Development Administration, E-201, ERDA, Washington, D.C. 20545, 301-353-4241.

Draft

High Flux Neutron Source Facility, Richland, Wash., Benton County, Wash., July 27: Proposed is the construction and operation of a deuterium-lithium High Flux Neutron Source Facility at the ERDA Hanford Reservation, Richland, Washington. The purpose of the proposed facility is to provide an experimental neutron irradiation facility for providing a neutronic environment similar to that anticipated in a fusion power reactor. The facility will consist of a Test Building and an Accelerator Building with an interconnecting transport tunnel for the deuteron (deuteron ion) beam. A linear accelerator will generate 30 MeV deuterons to produce neutrons using the deuteron-lithium stripping reaction in a liquid lithium target. (ELR Order No. 70916.)

Final

Brookhaven National Laboratory, Suffolk County, N.Y., July 28: proposed is the continued operation of Brookhaven National Laboratory in Upton, Brookhaven Town, New York. Twenty acres of the 5265-acre site may not be suitable for future uses because of contamination. Research and development activities of the laboratory require the use of 200 million kWh of electricity and 7 million gallons of fossil fuels annually. Radioactive contamination risk is considered small. Comments made by: USDA, DOT, NSF, HEW, DOI, EPA, State and local agencies, and concerned interest groups. (ELR Order No. 70918.)

ENVIRONMENTAL PROTECTION AGENCY

Contact: Please refer to the separate notice published by in this issue of the FEDERAL REGISTER for the appropriate EPA contact.

Draft

Coleto Creek Power Station and Cooling Reservoir, Goliad County, Tex., July 27: Proposed is the issuance of a New Source NPDES permit for the discharge of sanitary and cooling water effluents from Central Power and Light Company's proposed Coleto Creek

Power Station. Central Power and Light Co. proposes to build a two-unit, coal-fired power plant (ultimate load capacity, 1100 Mw) in eastern Goliad County, which would be designed to help meet load projections and diversify the fuel base of CPL. Unit 1 is scheduled for completion in 1979, Unit 2 between 1986 and 1988. (Region VI.) (ELR Order No. 70913.)

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

Central Rock Mine, SPR, Fayette County, Ky., July 29: The proposed project involves the implementation of the Strategic Petroleum Reserve, Title I, Part B, of the Energy Policy and Conservation Act (P.O. 94-163). This action is part of the Early Storage Reserve and proposes to store 14 million barrels of oil in an underground limestone mine located in Lexington, Kentucky. The proposed storage of oil at Central Rock Mine would be implemented at an existing underground limestone mine presently owned and operated by the Central Rock Company. Adverse socio-economic impacts may result if the limestone mine is closed temporarily. Comments made by: DOC, HEW, DOD, NRC, and State agencies. (ELR Order No. 70927.)

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

Solomon Gulch Project, Alaska, July 26: Proposed is the issuance of a license to the Copper Valley Electric Association, Inc., authorizing the enlargement of the present dam at Solomon Lake, construction of a penstock, powerhouse, transmission line and ancillary facilities, and the operation of these project works for electric power supply to service areas in and around the Towns of Valdez and Glenhallen, Alaska. The dam and powerhouse, with generating equipment having a rated capacity of 12,000-kW, would be located on Solomon Gulch Creek, approximately 4 miles south of Valdez. Adverse effects include the permanent alteration of about 440 acres of wildlife habitat. (ELR Order No. 70908.)

DEPARTMENT OF HUD

Contact: Mr. Richard H. Broun, Director, Office of Environmental Quality, Department of Housing and Urban Development, 451 7th Street SW., Washington, D.C. 20410, 202-755-6308.

Final

Bunker Hill Elderly Housing Project, Los Angeles County, Calif., July 28: Proposed is the development of 1,100 units of housing for low income elderly and handicapped in Los Angeles, California. Development will include a multipurpose service center, retail commercial space, and parking garages for an estimated population of 1,500. The project is located in the Central Business District of Los Angeles and within the Bunker Hill Urban Development Project. Increased levels of air pollution from fugitive dust emissions and increased levels of noise may be expected during construction. Comments made by: HEW, State and local agencies, and concerned groups and individuals. (ELR Order No. 70923.)

West Campus Planned Community, King Co., King County, Wash., July 25: Proposed is the development of West Campus, a 1,600-acre planned community in South King County, Washington. The Quadrant Corporation has requested HUD/FHA subdivision approval for mortgage insurance for 508 single family lots and open space. The total development proposes 6,325 single and multifamily residential units. Negative impacts include erosion and sedimentation and increased demand on public services and infrastructure. Comments made by: USDA, COE, EPA, HEW, DOI, DOT, State and local agencies. (ELR Order No. 70902.)

Section 104(H)

The following are Community Development Block Grant statements prepared and circulated directly by applicants pursuant to section 104(h) of the 1974 Housing and Community Development Act. Copies may be obtained from the office of the appropriate local chief executive. (Copies are not available from HUD).

Draft

Vallejo, Calif., Vallejo River Park, Solano County, Calif., July 26: Proposed is the development of a neighborhood-community park located in northwest Vallejo, adjacent to Mare Island Strait in Solano County, California. The site is 3,800 feet in length and about 630 feet in average width, with approximately one half mile of water frontage. The Park will total approximately 75 acres and will be known as River Park. Phase One will include tennis courts, softball complex, and overlook picnic area; Phase Two will include the east picnic area, children's playground, and miscellaneous facilities. (ELR Order No. 70910.)

Corcoran, Calif., Corcoran Fringe Wastewater Facil, Kings County, Calif., July 27: Proposed is the use of Federal funds for the Corcoran Fringe Wastewater Facilities Project. The project will provide a community wastewater collection system in Corcoran, California at an estimated cost of 3.3 million dollars. Short term impacts include: noise, dust, and vibration; possible excavation damage to trees and shrubs; and traffic delays and inconveniences. Long term impacts include consumption of electrical energy and the potential for development of vacant parcels. (ELR Order No. 70912.)

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

Draft

Rio Puerco Livestock Grazing Program, Sandoval and McKinley Counties, N. Mex., July 28: Proposed is the initiation of an intensive livestock grazing management program through the implementation of Allotment Management Plans on 393,083 acres of public land in the Rio Puerco Resource Area, Albuquerque District. The proposed action would include consolidation of 96 existing allotments into 61. Grazing systems which reserve sufficient forage for wildlife would be implemented and range improvements would be constructed to facilitate these systems. By the year 2000, the proposed action would approximately double forage production in the Rio Puerco ES Area. (ELR Order No. 70921.)

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

Ames Research Center—Institutional,[1] California, July 11: This statement supersedes the original Institutional Environmental Impact Statement for Ames Research Center, California, dated July 1971. It describes the current mission, facilities, community settings, and environmental effects associated with the present baseline activities at the installation. The major adverse impact is the noise imposed upon the surrounding communities by the operation of certain wind tunnels. Comments made by: EPA, USN, DOI, AHP, DOT, State and local agencies. (ELR Order No. 70928.)

DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Environmental Affairs, U.S. Department of Transportation, 400 7th Street, S.W., Washington, D.C. 20590, 202-426-4357.

FEDERAL AVIATION ADMINISTRATION

Final

Truk District Airport, Caroline Islands, Truk, Caroline Isles, July 28: The statement refers to the development of the Truk District Airport. The project involves repositioning the existing runway to the northwest such that the new centerline coincides with the northwest edge of the existing runway. The development also includes extending and paving the runway to 6,000 ft. with provisions for an additional 900 ft. extension, perimeter fencing and the construction of a protective structure to ensure against possible wave overtopping during typhoons. The adverse impacts of the project are the loss of agricultural land, the loss of naturally occurring coral and fish habitat, and the increase in air and noise pollution associated with the airport. Comments made by: COE, HEW, USCG, EPA, USDA, HUD, USN, USA, local agencies and interested groups. (ELR Order No. 70919.)

FEDERAL HIGHWAY ADMINISTRATION

Draft

9.5 Mile New Hampshire, Route 101, Relocation, Rockingham County, N.H., July 26: Proposed is the relocation of 9.5 miles of New Hampshire Route 101 from, roughly, Interstate Route 93 in Manchaster to Interstate Route 95 in Hampton. Project termini are N.H. Route 101 approximately 2 miles west of Candia Center and N.H. Route 101 approximately 1.5 miles east of the town of Raymond. The road will be an ultimate 4-lane facility, passing through rural wooded land. Adverse effects include acquisition of 260 acres of land and the relocation of two homes, one mobile home, one cabin, and two storage trailers. (Region 1.) (ELR Order No. 70905.)

U.S. 95 and I-515 Spur, East Leg, Clark County, Nev., July 25: Proposed is the construction of a 20-mile segment of U.S. 95 from Los Vegas to an unincorporated area of Clark County. The leg has been declared a Federal Aid Priority Primary Route. Part of the segment has been approved as a spur of I-15 (I-515 Spur). Adverse effects include the acquistion of 600 acres resulting in the loss of natural vegetation, wildlife habitat and an expanse of open desert terrain in the Las Vegas Valley, the relocation of many families

[1] Due to administrative oversight, the notice of availability concerning the NASA Final EIS, Ames Research Center—Administrative EIS, was omitted from the CEQ Federal Register entry of July 22, 1977. The statement was received by the Council on July 11, 1977 and the 30-day no administrative action period began on that date.

and businesses, loss of low-income housing, increased air and noise pollution, and an undetermined impact on one archaeological site. Comments made by: COE, HEW, DOI, EPA, State, local agencies, and concerned interest groups. (ELR Order No. 70904.)

New Hampshire Route 9, Sullivan, Nelson, and Stoddard Communities, Cheshire County, N.H., July 26: Proposed is the improvement of a deficient two-lane section of N.H. Route 9 located in the communities of Sullivan, Nelson, and Stoddard. Four two-lane corridors will be constructed on new location with a minimum 200 foot controlled access right-of-way. The adverse impacts include acquisition of property, residences and businesses, increased noise levels and intrusion upon conservation areas, wetlands and wildlife habitat. (Region 1.) Comments made by: EPA, DOI, HUD, USDA, COE, FPC, AHP, State, local agencies, and conservation groups. (ELR Order No. 70907.)

I-505—Industrial Freeway, Oregon, Multnomah County, Oreg., July 25: The proposed freeway project is located in the northwest section of Portland, Oregon's Northwest Industrial District and would consist of a 3-mile long, 4-lane elevated interstate freeway spur (I-505) connecting Interstate 405 to St. Helens Road (U.S. 30). Adverse impacts are the relocation of several families and the costs incurred by business and industrial firms forced to vacate their premises during construction. Noise and air pollution levels will also be increased. Comments made by: DOI, DOT, EPA, State, local agencies, and concerned persons and groups. (ELR Order No. 70901.)

Loop 1 (Mo Pac Blvd.), South Section, Travis County, Tex., July 29: The statement refers to the construction of a 4.3 mile section of Loop 1 (Mo Pac Boulevard) from R.M. Highway 2244 south to U.S. Highway 290 West, southwest of the city of Austin, Texas in Travis County. This is a proposed six-lane freeway facility having frontage roads in selected areas as required to control access and establish local traffic travel. The proposed project will require the relocation of one business, consume 315 acres of open, undeveloped land, and cause air and noise pollution during construction. (Region 6.) Comments made by: HEW, HUD, COE, USDA, DOI, EPA, State, local agencies, and concerned citizens. (ELR Order No. 70925.)

Loop 1 (Mo Pac Blvd.), North Section, Travis County, Tex., July 29: The 5.7 mile section of Loop 1 considered in this statement is the northern portion of a 16.5 mile north-south freeway which traverses the City of Austin. The project extends from F.M. Highway 1325, south to 0.2 mile north of R.M. 2222 (Northland Drive). Development of the six-lane, controlled access facility will require the relocation of five businesses and four residences. (Region 6.) Comments made by: HEW, COE, USDA, DOI, EPA, State and local agencies. (ELR Order No. 70926.)

Supplement:

I-40, I-10—U.S. 90 (S-1), St. Charles County, La. July 27: This statement supplements a final EIS filed with CEQ in March 1972. The proposed action is the moving of people and freight from I-10 West, in St. Charles Parish, to U.S. 90 in the vicinity of Boutte, selecting a bridge site at Luling, and a specific alignment. The settlement of litigation concerning this proposed action called for reconsideration of the action proposed in the final EIS as well as that of other alternatives. Alternatives include mass transit, and ten other possible highway corridors from I-10 to U.S. 90, using the determined bridge site at Luling. (Region 6.) (ELR Order No. 70914.)

NICHOLAS C. YOST,
Acting General Counsel.

[FR Doc.77-22574 Filed 8-4-77;8:45 am]

DEPARTMENT OF DEFENSE

Office of the Secretary

BOLD EAGLE

Draft Environmental Impact Statement; Public Hearing

Notice is hereby given that an informal public hearing will be held for the purpose of soliciting comments on the Draft Environmental Impact Statement for the proposed exercise "Bold Eagle 78".

Bold Eagle 78 is a joint readiness exercise directed by the Joint Chiefs of Staff and sponsored by the United States Readiness Command. This proposed exercise is scheduled to be conducted in the southeastern United States, preferably at the Eglin Air Force Base Test Range Complex, Fla., and adjacent coastal water during the period October 11 to November 11, 1977. Other installations under consideration include Fort Polk, La., and Fort Stewart, Ga. This exercise will involve approximately 18,000 personnel in join air and ground operations. Airborne assault and mechanized forces will be engaged in ground tactical operations for less than six days.

Adverse impacts include increased air pollution, damage to vegetation caused by track vehicle operations, and the possible disturbance of the Red-Cockaded Woodpecker and Okaloosa Darter, both endangered species.

A Draft Environmental Impact Statement (DESI) for this proposed action was filed with the Council on Environmental Quality (CEQ) on 8 July 1977. Copies are available from:

United States Readiness Command, Attn: RCJ4-L, MacDill Air Force Base, Fla. 33608.
United States Air Force Forces, Readiness Command, Attn: DEEV, Langley Air Force Base, Va. 23665.
United States Army Forces, Readiness Command, Attn: AFOP-JTX, Fort McPherson, Ga. 30330.
Armament Development and Test Center (AFSC), Attn: OI, Eglin Air Force Base, Fla. 32542.
Headquarters, 5th Infantry Division (Mechanized) and Fort Polk, Attn: G3, Fort Polk, La. 71459.
Headquarters, 24th Infantry Division and Fort Stewart, Attn: G3, Fort Stewart, Ga. 31313.

In addition, copies have been forwarded to the following locations for public reference:

Office of the Mayor, City of Fort Walton Beach, Fla.
Office of the Mayor, City of Valparaiso, Fla.
Office of the Mayor, City Crestview, Fla.
Office of the Mayor, Town of Mary Esther, Fla.
Office of the Mayor, Town of Niceville, Fla.
Office of the Mayor, Town of Shalimar, Fla.
Chamber of Commerce, Crestview, Fla.
Chamber of Commerce, Fort Walton Beach, Fla.
Chamber of Commerce, Niceville-Valparaiso, Fla.
Public Library, Crestview, Fla.
Public Library, Fort Walton Beach, Fla.
Public Library, Niceville, Fla.
Public Library, Valparaiso, Fla.

The presiding officer will be Col. Harold W. Gardner, Chief Trial Judge, USAF Trial Judiciary, Forrestal Bldg., Washington, D.C. 20314, telephone 202-693-5810.

The following procedures will be followed during the informal public hearing. Individual speakers will be limited to five minutes, with ten minutes for a group spokesman. There will be no relinquishing of time by one speaker to another. Written statements, in addition to, or in lieu of, oral presentations will be accepted. The closing date for including written communications in the hearing record is five days after date of public hearing. Written communications should be submitted to USREDCOM/RCJ4-L, MacDill Air Force Base, Fla. 33608.

The informal pulic hearing for the Eglin Air Force Base vicinity will be held at the following time and place: 8 p.m., 15 August 1977, Choctawhatchee High School, Fort Walton Beach, Fla.

This notice and any changes will be released to the local news media.

For further information, contact Lt Col Torsten Rothman, at 202-695-1422.

VAN L. CRAWFORD JR.,
Colonel, U.S. Air Force,
Deputy Director of Administration.

[FR Doc.77-22795 Filed 8-4-77;9:33 am]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 774-6]

WATER PROGRAMS

Determination of Primary Enforcement Responsibility, State of Minnesota

This public notice is issued under section 1413 of the Safe Drinking Water Act, Pub. L 93-523, December 16, 1974, and section 142.10 of the National Interim Primary Drinking Water Regulations, published in the FEDERAL REGISTER on January 20, 1976.

A submission, dated May 20, 1977, has been received from the Commissioner of Health, requesting a determination that the Minnesota Department of Health has met requirements for primary enforcement responsibility for public water systems in the State of Minnesota, in accordance with the provisions of this Act.

In response, I have determined that the Minnesota Department of Health has met all conditions of the Safe Drinking Water Act and subsequent regulations for the assumption of primary enforcement responsibility for public water systems in the State of Minnesota. The State—

(1) Has adopted drinking water regulations which are no less stringent than the National Interim Primary Drinking Water Regulations;

(2) Has adopted and will implement adequate procedures for the enforcement of such State regulations, including adequate monitoring and inspections;

(3) Will keep such records and make such reports as required;

(4) Will issue variances and exemptions in accordance with the provisions of the National Interim Primary Drinking Water Regulations;

(5) Has adopted and can implement an adequate plan for the provision of safe drinking water under emergency circumstances.

All documents relating to this determination are available for public inspection between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, at the following offices:

Environmental Health Division, Minnesota Department of Health, 717 Delaware St. SE., Minneapolis, Minn. 55440.

Water Supply Branch, Environmental Protection Agency, Region V, 230 South Dearborn St., Chicago, Ill. 60604.

Any interested person may comment upon the State submission by writing to the U.S. EPA, Region V Office. Written comments must be submitted on or before August 30, 1977.

I have scheduled a public hearing to consider this application and to enable all interested parties to present their views on the State's submission. The hearing will begin at 10 a.m. on August 31, 1977, in the Board Room, Minnesota Department of Health, 717 Delaware St. SE., Minneapolis, Minn. 55440.

Oral statements will be heard and considered, but, for accuracy of the record, all testimony should be submitted in writing. Statements should summarize extensive written material, so there will be time for all interested parties to be heard. Persons are encouraged to bring extra copies of their written statements for the use of the hearing officer and other interested persons.

The hearing officer may, at his discretion, exclude oral testimony if it is overly repetitious of previous testimony heard or if it is not relevant to the decision to approve or require revision to the State program as submitted.

Further information about the public hearing may be obtained by writing the Water Supply Branch of the U.S. EPA, Region V, or the Environmental Health Division of the Minnesota Department of Health, or by calling Joseph Harrison at 312-353-2151 or Gary Englund at 612-296-5330.

After receiving the record of the hearing, I will issue an order affirming or rescinding this determination. If the dedetermination is affirmed, it shall become effective as of the date of this notice.

Please bring this notice to the attention of any persons known by you to have an interest in this determination.

Dated: July 22, 1977.

GEORGE R. ALEXANDER, Jr.,
Regional Administrator, Environmental Protection Agency, Region V.

[FR Doc.77-22793 Filed 8-4-77;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[FCC 77-563]

CB EQUIPMENT

Cut-Off Date for Manufacture

AUGUST 1, 1977.

Domestic and Offshore manufacturers of CB equipment that was type-accepted prior to September 10, 1976 are reminded that manufacture of such equipment must cease as of August 1, 1977.

Although importation and marketing of the subject equipment may continue beyond August 1, 1977, importers, distributors, and sellers are cautioned that assurance and evidence of pre-August 1, 1977 manufacture should be obtained from off-shore suppliers before the equipment is imported, or marketed, in order, to assure strict compliance with the Commission's Rules.

Marketing of this type of equipment must cease no later than January 1, 1978.

Action by the Commission August 1, 1977. Commissioners Lee, Quello and Fogarty with Commissioners Washburn and White concurring.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.77-22575 Filed 8-4-77;8:45 am]

FM AND TV TRANSLATOR APPLICATION READY AND AVAILABLE FOR PROCESSING

Adopted: July 22, 1977.

Released: July 29, 1977.

Notice is hereby given pursuant to Sections 1.572(c) and 1.573(d) of the Commission's Rules, that on September 16, 1977, the TV and FM translator applications listed in the attached Appendix will be considered as ready and available for processing. Pursuant to Section 1.227 (b)(1) and Section 1.519(b) of the Commission's Rules, an application, in order to be considered with any application appearing on the attached list or with any other application on file by the close of business on September 15, 1977, which involves a conflict necessitating a hearing with any application on this list, must be substantially complete and submitted for filing at the offices of the Commission in Washington, D.C., by the close of business on September 15, 1977.

The attention of any party in interest desiring to file pleadings concerning any pending TV and FM translator application, pursuant to Section 309(d)(1) of the Communications Act of 1934, as amended, is directed to Section 1.580(i) of the Commission's Rules for provisions governing the time for filing and other requirements relating to such pleadings.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

FM TRANSLATOR APPLICATIONS

BPFT-433 K288BB Cortez, Dolores, Mancos & Redmesa, Colo., Radio San Juan, Inc. Req: Change output frequency to Channel 285, 104.9 MHz.

BPFT-434 (new), Peterson, Minn., Peterson Good News Translators, Inc. Req: Channel 257, 99.3 MHz, 10 watts. Primary: WWIB-FM, Ladysmith, Wis.

BPFT-435 (new), Morris, Minn., Minnesota Public Radio, Inc. Req: Channel 257, 99.3 MHz, 10 watts. Primary: KSJR-FM, Collegeville, Minn.

BPFT-436 (new), Marquette, Mich., Taconite Broadcasting, Inc. Req: Channel 288, 105.5 MHz, 10 watts. Primary: WMQT-FM, Ishpeming, Mich.

BPFT-437 (new), Carlin, Nev., Carlin TV District. Req: Channel 240, 95.9 MHz, 10 watts. Primary: KSRN-FM, Reno, Nev.

BPFT-438 (new), Newcastle, Wyo., Midland Broadcasting Company of Wyoming. Req: Channel 296, 107.1 MHz, 1 watt. Primary: KOLL-FM, Gillette, Wyo.

BPFT-439 (new), Ashland and Washburn, Wis., Chequamegon Christian Message, Inc. Req: Channel 265, 100.9 MHz, 10 watts. Primary: WWIB-FM, Ladysmith, Wis.

BPFT-440 (new), Hanover, Pa., Calvary Bible Church of Hanover. Req: Channel 228, 93.5 MHz, 1 watt. Primary: WRBS-FM, Baltimore, Md.

BPFT-441 (new), Stevens Point and Plover, Wis., Central Wisconsin Inspirational Radio. Req: Channel 261, 100.1 MHz, 10 watts. Primary: WWIB-FM, Ladysmith, Wis.

BPFT-442 (new), Hurricane, Utah, Julie P. Miner. Req: Channel 269, 101.7 MHz, 10 watts. Primary: KDXU-FM, St. George, Utah.

BPFT-443 (new), Waynesboro, Va., The Louisa Area Christian Radio Association. Req: Channel 257, 99.3 MHz, 1 watt. Primary: WIVE-FM, Ashland, Va.

UHF TV TRANSLATOR APPLICATIONS

BPTT-3266 (new), Eugene, Oreg., State Of Oregon Acting By and Through The State Board Of Higher Education. Req: Channel 68, 794-800 MHz, 100 watts. Primary: KOAC-TV, Corvallis, Oreg.

BPTT-3267 (new), Glide Sutherlin, Oakland and Winchester, Oreg., State Of Oregon Acting By and Through The State Board Of Higher Education. Req: Channel 68, 794-800 MHz, 100 watts. Primary: KOAC-TV, Corvallis, Oreg.

BPTT-3268 (new), Scottsburgh, Oreg., State Of Oregon Acting By and Through The State Board Of Higher Education. Req: Channel 68, 794-800 MHz, 100 watts. Primary: KOAC-TV, Corvallis, Oreg.

BPTT-3269 (new), Klamath Falls, Oreg., Southern Oregon Education Company. Req: Channel 22, 518-524 MHz, 100 watts. Primary: KSYS-TV, Medford, Oreg.

BPTT-3270 K74DW Toole, Glacier and Liberty Counties, Mont., East Butte TV Club, Inc. Req: Change primary TV station to CHAT-TV, Channel 6, Medicine Hat, Alberta, Canada.

BPTT-3272 (new), Dryden, Wash., Upper Wenatchee Valley Television Association. Req: Channel 57, 728-734 MHz, 20 watts. Primary: KSPS-TV, Spokane, Wash.

BPTT-3281 W49AB York, Pa., Newhouse Broadcasting Corp. Req: Change frequency to Channel 62, 758-764 MHz.

BPTT-3282 (new), Crossville, Tenn., WCPT-TV, Inc. Req: Channel 20, 506-512 MHz, 100 watts. Primary: WCPT-TV, Crossville, Tenn.

BPTT-3283 (new), Mullin, Tex., Pompey Mountain Broadcasting, Inc., Req: Channel 63, 764–770 MHz, 100 watts. Primary: KTXS-TV, Sweetwater, Tex.

BPTT-3284 (new), Mullin, Tex., Pompey Mountain Broadcasting, Inc. Req: Channel 65, 776–782 MHz, 100 watts. Primary: KRBC-TV, Abilene, Tex.

BPTT-3286 (new), Mullin, Tex., Pompey Mountain Broadcasting, Inc. Req: Channel 69, 800–806 MHz, 100 watts. Primary: KTBC-TV, Austin, Tex.

BPTT-3287 (new), Grand Marais, Minn., Channel 10, Incorporated. Req: Channel 61, 752–758 MHz, 100 watts. Primary: WDIO-TV, Duluth, Minn.

BPTT-3288 (new), Grand Portage, Minn. Channel 10, Incorporated. Req: Channel 69, 800–806 MHz, 100 watts. Primary: WDIO-TV, Duluth, Minn.

BPTT-3289 (new), Kilauea Military Camp, Hawaii, Hawaii Public Broadcasting Authority. Req: Channel 61, 752–758 MHz, 100 watts. Primary: KMEB-TV, Wailuku, Hawaii.

BPTT-3290 (new), Naalehu, Hawaii, Hawaii Public Broadcasting Authority. Req: Channel 63, 764–770 MHz, 10 watts. Primary: KMEB-TV, Wailuku, Hawaii.

BPTT-3291 (new), Pahala, Hawaii, Hawaii Public Broadcasting Authority. Req: Channel 67, 788–794 MHz, 100 watts. Primary: KMEB-TV, Wailuku, Hawaii.

VHF TV Translator Applications

BPTTV-5838 (new), Coolin, Nordman and Surrounding Priest Lake Area, Idaho. Priest Lake Translator District. Req: Channel 5, 76–82 MHz, 10 watts. Primary: KSPS-TV, Spokane, Wash.

BPTTV-5839 (new), Coolin, Nordman and Surrounding Priest Lake Area, Idaho. Priest Lake Translator District. Req: Channel 8, 180–186 MHz, 10 watts. Primary: KREM-TV, Spokane, Wash.

BPTTV-5840 (new), Coolin, Nordman and Surrounding Priest Lake Area, Idaho. Priest Lake Translator District. Req: Channel 10, 192–198 MHz, 10 watts. Primary: KXLY-TV, Spokane, Wash.

BPTTV-5841 (new), Coolin, Nordman and Surrounding Priest Lake Area, Idaho. Priest Lake Translator District. Req: Channel 12, 204–210 MHz, 10 watts. Primary: KHQ-TV, Spokane, Wash.

[FR Doc.77-22579 Filed 8-4-77;8:45 am]

FM BROADCAST APPLICATIONS READY AND AVAILABLE FOR PROCESSING

Adopted: July 22, 1977.

Released: August 4, 1977.

Notice is hereby given, pursuant to section 1.573(d) of the Commission's rules, that on September 21, 1977, the FM broadcast applications listed in the attached Appendix will be considered as ready and available for processing. Pursuant to section 1.227(b)(1) and section 1.591(b) of the Commission's rules, an application, in order to be considered with any application appearing on the attached list or with any other application on file by the close of business on September 20, 1977, which involves a conflict necessitating a hearing with any application on this list, must be substantially complete and tendered for filing at the offices of the Commission in Washington, D.C., by the close of business on September 20, 1977. The attention of prospective applicants is directed to the fact that some contemplated proposals may not be eligible for consideration with an application appearing in the attached Appendix by reason of conflicts between the listed applications and applications appearing in previous notices published pursuant to section 1.573(d) of the Commission's rules.

The attention of any party in interest desiring to file pleadings concerning any pending FM broadcast applications, pursuant to section 309(d)(1) of the Communications Act of 1934, as amended, is directed to section 1.580(i) of the Commission's rules for provisions governing the time for filing and other requirements relating to such pleadings.

Federal Communications Commission,
Vincent J. Mullins,
Secretary.

Appendix

BPH-10365 (new), Marco, Fla., Neopolitan Broadcasting Co., Inc. Req: 101.1 mHz; Channel No. 266C. ERP: 100 kW; HAAT: 660 ft.

BPH-10366 (new), Marco, Fla., Collier Broadcasting Co. Req: 101.1 mHz; Channel No. 266C. ERP: 100 kW; HATT: 663.7 ft.

BPH-10368 (new), Winchendon, Mass., WGAW, Inc. Req: 97.7 mHz; Channel No. 249A. ERP: 3 kW; HATT: 300 ft.

BPH-10373 (new), Bryan, Tex., Scott & Davis Enterprises. Req: 104.9 mHz; Channel No. 285A. ERP: 3 kW; HAAT: 300 ft.

BPH-10376 (new), Portales, N. Mex., Portales Broadcasting Co., Req: 95.3 mHz; Channel No. 237A. ERP: 3 kW; HAAT: 299.2 ft.

BPH-10378 (new), Laredo, Tex., Radio Laredo, Inc. Req: 98.1 mHz; Channel No. 251C. ERP: 44 kW; HAAT: 566 ft.

BPH-10384, WQHQ, Andalusia, Ala., Triple H Broadcasting, Inc. HAS: 98.1 mHz; Channel No. 251C. ERP: 26 kW; HAAT: 215 ft. (Lic). Req: 98.1 mHz; Channel No. 251C. ERP: 100 kW; HAAT: 250 ft.

BPH-10399 (new), La Belle, Fla., La Belle Broadcasting, Inc. Req: 92.1 mHz; Chapnel No. 221A. ERP: 3 kW; HAAT: 300 ft

BPH-10410 (new), Fabens, Tex., Algie A. Felder, Req: 103.1 mHz; Channel No. 276A. ERP: 3 kW; HAAT: 47 ft.

BPH-10411 (new), Red Bluff, Calif., Concerned Communications Corp., Req: 95.9 mHz; Channel No. 240A. ERP: .280 kW; HAAT: 1012 ft.

BPH-10412 KXXA, Little Rock, Ark., Pulaski Broadcasting, Inc., HAS: 95.7 mHz; Channel No. 239C. ERP: 26.4 kW; HAAT: 297 ft. (Lic). Req: 95.7 mHz; Channel No. 239C. ERP: 100 kW; HAAT: 953 ft.

BPH-10418 (new), Pendleton, Oreg., Pendleton Broadcasting Co., Req: 107.7 mHz; Channel No. 299C. ERP: 27.5 kW; HAAT: 610 ft.

BPH-10468 (new), Carpinteria, Calif., Pacific West Broadcasters, Req: 101.7 mHz; Channel No. 269A. ERP: .220 kW; HAAT: 920 ft.

BPH-10492 KLPC-FM, Lompoc, Calif., Robert D. Janecek, HAS: 92.7 mMz; Channel No. 224A. ERP: 2.5 kW; HAAT: −270 ft. (Lic). Req: 92.7 mHz; Channel No. 224A. ERP: .550 kW; HAAT: 705 ft.

BPH-10493 (new), Hinesville, Ga., Liberty Broadcasting Co., Inc., Req: 92.1 mHz; Channel No. 221A. ERP: 3 kW; HAAT: 222.7 ft.

BPH-10494 (new), Liberal, Kans., Lawrence E. Steckline, Req: 99.3 mHz; Channel No. 257A. ERP: 2.69 kW; HAAT: 316 ft.

BPH-10495 (new), Merkel, Tex., Big Country Broadcasting Co. Req: 102.3 mHz; Channel No. 272A. ERP: 3 kW; HAAT: 300 ft.

BPH-10497 KLEM-FM, Le Mars, Iowa, KLEM, Inc. HAS: 99.5 mHz; Channel No. 258C. ERP: 47 kW; HAAT: 150 ft. (LIC). Req: 99.5 mHz; Channel No. 258C. ERP: 100 kW; HAAT: 149.9 ft.

BPH-10498 (new), Clear Lake, Iowa, Mad Hatter Broadcasting, Inc. Req: 103.1 mHz; Channel No. 276A. ERP: 3 kW; HAAT: 300 ft.

BPH-10499 (new), Ridgecrest, Calif., KLOA Radio. Req: 104.9 mHz; Channel No. 285A. ERP: .75 kW; HAAT: 1 ft.

BPH-10515 (new), Rawlins, Wyo., Korral Radio, Inc. Req: 92.7 mHz; Channel No. 224A. ERP: 3 kW; HAAT: 118 ft.

BPH-10517 (new), Starkville, Miss., Charisma Broadcasting Co. Req: 92.1 mHz; Channel No. 221A. ERP: 3 kW; HAAT: 300 ft.

BPH-10518 (new), Sulphur Springs, Tex., Gilbert Group, Inc. Req: 95.9 mHz; Channel No. 240A. ERP: 3 kW; HAAT: 300 ft.

BPH-10520 VELV-FM Ellenaville, N.Y., Catskill Broadcasting Corp. Has: 99.3 mHz; Channel No. 257A. ERP: 3 kW; HAAT: −320 ft. (Lic). Req. 99.3 mHz; Channel No. 257A. ERP: .059 kW; HAAT: 1626 ft.

BPH-10521 (new), Casper, Wyo., Energy Capitol Broadcasting, Inc. Req: 95.5 mHz; Channel No. 238C. ERP: 100 kW; HAAT: 1908 ft.

BPH-10523 (new), Coeur D' Alene, Idaho, Idaho Broadcasting Co. Req: 103.1 mHz; Channel No. 276A. ERP: 2.2 kW; HAAT: 346 ft.

BPH-10537 (new), Clay Center, Kans., Taylor Communications, Inc. Req: 100.9 mHz; Channel No. 265A. ERP: 2.86 kW; HAAT: 253 ft.

BPH-10539 (new), Alamogordo, N.M., Kinn, Inc. Req: 105.5 mHz; Channel No. 288A. ERP: 3 kW; HAAT: −625 ft.

BPH-10541 KAWY Casper, Wyo., Modcom Corp. Has: 94.5 mHz; Channel No. 233C. ERP: 25 kW; HAAT: −126 ft. (Lic). Req: 94.5 mHz; Channel No. 233C. ERP: 100 kW; HAAT: 1908 ft.

BPH-10545 (New), Concordia, Kans., General Broadcasting Co., Inc. Req: 95.3 mHz; Channel No. 237A. ERP: 1.25 kW; HAAT: 153.1 ft.

BPH-10551 (new), Delano, Calif., Hosea Wilson. Req: 105.3 mHz; Channel No. 287B. ERP: 50 kw; HAAT: 500 ft.

BPH-10553 (new), Coquille, Oreg., KWRO Broadcasting Corp., Req: 102.3 mHz; Channel No. 272A. ERP: 3 kw; HAAT: 16.5 ft.

BPH-10573 KUAM Agana, Guam, Pacific Broadcasting Corp. Has: 93.9 mHz; Channel No. 230C. ERP: 3.9 kw; HAAT: 77 ft. (Lic.). Req: 93.9 mHz Channel No. 230C. ERP: 2 kw; HAAT: 947 ft.

BPED-2319 WERG Erie, Pa., Gannon College. Has: 89.1 mHz; Channel No. 206D. TPO: .01 kw. (Lic). Req. 89.9 mHz; Channel No. 210A. ERP: 3 kw; HAAT:—127 ft.

BPED-2363 (new), Richardson, Texas St. Luke's Educational Foundation. Req: 88.1 mHz; Channel No. 201D. TPO: .01 kw.

BPED-2399 WWGC Carrollton, Ga., West Georgia College. Has: 89.3 mHz; Channel No. 207D. TPO: .01 kw. (Lic). Req: 90.5 mHz; Channel No. 213A. ERP: .168 kw; HAAT: 82.2 ft.

BPED-2408 (new), Havre, Mont., Northern Montana College. Req: 90.1 mHz; Channel No. 211D. TPO: .01 kw.

BPED—2118 WRUW-FM Cleveland, Ohio, Case Western Reserve University. Has: 91.1 mHz; Channel No. 216D. TPO: .01 kw. (Lic). Req: 91.1 mHz; Channel No. 216A. ERP: 1 kw; HAAT: 282.4 ft.

BPED-2420 WTGM Norfolk, Va., Hampton Roads ETV Ass'n., Inc. Has: 89.5 mHz; Channel No. 208B. ERP: 26.5 kw; HAAT: 320 ft. (Lic). Req: 89.5 mHz; Channel No. 208B. ERP: 23 kw; HAAT: 630 ft.

BPED-2422 (new), Ballwin, MO., YMCA of Greater St. Louis. Req: 89.9 mHz; Channel No. 210D. TPO: .01 kw.
BPED-2423 (new), Berlin, Conn., Berlin Board of Education. Req: 89.9 mHz; Channel No. 210D. TPO: .01 kw.
BPED-2425 KPLU-FM Tacoma, Wash., Pacific Lutheran University, Inc. Has: 88.5 mHz; Channel No. 203C. ERP: 40 kw; HAAT: 130 ft. (Lic). Req: 88.5 mHz; Channel No. 203C. ERP: 100 kw; HAAT: 620 ft.
BPED-2426 (new), Sioux City, Iowa, Morningside College. Req: 88.3 mHz; Channel No. 202D. TPO: .01 kw.
BPED-2427 (new), Owatonna, Minn., Pillsbury Baptist Bible College. Req: 90.5 mHz; Channel No. 213D. TPO: .01 kw.
BPED-2430 WCLK Atlanta, Ga., Clark College. Has: 91.9 mHz; Channel No. 220A. ERP: .054 kw; HAAT: 340 ft. (Lic). Req: 91.9 mHz; Channel No. 220A. ERP 2.5 kw; HAAT: 330 ft.
BPED-2431 WVCS California, Pa., Student Activities Ass'n., Inc. Has: 91.9 mHz; Channel No. 220D. TPO: .01 kw. (Lic). Req: 91.9 mHz; Channel No. 220A. ERP: 3 kw; HAAT: 157 ft.
BPED-2433 KUOR-FM Redlands, Calif., University of Redlands. Has: 89.1 mHz; Channel No. 206A. ERP: .7 kw; HAAT: -500 ft. (Lic). Req: 89.1 mHz; Channel No. 206A. ERP: 1.84 kw; HAAT: —509 ft.
BPED-2437 (new), Santa Clara, Calif., Board of Trustees of Santa Clara College. Req: 89.1 mHz; Channel No. 206D. TPO: .01 kw.
BPED-2442 (new), Beaufort, S.C., South Carolina ETV Commission. Req: 89.9 mHz; Channel No. 210C. ERP: 48 kw; HAAT: 1,100 ft.
BPED-2446 WPGT Roanoke Rapids, N.C., Roanoke Christian School. Has: 90.1 mHz; Channel No. 211A. ERP: .860 kw; HAAT: 84 ft. (Lic). Req: 90.1 mHz; Channel No. 211A. ERP: .760 kw; HAAT: 177 ft.
BPED-2450 (new), Mansfield, Ohio, The Mansfield Christian School. Req: 90.7 mHz; Channel No. 214D. TPO: .01 kw.
BPED-2454 (new), Radford, Va., Radford College. Req: 89.9 mHz; Channel No. 210D. TPO: .01 kw.
BPED-2465 WVIK Rock Island, Ill., Augustana College. Has: 91.1 mHz; Channel No. 216D. TPO: .01 kw. (Lic). Req: 88.5 mHz; Channel No. 203C. ERP: 100 kw; HAAT: 477.5 ft.
BPED-2466 (new), Mankato, Minn., South Minnesota Corp. for Public Broadcasting. REQ: 89.7 mHz; Channel No. 209C. ERP: 100 kW; HAAT: 881.3 ft.
BPED-2467 (new), Stone Ridge, N.Y., Ulster County Community College. REQ: 90.9 mHz; Channel No. 215B. ERP: 10 kW; HAAT: 34 ft.
BPED-2472 (WCUW), Worcester, Mass., WCUW, Inc. HAS: 91.3 mHz; Channel No. 217A. ERP: .08 kW; HAAT: —37 ft. (Lic). REQ: 91.3 mHz; Channel No. 217A. ERP: .265 kW; HAAT: 143 ft.
BPED-2473 (new), Prairie View, Tex., Prairie View A & M University. REQ: 91.3 mHz; Channel No. 217C. ERP: 9.76 kW; HAAT: 413 ft.
BPED-2480 (WSDH), Sandwich, Mass., Sandwich Massachusetts Public School. HAS: 91.7 mHz; Channel No. 219D. TPO: .01 kW. (Lic). REQ: 91.5 mHz; Channel No. 218A. ERP: .31C kW; HAAT: 152 ft.
BPED-2484 (new), Minneapolis, Minn., Center for Communication and Development. REQ: 89.7 mHz; Channel No. 209D. TPO: .01 kW.
BPED-2517 (KVLU), Beaumont, Tex., Lamar University. HAS: 91.3 mHz; Channel No. 217C. ERP: 24 kW; HAAT: 550 ft. (Lic). REQ: 91.3 mHz; Channel No. 217C. ERP: 40 kW; HAAT: 450 ft.

BMPED-1508 (KPBX-FM), Spokane, Wash., Spokane Public Broadcasting Association. HAS: 91.1 mHz; Channel No. 216D. TPO: .01 kW. (Lic). HAS: 91.1 mHz; Channel No. 216C. ERP: 4.2 kW; HAAT: 542 ft. (CP). REQ: 91.1 mHz; Channel No. 216C. ERP: 100 kW; HAAT: 1530 ft.

[FR Doc.77-22576 Fied 8-4-77;8:45 am]

[Report No. I-372]

INTERNATIONAL AND SATELLITE RADIO APPLICATIONS ACCEPTED FOR FILING

AUGUST 1, 1977.

The Applications listed herein have been found, upon initial review, to be acceptable for filing. The Commission reserves the right to return any of these applications if, upon further examination, it is determined they are defective and not in conformance with the Commission's Rules, Regulations and its Policies. Final action will not be taken on any of these applications earlier than 31 days following the date of this notice. Section 309(d)(1).

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

SATELLITE COMMUNICATIONS SERVICES:

560-DSE-P/L-77 Heritage Village Church and Missionary Fellowship, Inc., Charlotte, N.C. For authority to construct a transmit/receive satellite earth station at this location. Lat. 35°08'05", Long. 80°51'27". Rec. freq: 3700-4200 mHz. Trans. freq: 5925-6425 MHz. Emission 36000F9. With a 10 meter antenna.
561-DSE-P/L-77 Florida Cabletelevision, Inc., Broward County, Fla. For authority to construct, own and operate a domestic communications satellite receive-only earth station at this location. Lat. 26°07' 14", Long. 80°10'34". Rec. freq: 3700-4200 MHz. Emission 36000F9. With a 10 meter antenna.
562-DSE-P/L-77 Opp Cabletelevision, a Division of the Utility Board, Opp, Al. For authority to construct, own and operate a domestic communications satellite receive-only earth station at this location. Lat. 31°15'55", Long. 86°17'45". Rec. freq: 3700-4200 MHz. Emission 36000F9. With a 6 meter antenna.
563-DSE-P-77 Lakeland Cablevision, Inc., Detroit Lakes, Minn. For authority to construct, own and operate a domestic communications satellite receive-only earth station at this location. Lat. 46°50'43", Long. 95°50'51". Rec. freq: 3700-4200 MHz. Emission (none listed). With a 5 meter antenna.
566-DSE-ML-77 KCCS-TV Cable, Inc., Valdez, Ala. Modification of license to permit the reception of signals of WTCG-TV, Channel 17, Atlanta, Georgia, WYAH-TV Channel 27, Portsmouth, Va.

The following Cox Cable Communications, Inc. applications are requesting modification of license to permit the reception of signals from stations: WTCG-TV, Channel 17, Atlanta, Ga., WYAH-TV, Channel 27, Portsmouth, Va. and signals of the Madison Square Garden Event.

568-DSE-ML-77 KB99 Spokane, Wash.
569-DSE-MP/L-77 KD55 El Cajon, Calif.
570-DSE-ML-77 WB90 Roanoke, Va.
571-DSE-ML-77 WB75 Manchester, Conn.
572-DSE-ML-77 KB64 Lubbock, Tex.
573-DSE-ML-77 KB86 Lamont, Calif.
574-DSE-ML-77 WB51 Saginaw, Mich.
575-DSE-P/L-77 Fox Cities Communications, Inc., Appleton, Wis. For authority to construct, own and operate a domestic communications satellite receive-only earth station at this location. Lat. 44°14' 42", Long. 88°23'46". Rec. freq: 3700-4200 MHz. Emission 36000F9. With a 5 meter antenna.
576-DSE-P-77 Frank Caliri, dba. Gavilan Communications, Gilroy, Calif. For authority to construct, own and operate a domestic communications satellite receive-only earth station at this location. Lat. 37°01'26", Long. 121°29'07". Rec. freq: 3700-4200 MHz. Emission 36000F9. With a 5 meter antenna.
577-DSE-P/L-77 Greer Associates, Greer, S.C. For authority to construct, own and operate a domestic communications satellite receive-only earth station at this location. Lat. 34°56'22", Long. 82°15'13". Rec. freq: 3700-4200 MHz. Emission 36000-P9. With a 5 meter antenna.
579-DSE-P/L-77 RCA American Communications, Inc., Wallops Island, Va. For authority to construct and operate channels of communication by means of a transmit-only communications satellite earth station at this location for operation with a domestic communications satellite system. Trans. freq: 5925-6425 MHz. Emission 36000F9. With an 11 meter antenna.
580-DSE-P/L-77 Starkville TV Cable Co. Starkville, Miss. For authority to construct, own and operate a domestic communications satellite receive-only earth station at this location. Lat. 33°26'58", Long. 88°46' 23". Rec. freq: 3700-4200 MHz. Emission 36000F9. With a 5 meter antenna.
581-DSE-R-77 American Satellite Corp. (WB27), Vernon Valley, N.Y. Renewal of license for this fixed earth station to: 8-29-80.
582-DSE-R-77 American Satellite Corp. (KB25), Murphy, Tex. Renewal of license for this fixed earth station to: 8-29-80.
583-DSE-R-77 American Satellite Corp. (KB26), Nuevo, Calif. Renewal of license for this fixed earth station to: 8-29-80.
584-DSE-P/L-77 Norman Cable TV, Inc., Norman, Okla. For authority to construct, own and operate a domestic communications satellite receive-only earth station at this location. Lat. 35°13'39", Long. 97°27' 07". Rec. freq: 3700-4200 MHz. Emission 36000F9. With a 4.2 meter antenna.
567-DSE-MP/L-77 Cox Cable Communications, Inc. (WE21), Pensacola, Fla. Modification of construction permit/license to permit the reception of signals of the Madison Square Garden Events.
578-DSE-ML-77 Gillis G. Conoley (KD41), Taylor, Tex. Modification of license to permit the reception of signals from WYAH-TV, Channel 27, Portsmouth, Va.
585-DSE-P/L-77 Wood River Cable-Vision, Inc., Ketchum, Idaho. For authority to construct, own and operate a domestic communications satellite receive-only earth station at this location. Lat. 43°41' 01", Long. 114°22'03". Rec. freq: 3700-4200 MHz. Emission 36000F9. With a 4.5 meter antenna.
586-DSE-P/L-77 West Texas Microwave Co., Midland, Tex. Forauthority to construct, own and operate a domestic communications satellite receive-only earth station at this location. Lat. 31°53'44", Long. 102°24' 55", Rec. freq: 3700-4200 MHz. Emission 36000F9. With a 10 meter antenna.

[FR Doc.77-22577 Filed 8-4-77;8:45 am]

[Report No. I-370]

INTERNATIONAL AND SATELLITE RADIO APPLICATIONS ACCEPTED FOR FILING

JULY 25, 1977.

The Applications listed herein have been found, upon initial review, to be acceptable for filing. The Commission reserves the right to return any of these applications if, upon further examination, it is determined they are defective and not in conformance with the Commission's Rules, Regulations and its Policies. Final action will not be taken on any of these applications earlier than 31 days following the date of this notice. Section 309(d)(1).

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

SATELLITE COMMUNICATIONS SERVICES

277-CSG-R-77 Comsat General Corp. (WA30), Clarksburg, Md. Renewal of license for this fixed developmental earth station, from 8-5-77 to 8-5-79.

548-DSE-R-77 Western Union Telegraph Co. (WB20), Glenwood, N.J. Renewal of license for this fixed earth station from 8-29-77, to 8-29-80.

549-DSE-R-77 Western Union Telegraph Co. (KB22), Steele Valley, Calif. Renewal of license for this fixed earth station from 8-29-77, to 8-29-80.

550-DSE-R-77 Western Union Telegraph Co. (WB24), Estill Fork, Ala. Renewal of license for this fixed earth station from 8-29-77, to 8-29-80.

551-DSE-R-77 Western Union Telegraph Co. (WB25), Lake Geneva, Wis. Renewal of license for this fixed earth station from 8-29-77, to 8-29-80.

552-DSE-R-77 Western Union Telegraph Co. (KB23), Cedar Hill, Tex. Renewal of license for this fixed earth station from 8-29-77, to 8-29-80.

AMENDMENTS

Report No. I-365, dated 7-5-77 Columbia Cable TV Co., 511-DSE-P/L-77, Columbia, S.C. To permit the reception of program material distributed by Home Box Office, Inc.

Report No. I-178, dated 10-28-75 RCA Alaska Communications, Inc., Nuiqsut, Alaskan, 82-DSE-P-76. To change coordinates to Lat. 70°12'39", Long. 150°59'27".

RCA Alaska Communications, Inc., Circle, Alaskan, 86-DSE-P-76. To change coordinates to Lat. 65°49'38", Long. 144°03'58".

RCA Alaska Communications, Inc., Arctic Village, Alaskan, 87-DSE-P-76. To change coordinates to Lat. 68°07'32", Long. 145°-32'10".

RCA Alaska Communications, Inc., Chitina, Alaskan, 91-DSE-P-76. To change coordinates to Lat. 61°30'57", Long. 144°26'09".

Report No. I-218, dated 4-5-76 RCA Alaska Communications, Inc., Eagle Village, Alaskan, 263-DSE-P/L-76. To change coordinates to Lat. 64°46'48", Long. 141°06'50".

Report No. I-122, dated 4-12-76 RCA Alaska Communications, Inc., Nikolski, Alaska, 278-DSE-P-76. To change coordinates to Lat. 52°56'27", Long. 168°51'27".

Report No. I-224, dated 4-19-76 RCA Alaska Communications, Inc., Ivanoff Bay, Alaskan, 294-DSE-P/L-76. To change coordinates to Lat. 55°54'07", Long. 159°29'15".

Report No. I-232, dated 5-17-76 RCA Alaska Communications, Inc., Minto, Alaska, 317—DSE—P/L—76. To change coordinates to Lat. 65°09'10", Long. 149°20'23".

RCA Alaska Communications, Inc., Manley Hot Springs, Alaska, 318-DSE-P/L-76. To change coordinates to Lat. 64°59'52", Long. 150°38'26".

Report No. I-234, dated 5-24-76 RCA Alaska Communications, Inc., Saint Marys, Alaska, 339-DSE-P/L-76. To change coordinates to Lat. 62°03'07", Long. 163°10'29".

Report No. I-240, dated 6-7-76 RCA Alaska Communications, Inc., Shageluk, Alaska, 352-DSE-P/L-76. To change coordinates to Lat. 62°39'21", Long. 159°31'48".

539-DSE-P-77 Athena Cablevision of Corpus Christi, Corpus Christi, Tex. For authority to construct, own and operate a domestic communications satellite receive-only earth station at this location. Lat. 27°43'15", Long. 97°23'45". Rec. freq: 3700-4200 mHz Emission 36000F9. With a 5 meter antenna.

540-DSE-P/L-77 Jacksonville Television Cable Co., Jacksonville, N.C. For authority to construct, own and operate a domestic communications satellite receive-only earth station at this location. Lat. 34°-48'42". Long. 77°26'48". Rec. freq: 3700-4200 GHz. Emission 36000F9. With a 6 meter antenna.

541-DSE-P/L-77 Coosa Cable Co., Inc., Pell City, Ala. For authority to construct, own and operate a domestic communications satellite receive-only earth station at this location. Lat. 33°35'15" Long. 86°17'08". Rec. freq: 3700-4200 GHz. Emission 36000F9. With a 5 meter antenna.

542-DSE-P/L-77 Vision, Ltd., Anchorage, Alaska. For authority to construct, own and operate a domestic communications satellite receive-only earth station at this location. Lat. 61°10'49". Long. 149°53'04". Rec. freq: 3700-4200 MHz. Emission 36000F9. With a 14 foot horn (not parabolic) antenna.

543-DSE-P-77 American Satellite Corp., Greenbelt, Md. Authority to construct and operate a transmit/receive satellite earth station at this location. Lat. 38°59'59", Long. 76°50'20". Trans. freq: 5925-6425 MHz. Rec. freq: 3700-4200 MHz. Emission 64F9Y. With a 10 meter antenna.

544-DSE-P/L-77 Eastern Telecom Corp., Monroeville, Pa. For authority to construct, own and operate a domestic communications satellite receive-only earth station at this location. Lat. 40°28'13", Long. 79°45'32". Rec. freq: 3700-4200 MHz. Emission 36000F9. With a 5 meter antenna.

545-DSE-P/L-77 Micro-Wave TV, Inc., Jessup, Ga. For authority to construct, own and operate a domestic communications satellite receive-ony earth station at this location. Lat. 31°38'47". Long. 81°58'59". Rec. freq: 3700-4200 MHz. Emission 36000F9. With a 5 meter antenna.

546-DSE-P/L-77 CATV Service Co., Hackettstown, N.J. For authority to construct a domestic communications satellite receive-only earth station at this location. Lat. 40°49'55", Long. 74°53'05". Rec. freq: 3700-4200 GHz. Emission 36000F9. With a 5 meter antenna.

547-DSE-P-77 RCA American Communications, Inc., Johnson, Tex. For authority to construct, operate and establish channels of communication by means of two co-located communication satellite earth stations at this location. Lat. 29°33'38", Long. 95°05'10". Trans. freq: 5925-6375 MHz. Rec. freq: 3700-4200 MHz. Emission 36000-F9. With a 11 meter antenna.

553-DSE-P/L-77 Teleprompter Corp., Sault Ste. Marie, Mich. For authority to construct, own and operate a domestic communications satellite receive-only earth station at this location. Lat. 46°27'39" Long. 84°18'54". Rec. freq: 3700-4200 MHz. Emission 36000F9. With a 4.5 meter antenna.

554-DSE-P/L-77 Kler View Cable Co., Inc., Anadarko, Okla. For authority to construct, own and operate a domestic communications satellite receive-only earth station at this location. Lat. 35°03'05" Long. 98°14'56". Rec. freq: 3700-4200 MHz. Emission 36000F9. With a 5 meter antenna.

555-DSE-P/L-77 RCA Alaska Communications, Inc. Transportable No. 8, Alaska. For authority to construct, operate and establish channels of communications by means of a transportable communications satellite earth station No. 8 at Tiglukpuk Drill Site near Anaktuvuk Pass, Alaska. Lat. 68°23'58" Long. 151°35'59". Trans. freq: 5925-6425 MHz. Rec. freq: 3700-4200 MHz. Emission 45F9. With a 4.5 meter antenna.

556-DSE-P/L-77 Cox Cable Communications, Inc., Moline, Ill. For authority to construct, own and operate a domestic communications satellite receive-only earth station at this location. Lat. 41°29' 08" Long. 90°28'52". Rec. freq: 3700-4200 MHz. Emission 36000F9. With a 5 meter antenna.

557-DSE-P-77 The State Board of Regents of Florida, a public corporation of the State of Florida acting for and in behalf of the University of South Florida, Tampa, Fla. For authority to construct, own and operate a domestic communications satellite receive-only earth station at this location. Lat. 28°03'24" Long. 82°24'43". Rec. freq: 3700-4200MHz. Emission 36000F9. With a 10 meter antenna.

Report No. I-218 Dated 4-5-76, RCA Alaska Communications, Inc., Yoyukuk, Alaska. 264-DSE-P/L-76. To change coordinates to: Lat. 64°52'58" Long. 157°42'24".

558-DSE-P/L-77 Teleprompter Corp., Iron Mountain, Mich. For authority to construct, own and operate a domestic communications satellite receive-only earth station at this location. Lat. 45°49'01" Long. 88°03'02". Rec. freq: 3700-4200 MHz. Emission 36000F9. With a 4.5 meter antenna.

559-DSE-ML-77 Te'eprompter Corp., Muscoy, Calif. Modification of license to convert the existing private receive-only earth station into a common-carrier facility.

[FR Doc.77-22578 Filed 8-4-77;8:45 am]

STANDARD BROADCAST APPLICATIONS READY AND AVAILABLE FOR PROCESSING

Adopted: July 22, 1977.

Released: July 29, 1977.

Notice is hereby given, pursuant to Section 1.571(c) of the Commission's Rules, that on September 5, 1977, the standard broadcast applications listed in the attached Appendix will be considered as ready and available for processing. Pursuant to Section 1.227(b)(1) and Section 1.591(b) of the Commission's Rules, an application, in order to be considered with any application appearing on the attached list or with any other application on file by the close of business on September 5, 1977, which involves a conflict necessitating a hearing with any application on this list, must be substantially complete and tendered for filing at the Offices of the Commission in Washington, D.C. by the close of business on September 5, 1977. The attention of prospective applicants is directed to the fact that some contemplated proposals may not be eligible for consideration with an application appearing in

the attached Appendix by reason of conflicts between the listed applications and applications appearing in previous notices published pursuant to Section 1.571(c) of the Commission's Rules.

The attention of any party in interest desiring to file pleadings concerning any pending standard broadcast applications, pursuant to Section 309(d)(1) of the Communications Act of 1934, as amended, is directed to Section 1.580(i) of the Commission's Rules for provisions governing the time for filing and other requirements relating to such pleadings.

FEDERAL COMMUNICATIONS COMMISSION
VINCENT J. MULLINS,
Secretary.

APPENDIX

BMP-14,164 KWYO, Sheridan, Wyo., Wycom Corp. Has: 1410 kHz, 500 W, 1 kW-LS, U. Req: 1410 kHz, 500 W, 5 kW-LS, U.

BP-20324 WPGC, Morningside, Md., First Media, Inc. Has: 1580 kHz, 10 kW, DA-Day. Req: 1580 kHz, 50 kW, DA-Day.

BP-20251 WETB, Johnson City, Tenn., Press, Inc. Has: 790 kHz, 1 kW, Day. Req: 790 kHz, 5 kW, Day.

BP-20257 WNTS, Beech Grove, Ind., S & M Broadcasting Co., Inc. Has: 1590 kHz, 5 kW, DA-Day (Indianapolis). Req: 1590 kHz, 500 W, 5 kW-LS, DA-2, U (Beech Grove).

BP-20258 (new), Whitefish, Mont., Big Mountain Broadcasting Co., Inc. Req: 1400 kHz, 250 W, 1 kW-LS, U.

BP-20259 WTLN, Apopka, Fla., Alton Rainbow Corp. Has: 1520 kHz, 5 kW, DA-Day. Req: 1520 kHz, 10 kW, DA-Day.

BP-20266 KDTH, Dubuque, Iowa, Telegraph Herald, Inc. Has: 1370 kHz, 1 kW, 5 kW-LS, DA-N, U. Req: 1370 kHz, 5 kW, DA-N, U.

BP-20269 WILD, Boston, Mass., Sheridan Broadcasting Corp. Has: 1090 kHz, 1 kW, Day. Req: 1090 kHz, 5 kW (1 kW CH), Day.

BP-20270 KUHL, Santa Maria, Calif., KUHL Broadcasting, Inc. Has: 1440 kHz, 1 kW, DA-N, U. Req: 1440 kHz, 1 kW, 5 kW-LS, DA-N, U.

BP-20272 KWIZ, Santa Ana, Calif., The Voice of the Orange Empire, Inc., Ltd. Has: 1480 kHz, 1 kW, 5 kW-LS, DA-2, U. Req: 1480 kHz, 5 kW, DA-2, U.

BP-20275 WBLA, Elizabethtown, N.C., Bladen Broadcasting Corp. Has: 1440 kHz, 1 kW, Day. Req: 1440 kHz, 5 kW, Day.

BP-20279 WDSM, Superior, Wis., WDSM, Inc. Has: 710 kHz, 5 kW DA-N, U Req: 710 kHz, 5 kW, 10 kW-LS, DA-N, U.

BP-20290 (new), Surfside Beach-Garden City Beach, S.C., Lower Grand Strand Broadcasting Co., Inc. Req: 1270 kHz, 5 kW, DA-Day.

BP-20296 (new), Madison, W. Va., Gerald E. Davis, tr/as Capital Communications. Req: 1450 kHz, 250 W, 1 kW-LS, U.

BP-20297 (new), Bentonville, Ark., JEM Broadcasting Co. Req: 1190 kHz, 250 W, Day.

BP-20298 (new), Wray, Colo., Robert D. Zellmer & Marjorie M. Zellmer, Joint Tenants, d/b/as KRDZ Broadcasters. Req: 1470 kHz, 1 kW, Day.

BP-20303 WIXY, East Longmeadow, Mass., Executive Broadcasting Corp. Has: 1600 kHz, 5 kW, Day. Req: 1600 kHz, 2.5 kW, 5 kW-LS, DA-N, U.

BP-20304 KWYK, Farmington, N. Mex., Basin Broadcasting Co. Has: 960 kHz, 1 kW, Day. Req: 960 kHz, 5 kW, Day.

BP-20307 KHYM, Gilmer, Tex., J. R. McClure, tr/as KHYM Broadcasting Co. Has: 1060 kHz, 5 kW, Day. Req: 1060 kHz, 10 kW, Day.

BP-20308 WRBX, Chapel Hill, N.C., Carolina Triangle Broadcasting Corp. Has: 1530 kHz, 5 kW, DA-Day. Req: 1530 kHz, 10 kW, DA-Day.

BP-20309 WICH, Norwich, Conn., WICH, Inc. Has: 1310 kHz, 1 kW, 5 kW-LS, DA-2, U. Req: 1310 kHz, 5 kW, DA-2, U.

BP-20310 WTAW, College Station, Tex., Radio Bryan, Inc. Has: 1150 kHz, 1 kW, Day. Req: 1150 kHz, 500 W, 1 kW-LS, DA-N, U.

BP-20311 KALE, Richland, Wash., KALE, Inc. Has: 960 kHz, 1 kW, DA-N, U. Req: 960 kHz, 1 kW, 5 kW-LS, DA-N, U.

BP-20317 (new), Banner Elk, N.C. Tal-Flo Broadcasters, Inc. Req: 1190 kHz, 1 kW, Day.

BP-20318 WAAN, Waynesboro, Tenn., Waynesboro Broadcasting Co., Has: 1480 kHz, 1 kW, Day. Req: 1400 kHz, 250 W, 1 kW-LS, U.

BP-20319 KFNW, Fargo, N. Dak., Northwestern College, Has: 1170 kHz, 1 kW, Day. Req: 1170 kHz, 10 kW, DA-Day.

BP-20322 KVIL, Highland Park, Tex., Fairbanks Broadcasting Co. of Texas, Inc. Has: 1150 kHz, 1 kW, DA-Day. Req: 1150 kHz, 1 kW, DA-2, U.

BP-20323 WAGL, Lancaster, S.C., Palmetto Broadcasting System, Inc. Has: 1560 kHz, 10 kW, Day. Req: 1560 kHz, 50 kW, DA-2, Day.

BP-20325 KBSN, Crane, Tex., Albert L. Crain. Has: 970 kHz, 1 kW, Day. Req: 810 kHz, 1 kW, Day.

BP-20326 (new), Madison, W. Va., Boone Broadcasting Co. Req: 1450 kHz, 250 W, 1 kW-LS, U.

BP-20328 (new), Marshalltown, Iowa, MIN Broadcasting Co. Req: 1190 kHz, 250 W. Day.

BP-20329 (new), Kalkaska, Mich., Kaltrim Broadcasting Co. Req: 1420 kHz, 500 W, Day.

BP-20330 (new), Paris, Tenn., J Star Broadcasting Co., Inc. Req: 1000 kHz, 500 W, DA-Day.

BP-20335 KMAV, Mayville, N. Dak., KMAV, Radio Inc. Has: 1520 kHz, 250 W, Day. Req: 1520 kHz, 2.5 kW, Day.

BP-20337 (new), Washington, La., Mamou Broadcasting, Inc. Req: 1190 kHz, 250 W, Day.

BP-20341 WGKA, Atlanta, Ga., WGKA, Inc. Has: 1190 kHz, 1 kW, Day. Req: 1190 kHz, 10 kW (2.5 kW-CH), Day.

BP-20348 (new), Huntsville, Ark., Mountain Media Corp. Req: 1190 kHz, 250 W, Day.

BP-20402 (new), Albertville, Ala., Benny Caryle Broadcasting, Inc. Req: 1190 kHz, 1 kW, Day.

BP-20512 WRPL, Charlotte, N.C., Voice of Charlotte Broadcasting Co. Has: 1540 kHz, 1 kW, Day. Req: 1540 kHz, 10 kW, DA-Day.

BP-20593 (new), Murray, Ky., Heritage Broadcasting Co., Inc. Req: 1000 kHz, 250 W, DA-2, U.

BP-20603 (new), Van Buren, Ark., Crawford County Communications, Inc. Req: 1060 kHz, 500 W, DA-Day.

BP-20622 (new), Aberdeen, Miss., Mississippi Broadcasting Co., Req: 1190 kHz, 1 kW, Day.

BP-20737 (new), Lillington, N.C., Harnett Broadcast, Inc. Req: 1370 kHz, 2.5 kW, DA-Day.

BP-20775 (new), Phoenixville, Pa., Suburban Communications, Inc. Req: 690 kHz, 500 W, DA-Day.

BP-20794 (new), Marshalltown, Iowa, Marshalltown Radio Corp., Req: 1190 kHz, 500 W, DA-Day.

[FR Doc.77-22580 Filed 8-4-77;8:45 am]

FEDERAL HOME LOAN BANK BOARD

[H.C. No. 230]

GENERAL OHIO S&L CORP.

Receipt of Application for Permission To Acquire Control of Central Savings and Loan Co.

AUGUST 2, 1977.

Notice is hereby given that the Federal Savings and Loan Insurance Corporation has received an application from General Ohio S&L Corporation, Columbus, Ohio, a multiple savings and loan holding company, for approval of acquisition of control of The Central Savings and Loan Company, Columbus, Ohio, an insured institution, under the provisions of Section 408(e) of the National Housing Act, as amended (12 U.S.C. 1730a(c)), and Section 584.4 of the Regulations for Savings and Loan Holding Companies, said acquisition to be effected by a purchase of the entire outstanding stock of the Central Savings and Loan Company by General S&L Corporation. Following said acquisition, it is proposed that the Railroad Savings and Loan Company, an insured subsidiary of General Ohio S&L Corporation, be merged into The Central Savings and Loan Company. Comments on the proposed acquisition should be submitted to the Director, or Deputy Director, Office of Examinations and Supervision, Federal Home Loan Bank Board, Washington, D.C. 20552, on or before September 6, 1977.

J. J. FINN,
Secretary, Federal Home Loan Bank Board.

[FR Doc.77-22566 Filed 8-4-77;8:45 am]

FEDERAL MARITIME COMMISSION

PORT OF SEATTLE AND PACIFIC ALASKA LINE INC.

Notice of Agreements Filed

Notice is hereby given that the following agreements have been filed with the Commission for review and approval, if required, pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreements at the Washington office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10126; or may inspect the agreements at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before August 25, 1977. Any person desiring a hearing on the proposed agreements shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimina-

tion or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreements (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreements filed by:

H. H. Wittren, Manager, Waterfront Real Estate, Port of Seattle, P.O. Box 1209, Seattle, Washington 98111.

Agreements Nos. T-3499 and T-3500 between the Port of Seattle (Seattle) and Pacific Alaska Line, Inc., (Pacific) provide for five-year renewable leases to Pacific of certain terminal facilities located at Terminal 105, Seattle, Washington. Agreement No. T-3499 grants to Pacific the lease of land, submerged land, pier and dock facilities in exchange for a monthly rental of $15,811. Agreement No. T-3500 grants to Pacific the lease of land and office space in exchange for a monthly rental of $705. The leased facilities are described in detail in the respective agreements and will be used by Pacific in connection with its maritime commerce activities.

Although these agreements may not be subject to section 15 of the Shipping Act, 1916, interested parties are given an opportunity to comment thereon if they so desire.

By order of the Federal Maritime Commission.

Dated: August 2, 1977.

JOSEPH C. POLKING,
Acting Secretary.

[FR Doc.77-22565 Filed 8-4-77;8:45 am]

FEDERAL POWER COMMISSION

[Docket No. CI77-641]

ARKANSAS LOUISIANA GAS CO. vs. DYCO PETROLEUM CORP.

Petition for Declaratory Order

JULY 27, 1977.

Take notice that on July 12, 1977 Arkansas Louisiana Gas Company (Petitioner), which has its principal place of business at the Slattery Building, Shreveport, Louisiana, filed in Docket No. CI77-641 a petition for a declaratory order pursuant to Section 1.7(c) of the Commission's Rules of Practice and Procedure (18 CFR § 1.7(c)).

On July 7, 1970 Petitioner executed an agreement with McCulloch Oil Corporation (McCulloch) whereby Petitioner agreed to purchase and McCulloch agreed to sell natural gas. A certificate of public convenience and necessity pertaining to this contract was issued to McCulloch by the Federal Power Commission on February 18, 1972 in Docket No. CI71-87.

Petitioner states that Dyco operates a certain well covered under the above-described contract pursuant to a farm-out arrangement with McCulloch. Petitioner further alleges that Dyco has refused to deliver to it gas from a certain well subject to the contract and that Dyco intends to sell such gas on the intrastate market. Petitioner states that, inasmuch as sales from the subject well are dedicated in interstate commerce, Dyco must continue to sell the gas to Petitioner unless or until Dyco secures from the Commission abandonment authorization pursuant to Section 7(b) of the Natural Gas Act.

Any person desiring to be heard or to make any protest with reference to said petition should on or before August 22, 1977, file with the Federal Power Commission, 825 North Capitol Street, Washington, D.C. 20426, a petition to intervene or protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 C.F.R. 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to the proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with Section 1.8 of the Commission's Rules of Practice and Procedure (18 C.F.R. § 1.8).

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-22518 Filed 8-4-77;8:45 am]

[Docket Nos. E-7631, E-7633 and E-7713]

CITY OF CLEVELAND, OHIO v. CLEVELAND ELECTRIC ILLUMINATING CO.

Order in Compliance With Court Opinion Requiring Further Briefs

JULY 26, 1977.

On July 1, 1977, the U.S. Court of Appeals for the District of Columbia Circuit in *City of Cleveland et al.* v. *Federal Power Commission* ____ F.2d ____ (1977) (Case No. 73-1282) issued an "Opinion On Motion For An Order Directing Compliance With Mandate." That Opinion requires the Commission to expand the remanded proceedings in this docket to cover the issue of whether a prior oral agreement existed as to the energy rates, as well as demand rates (i.e. ratchet clause, which rendered void the January 20, 1970, letter agreement as amended covering load transfer service between Cleveland Electric Illuminating Company (CEI) and the City of Cleveland, Ohio (Cleveland) between February 4, 1970, and May 17, 1972. The Court thus modified the Commission's November 5, 1976, and January 5, 1977, orders in this docket which limited the proceedings on remand from the Court's previous decision herein [1] to the issue of whether or not there was a pre-existing oral agreement as to the demand charges for load transfer service which voided the January 20, 1970, letter agreement, as amended; particularly the ratchet clause contained therein.

Accordingly, the Commission shall establish dates for submission of supplemental briefs on the "energy charge" issue as set forth above and in the Court's July 1, 1977 opinion. Pending receipt of and consideration of these supplemental briefs, the Commission shall defer action on Cleveland's June 8, 1977, application for rehearing of Opinion No. 644-B ____ FPC ____ issued May 9, 1977, in this proceeding.[2]

The Commission orders: (A) On or before August 17, 1977, all parties shall file Initial Briefs regarding the "energy charge" issue. On or before September 19, 1977, all parties shall file responding briefs on the "energy charge" issue.

(B) The Secretary shall ensure that this order is promptly published in the FEDERAL REGISTER.

By the Commission.

Lois D. Cashell,
Acting Secretary.

[FR. Doc.77-22517 Filed 8-4-77;8:45 am]

[1] *City of Cleveland et al.* v. *F.P.C.* 525 F. 2d 845 (CADC 1976).

[Docket No. ER77-175]

FLORIDA POWER & LIGHT CO.

Order Denying Motion for Reconsideration

JULY 26, 1977.

On June 28, 1977, Florida Power and Light Company (FP&L) filed a document entitled "Application . . . For Rehearing" in which it requests rehearing of the May 31, 1977 order [1] issued in this docket.

The May 31 order was issued in response to FP&L's "Application For Rehearing" of our April 12, 1977 order in this docket. As we indicated in our May 31, 1977 order, Section 1.34 of the Commission's Rules of Practice and Procedure requires a final decision or order before an application for rehearing can lie. Since the April 12, 1977 order was interlocutory, no application for rehearing was permitted. However, the Commission treated the application as a motion for reconsideration and considered the merits of FP&L's filing. We see no need to treat this application any differently.

The single argument raised by FP&L in this application was similarly raised in its prior application as well as in its Response to the Petition to Intervene of New Smyrna Beach. The argument was discussed in both the April 12 order and the May 31 order. We reiterate our statement contained in the May 31 order: "Repetition of an argument previously rejected in a Commission order is not a ground for reconsideration of that order."

[2] By order issued July 8, 1977, ____ FPC ____ (1977) in this proceeding, the Commission granted rehearing of Opinion No. 644-B for purposes of further consideration.

[1] Order Granting Motion For Reconsideration and Establishing Procedures.

The Commission finds: (1) FP&L's arguments, allegations, and contentions in its filing of June 28, 1977 raise no issues of fact or law not considered when this Commission issued its May 31, 1977 order in this proceeding.

(2) Good cause does not exist to reconsider the Commission's May 31, 1977 order.

The Commission orders: (A) FP&L's motion for reconsideration is hereby denied.

(B) The Secretary shall cause the prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-22516 Filed 8-4-77;8:45 am]

[Docket No. ER77-438]

NIAGARA MOHAWK POWER CORP.

Proposed Tariff Change

JULY 26, 1977.

Take notice that Niagara Power Corporation (Niagara), on July 7, 1977, tendered for filing as a rate schedule, an agreement between Niagara and Consolidated Edison Company of New York, Inc. (Con Ed) dated April 12, 1977.

Niagara indicates that there is presently on file an agreement with Con Ed dated February 14, 1975, and this agreement is designated as Niagara Mohawk Power Corporation Rate Schedule FPC No. 90. Niagara states that the new agreement is being submitted as a supplement to the existing agreement.

According to Niagara this supplement revises the wheeling rate as provided for in the terms of the original agreement.

Niagara proposes an effective date of April 1, 1977, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with paragraphs 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 August 12, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-22507 Filed 8-4-77;8:45 am]

[Docket No. ER77-437]

NIAGARA MOHAWK POWER CORP.

Proposed Tariff Change

JULY 26, 1977.

Take notice that Niagara Mohawk Power Corporation (Niagara), on July 7, 1977, tendered for filing as a rate schedule, an agreement between Niagara and Long Island Lighting Company (LILCO), dated April 12, 1977.

Niagara states that there is presently on file an agreement with LILCO dated February 14, 1975, and that this agreement is designated as Niagara Mohawk Power Corporation Rate Schedule FPC No. 91. Niagara further states that the new agreement is being submitted as a supplement to the existing agreement.

According to Niagara this supplement revises the wheeling rate as provided for in the terms of the original agreement.

Niagara proposes an effective date of April 1, 1977, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with paragraphs 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 August 12, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-22508 Filed 8-4-77;8:45 am]

[Docket No. CP77-507]

NORTHWEST PIPELINE CORP.

Application

JULY 26, 1977.

Take notice that on July 13, 1977, Northwest Pipeline Corporation (Applicant), 315 East Second South, Salt Lake City, Utah 84111, filed in Docket No. CP77-507 an application pursuant to Section 7(c) of the Natural Gas Act and Section 157.7(b) of the Regulations thereunder (18 CFR 157.7(b)) for a certificate of public convenience and necessity authorizing the construction, during the calendar year 1978, and operation of facilities to enable Applicant to take into its certificated main pipeline system natural gas which would be purchased from producers and other similar sellers thereof, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in connecting to its pipeline system supplies of natural gas which may become available from various producing areas generally co-extensive with its pipeline system or the systems of other pipeline companies which may be authorized to transport gas for the account of or exchange gas with Applicant.

Applicant states that the total cost of the proposed facilities would not exceed $10,500,000 with no single project to exceed $1,500,000.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 15, 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) as 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 proceding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-22506 Filed 8-4-77;8:45 am]

[Dcoket No. ER76-826]

PENNSYLVANIA POWER & LIGHT CO.

Certification of Settlement Agreement

JULY 26, 1977.

Take notice that Presiding Administrative Law Judge Nahum Litt on June 28, 1977, certified to the Commission a settlement agreement entered into between Pennsylvania Power & Light Company (PP&L) and certain resale customers of PP&L who are intervenors in the proceedings in the above-noted docket: the Boroughs of Ephrata, Quakertown, Watsontown, Perkasie, St. Clair, Hatfield, Catawissa, Lehighton, Weatherly and Schiyekill Haven, Pennsylvania, and Citizens Electric Company of Lewisburg, Pennsylvania (customers).

The Presiding Judge indicates that PP&L states that the customers and PP&L have agreed to the settlement agreement. The Presiding Judge further indicates that PP&L states that it believes that the Commission Staff will support the settlement agreement.

Any person who wishes to comment on the settlement agreement should file comments with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, on or before August 12, 1977. Comments will be considered by the Commission in determining the appropriate action to be taken.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-22511 Filed 8-4-77;8:45 am]

[Docket No. ER77-402]

PHILADELPHIA ELECTRIC CO.

Order Accepting for Filing Proposed Rate Schedules, Denying Motion To Reject, Suspending Proposed Rate Schedules, Granting Intervention, and Establishing Procedures

JULY 26, 1977.

On May 27, 1977, Philadelphia Electric Company (PE) tendered for filing proposed changes in its Electric Service Tariff, applicable for service to the Borough of Lansdale, Pennsylvania, (Lansdale). PE indicates that the proposed changes would increase revenues from jurisdictional sales and service by $2,133,792 (222%) based on the 12-month period ending June 30, 1978. PE requests its filing be made effective July 27, 1977.

Notice of tendered filing was issued on June 10, 1977, with all protests or petitions to intervene due on or before June 17, 1977.

On June 14, 1977, Lansdale filed a motion to extend the time for filing petitions to intervene or protest to the proposed tariff changes. The Commission granted such extension until July 1, 1977. On that date, Lansdale filed a Motion to Reject, Protest and Petition to Intervene.

In support of its motion to reject, Lansdale asserts that PE's filing fails to comply with Section 35.13 of the Commission's Rules and Regulations in that PE has not supplied certain required statements and workpapers in support of its rate increase proposal.

Lansdale also challenges PE's proposed auxiliary service provision as being anti-competitive and discriminatory in effect on Lansdale, and argues that the provision attempts to virtually isolate Lansdale from any economically feasible alternatives other than full-requirements service by PE. Lansdale urges that the effectiveness of this provision be deferred pending final Commission determination on the matter. In the alternative, Lansdale requests a full five-month suspension period.

On July 11, 1977, PE filed an answer opposing the motion to reject, arguing for no more than a one-day suspension. PE argues as to the necessity of its rate increase, the sufficiency of the workpapers, and the fairness of the auxiliary service provision.

We will not reject PE's filing. As noted in *Municipal Light Boards* v. *FPC*, 450, F 2d 1341, 1346 (1971):

> A "rejection" of a filing . . . is more like a motion to dismiss on the face of the pleading and indeed goes even beyond that. It is appropriate where the filing is so deficient on its face that the agency may properly return it to the filing party without even waiting a responsive filing by any other Party.

In this case, PE's filing is not deficient on its face. A preliminary review of the Company's proposal indicates that the filing has not been shown to be justified and may be unjust, unreasonable, unduly discriminatory, or preferential or otherwise unlawful. Hearing procedures will be established to determine the lawfulness of this filing.

The Commission finds: (1) Good cause exists to deny the motion to reject and to accept for filing and suspend the proposed rates tendered by the Company on May 27, 1977, as hereinafter ordered.

(2) The participation in this proceeding of the Borough of Lansdale may be in the public interest.

The Commission orders: (A) The proposed increased rates and changes tendered by PE on May 27, 1977, are hereby accepted for filing.

(B) The motion to reject filed by the Borough of Lansdale is denied.

(C) The Borough of Lansdale is hereby permitted to intervene in the proceeding, subject to the Rules and Regulations of the Commission. *Provided, however,* that the participation of such intervenor shall be limited to matters affecting the rights and interests specifically set forth in its petition to intervene; and *provided further,* that the admission of such intervenor shall not be construed as recognition that it might be aggrieved because of any order or orders issued by the Commission in this proceeding.

(D) Pursuant to the authority contained in and subject to the provisions of the Federal Power Act, particularly Sections 205 and 206 thereof, the Commission's Rules of Practice and Procedure, and the Regulations under the Federal Power Act, a public hearing will be held at a time and place to be specified in a subsequent Commission order concerning the lawfulness of the filing tendered by PE in this proceeding.

(E) Pending such hearing or decision thereon, the increased rates and charges tendered by the Company on May 27, 1977, are hereby suspended and the use thereof deferred for one day until July 28, 1977, when they shall become effective subject to refund.

(F) The Secretary shall cause prompt publication of this Order to be made in the FEDERAL REGISTER.

By the Commission.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-22510 Filed 8-4-77;8:45 am]

[Docket No. ER77-503]

PUBLIC SERVICE CO. OF COLORADO

Proposed Tariff Change

JULY 26, 1977.

Take notice that Public Service Company of Colorado (PSCO) on July 5, 1977 tendered for filing proposed changes in its FPC Electric Service Tariff. PSCO states that the proposed change is Supplement No. 9 (Supplement) to PSCO's Contract for Interconnections and Transmission Service with the United States Department of the Interior, Bureau of Reclamation, Pick-Sloan Missouri Basin Program—Western Division, Colorado River Basin Project (USBR), on file with the Commission under PSCO's FPC Rate Schedule No. 7.

PSCO indicates that the Supplement, dated June 30, 1976, grants PSCO further extension of the termination date of its Temporary Tap (Henderson Temporary Point of Delivery) to the Green Mountain-Summit 115 kV Transmission line of the USBR. PSCO also indicates that the Supplement also establishes procedures for sectionalizing the USBR's Green Mountain Facilities and/or Hayden-Green Mountain 138 kV Transmission line in the event of an overload condition. In addition, PSCO indicates, the Supplement provides transmission service by the USBR to PSCO at the Loveland Boyd-East Sub and West Tap.

PSCO states that copies of the filing were served upon all parties and affected state commissions.

Anyone 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 Procedures (18 CFR 1.8, 1.10). All such protests or petitions should be filed on or before August 12, 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 proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-22509 Filed 8-4-77;8:45 am]

[Docket No. ER77-504]

PUBLIC SERVICE CO. OF COLORADO

Tariff Change

JULY 26, 1977.

Take notice that Public Service Company of Colorado (PSCO) on July 5, 1977 tendered for filing proposed changes in its FPC Electric Service Tariff. PSCO states that the proposed change is an Agreement between the Colorado-Ute Electric Association, Inc. (Colorado-Ute) and PSCO. PSCO further states that the Agreement supplements and will be operated consistent with the principles of the Power Purchase and Transmission Service Agreement between Colorado-Ute and PSCO, dated October 9, 1967, on file with the Commission under PSCO's FPC Rate Schedule No. 12.

PSCO indicates that the Agreement provides for the interconnection of elec-

trical facilities of Colorado-Ute and PSCO at PSCO's Boone Substation. PSCO further indicates that the interconnection is of mutual benefit in that it delays the necessity for each company to build addition 230 kV transmission line capacity between Midway Substation and Boone Substation.

PSCO requests waiver of the Commission's notice requirements to allow for an effective date of April 9, 1976.

PSCO states that copies of the filing were served upon all parties to the Agreement and the affected state 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 protests or petitions should be filed on or before August 12, 1977. Protests will be considered by the Commission in determining the appropriation action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-22510 Filed 8-4-77;8:45 am]

[Docket No. CP76-428]

SEA ROBIN PIPELINE CO.

Filing of Original Tariff Sheets

JULY 21, 1977.

Take notice that on July 6, 1977, Sea Robin Pipeline Company (Sea Robin) tendered for filing Original Sheet Nos. 235 through 258 to its FPC Gas Tariff, Original Volume No. 2, being a transportation agreement between Sea Robin and Mid Louisiana Gas Company dated June 14, 1976. It is proposed that these tariff sheets become effective on the date the facilities to connect East Cameron Block 335 are completed, and the transportation service certificated in Docket No. CP76-428 commences.

The Company states that copies of these tariff sheets have been mailed to Mid Louisiana Gas Company.

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 August 15, 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 proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-22512 Filed 8-4-77;8:45 am]

[Docket No. CP76-428]

SEA ROBIN PIPELINE CO.

Filing of Original Tariff Sheets

JULY 21, 1977.

Take notice that on July 6, 1977, Sea Robin Pipeline Company (Sea Robin) tendered for filing Original Sheet Nos. 283 through 307 to its FPC Gas Tariff, Original Volume No. 2, being a transportation agreement between Sea Robin and United Gas Pipe Line Company dated June 11, 1976. It is proposed that these tariff sheets become effective on the date the facilities to connect East Cameron Block 335 are completed and the transportation service certificated in Docket No. CP76-428 commences.

The Company states that copies of these tariff sheets have been mailed to United Gas Pipe Line Company.

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 N. 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 August 15, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-22513 Filed 8-4-77;8:45 am]

[Docket No. ER77-424]

SOUTHWESTERN PUBLIC SERVICE CO.

Rate Filing

JULY 27, 1977.

Take notice that on July 5, 1977, the Southwestern Public Service Company (Southwestern) of Amarillo, Texas, tendered for filing a new contract and rate schedule for electric power service to the City of Canadian, Canadian, Texas. Southwestern indicates that this service would be rendered through Southwestern's 115 kV and 69 kV transmission line to its connection with North Plains Electric Cooperative, Inc. (North Plains), from which point the power and energy would be wheeled over North Plains' 69 kV and 12.5 kV lines to connect with the City of Canadian's distribution system, the connection thereto being the metering point and point of service.

Southwestern states that Canadian is a partial-requirements customer and the new contract for firm power requires Canadian to negotiate firm power requirements one year in advance for better planning of high cost plant additions by Southwestern.

Southwestern states that the base cost of fuel adjustment is set at 9 mills per kWh and provides for a 4.4% loss adjustment to the point of the sale.

Southwestern requests the Commission to waive the 30 day notice requirement and make the proposed new rate effective on June 1, 1977.

Any person desiring to be heard or to protest said filing shall file with the Federal Power Commission, Washington, D.C. 20426, protests or petitions to intervene in accordance with the requirements of the Commission's Rules of Practice (18 CFR 1.8 or 1.10). All protests or petitions to intervene must be filed on or before August 12, 1977. All protests will be considered by the Commission 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 must file a petition to intervene in accordance with the Rules of Practice and Procedure. This filing is on file with the Commission and available for public inspection.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-22515 Filed 8-4-77;8:45 am]

[Docket Nos. ER76-303 and ER76-399]

WISCONSIN ELECTRIC POWER CO. AND WISCONSIN MICHIGAN POWER CO.

Order Denying in Part and Granting in Part Petitions for Rehearing

JULY 26, 1977.

On April 29, 1977, this Commission issued an Order on Reconsideration in the above-captioned proceeding. In our order we determined that Wisconsin Michigan Power Company's (the Company's) service contracts with the Town of Florence, the City of New London and the City of Shawano (the Cities) permit the Company to file unilateral rate increases, but that such increases may not surpass the rate level of the Company's large user (industrial) retail rate. Applications for Rehearing of the order were filed on May 27, 1977, by the Company and on May 31, 1977, by the Cities.[1] On June 24, 1977, the Commission issued a Notice of Intent to Act. The Company filed on June 27, 1977, a motion requesting stay of its filing and refund obligations, as set forth in ordering paragraph (B) of the Order on Reconsideration, pending Commission action of the

[1] The Notice of Intent to Act, issued June 24, 1977, stated incorrectly that the Cities' Application was untimely filed. Thirty days after issuance of the Order on Reconsideration was May 29, which was a Sunday; May 30 was a legal holiday. Under Section 1.13 of the Commission's Rules of Practice and Procedure, therefore, the period for applications for rehearing ran through May 31.

applications for rehearing. The Company's motion was granted by order issued June 30, 1977. For the reasons set forth below, we shall deny the Company's application and shall grant in part and deny in part the Cities' application for rehearing.

REHEARING APPLICATION OF THE COMPANY

In its Application for Rehearing Wisconsin Michigan takes exception to the Commission's finding that the contracts in question impose as a ceiling on wholesale rates the industrial retail rate in effect at the time of the filing. The Company argues that the Commission erred in disregarding two contractual doctrines: (1) In a contract involving mutual promises the inability of one party to perform as promised, although through no fault of his own, constitutes a failure of consideration relieving the other party of his obligation to perform as reciprocally promised; and (2) a contract may be modified by a subsequent course of dealing between the parties.

The Company is reiterating an argument raised in its earlier Answer to Motion for Reconsideration [2] and dealt with in our Order on Reconsideration, issued April 29, 1977.[3] The assertion is that, since the contracts [4] with the petitioning Cities were entered into prior to the imposition of this Commission's jurisdiction over wholesale sales, the unforeseen superseding requirement of obtaining this Commission's approval of the Company's wholesale rate filings relieves the municipal customers, by operation of law, of their obligation to "automatically . . . accept" the retail industrial rate. Consequently, the Company reasons, Wisconsin Michigan is relieved of its reciprocal obligation to offer automatically to the municipal customers a rate equivalent to the industrial retail rate level.

In a case involving a contract clause very similar to that in the instant proceeding, the District of Columbia Circuit Court of Appeals addressed the impact on contract terms of a superseding regulatory authority. In *Anderson Power and Light* v. *F.P.C.* (which was consolidated with *Richmond Power and Light* v. *F.P.C.*), 481 F. 2d 490 (1973),[5] Indiana and Michigan Electric Company's (I&M's) contract with Anderson Power and Light (Anderson), a municipally owned electric power company, was entered into in 1957, before the Federal Power Commission's jurisdiction over the sales thereunder was established in 1965.[6] The contract provided, in pertinent part, that I&M would supply electric energy "at the rate and under the provisions of the regularly filed and published tariff selected by the customer (Anderson) and known as Tariff I.P. * * * as long as said tariff is in effect * * *." [7] Tariff I.P. was an industrial retail tariff on file with the Public Service Company of Indiana.[8]

When in 1972 I&M filed with the Federal Power Commission a new rate schedule purporting to increase Anderson's rates above the rate level of the then effective Tariff I.P., the Commission initially reasoned that, in light of its superseding jurisdiction, any references in the contract to the state regulatory commission should simply be read as references to the Federal Power Commission as the new "appropriate regulatory authority." The Commission accordingly interpreted the I&M-Anderson contract in terms of Section 205 of the Federal Power Act and denied motions to reject I&M's filing.

The court in Anderson, while finding fault with the Commission's conclusions, approved the approach: [9]

> The Commission seems to be saying that it is simply interpreting the contract, in light of changed circumstances, to accomplish what the parties intended. And we have no quarrel in principle with this approach to contract interpretation.[10]
>
> * * * * *
>
> We think that if one is to construe the Anderson-I&M contract, in light of changed circumstances, to reflect as nearly as one can the intentions of the parties to the contract, the only possible result is to construe it as not permitting I&M to change the rate simply by filing a new tariff with the Federal Power Commission.

In interpreting the contract between I&M and Anderson, the court referred to the evident fact that, whether a rate filing is subject to state or federal jurisdiction, the filing is subject to review and approval by the appropriate regulatory commission: [11]

> The issue under Memphis is not whether the parties contemplated change by the appropriate regulatory authority, for *under the law every electric power contract must contemplate such change.* (Emphasis added.)

The court's observation in Anderson is consistent with our position that the changed circumstance of federal [12] rather than state [13] jurisdiction over Wisconsin Michigan's sales to Cities did not materially alter the requisite procedures, as they were understood and intended by the parties, regarding wholesale rate changes. These procedures inherently contemplated the intervening step, required by law, of regulatory review and approval. If, moreover, we are to construe the Cities' contracts with the Company so as best to effectuate, in light of changed circumstances, the intention of the parties, then we cannot jettison a key contractual element—rate parity—on the strength of the assertion, shown to be incorrect, that the change in regulatory jurisdiction rendered the Cities' promised performance impossible.

Rate parity was also a key feature in the I&M-Anderson contract. The court in Anderson observed: "The parties to both the Richmond and the Anderson contracts intended that the municipal buyers receive electricity under the same tariff that governed I&M's industrial retail customers." [14] In reference to the Richmond contract,[15] the court made clear that the parties were perfectly free to impose as a ceiling on the wholesale rate the effective industrial retail rate level.[16]

> The accommodation reached in the contract serves both (parties') interests by permitting I&M to seek changes in its Tariff I P on file with the Public Service Commission of Indiana, but requiring that Richmond be served under the same tariff as that used by I&M for its own industrial retail customers. We see no reason why the integrity of this contractual undertaking is any less deserving of protection under the Act than one for a single fixed rate.

In both the Richmond and the Anderson cases the court's interpretation of the contracts preserved the rate parity concept intended by the contracting parties. In so doing, the court found the fact that Anderson's contract predated this Commission's jurisdiction to be of no substantive significance. Similarly, in

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[2] The Cities' Motion for Reconsideration was filed July 14, 1976, in the instant dockets; Wisconsin Michigan's Answer was filed July 29, 1976.

[3] See *Discussion*, mimeo page 10.

[4] The contracts for the three Cities vary somewhat but effectuate the same result. Article III, Section 2 of the contract between the Company and New London, signed on June 21, 1949, states:

It is hereby agreed and understood that should there be any revision and/or change in said Rate VII approved by the Wisconsin Public Service Commission, at any time during the life of this contract, then the Distributor shall under this contract automatically receive and accept such revised rates.

The comparable sections of the contracts with Florence and Shawano are set forth in the Order on Reconsideration, issued April 29, 1977, mimeo page 7.

[5] Cert. den., sub nom. Indiana and Michigan Electric Co. v. Anderson Power and Light, et al., 414 U.S. 1068 (1973).

[6] 481 F. 2d 490, 493, 498.

[7] Ibid. at 498.

[8] Ibid. at 494.

[9] Ibid. at 499, 500–501. See also *Williston on Contracts*, Third Edition Section 600 at 284–285; and *Simpson on Contract* § 102 at 209–210 (2d ed. 1965):

The cardinal or fundamental rule of interpretation of contracts, to which all others are subordinate, is that a contract could receive that interpretation which will *best* effectuate the intention of the parties. (Emphasis added.)

[10] See *W. C. Shepherd Co.* v. *Royal Indemity Co.*, 5 Cir., 192 F. 2d 710, 715 (1951); *Pacific Portland Cement Co.* v. *Food Machinery & Chemical Corp.*, 9 Cir. 178 F. 2d 541, 551–553 (1949); RESTATMENT OF CONTRACTS § 235, Comment e and Illustration 8, at 324–325 (1932).

[11] 481 F. 2d 490, 499.

[12] Wisconsin Michigan's contract with Shawano was entered into in 1934; its contracts with New London and Florence were signed in 1949. In 1952 the Court of Appeals for the Seventh Circuit affirmed this Commission's assertion of jurisdiction over the sales made under these contracts. *Wisconsin Michigan Power Co.* v. *F.P.C.*, 197 F. 2d 472, cert. den. 345 U.S. 934 (1953).

[13] In Wisconsin Michigan, supra, the State of Wisconsin noted that it had in fact regulated the rates in question. 197 F. 2d 472, 479.

[14] Ibid. at 501.

[15] The Richmond contract, though entered into after the Federal Power Commission obtained jurisdiction over the sales thereunder, was in all other pertinent respects identical to the Anderson contract. 481 F. 2d 490, 498–499.

[16] 481 F. 2d 490, 497.

Opinion No. 432, this Commission concluded: [16]

> We are in accord with the Examiner's view that these agreements are not fixed rate contracts, since they plainly contemplate an escalation arrangment to maintain parity between the rates of the retail users and the wholesale rates.
>
> * * * * *
>
> The contracts as we construe them thus provide for an automatic contractual acceptance of a rate change, subject to the requirements of filing under Section 205 with FPC.
>
> In interpreting these contracts it should be remembered that many changes have intervened in the law and in the power economy since the execution of these contracts in the 1930's. It is not our purpose to reject rate increase filings by hyper-technical interpretation of contract provisions which clearly contemplated a procedure for rate adjustments. On the contrary, the effective exercise of the rate-making powers of this Commission will insure that contractual provisions for rate adjustments can be utilized by the seller in a manner fair to the purchaser.

Thus, the Commission supported the Company's claim [17] 13 years ago that the contracts contemplated parity between the wholesale and the industrial retail rate levels. We fail to see how it can be fair to the purchasers for the Company to disavow the parity provision 13 years later, when, having apparently outlived its usefulness as a floor to wholesale rates, the provision is ostensibly viewed by the Company as a vexatious ceiling.[18]

The Company's allegation that the Commission's Order on Reconsideration in this proceeding is inconsistent with our earlier contract interpretation ruling in Wisconsin Electric Power Company, order issued April 19, 1974, in Docket No. E–8619, is incorrect. Twice in the Order on Reconsideration (mimeo. pages 15, 17) we noted that the conclusion reached in the April 19, 1974 order was accurate as far as it went, but that it was incomplete. The order affirmed the Company's right to file unilateral rate changes, but it made no reference to the rate ceiling affirmed in Opinion No. 432; neither did the pleadings in Docket No. E–8619.

In the event that the Commission does not reverse its Order on Reconsideration on the grounds of failure of consideration, Wisconsin Michigan requests a hearing to develop the evidence on the parties' course of dealing subsequent to the issuance of Opinion No. 432. The Company's request is based on two arguments: (1) The Commission's order constituted an improper summary judgment; (2) in its Answer to Motion for Reconsideration the Company did not have enough time to develop and present the facts regarding the parties' dealings over the last ten years as a background to its legal arguments.

The Company notes that the Commission's conclusions, which were based not on evidence developed at hearing but on factual assertions in the pleadings, constitute summary judgment on the pleadings. The Company correctly states that summary judgment on the pleadings can be entered against it only if the Company's factual version is accepted in all respects. But the Company goes on to contend that summary judgment would not lie for even an "ultimate" conclusion if the conclusion is a "factual conclusion" and is disputed. Its authority is *Sears, Roebuck and Co.* v. *GSA*, No. 75–2127 at 5–8 (D.C. Cir. April 1, 1977). Wisconsin Michigan argues that the Commission has not assumed the accuracy of the Company's "factual conclusion" that the parties' conduct in the last ten years demonstrates that their contracts have been amended in the manner alleged by the Company.

In Sears, Roebuck the factual conclusion at issue was whether the appellant would be commercially harmed by the disclosure of information under the Freedom of Information Act. We believe the more pertnient precedent to be the District of Columbia Circuit's ruling in *Pennsylvania Gas and Water Company* v. *F.P.C.*, 463 F. 2d 1242 (1972), inasmuch as it deals specifically with this Commission's authority to grant summary judgment: [19]

> We find no conflict in fundamental facts calling for a hearing; we do find that the FPC has placed interpretations on and *drawn conclusions from the facts* which differ from those urged by Penn Gas, and that *the Commission's expertise entitled it to do so*, and that it has done so reasonably. (Emphasis added).

The Company's Answer to Motion for Reconsideration consists of nine pages of extensive factual presentation and legal argument plus 24 pages of appendices. The appendices contain: (A) Certain letters exchanged between Wisconsin Michigan and this Commission and from the Company to the Cities; (B) back-up computations for comparative billings of the industrial retail rate in effect in 1974 and the wholesale rate filed in Docket No. E–8619; and (C) similar computations for the industrial retail rate in 1975 and the wholesale rate filed in Docket No. ER76–303. Nowhere in its Answer did the Company suggest that its presentation was incomplete or request a hearing or more time in which to improve its case. Nor has it made any such request in the nearly 12 months which have passed since its Answer was filed.

In the concluding paragraph of its Answer Wisconsin Michigan requested that the Commission deny Cities' motion for reconsideration on the basis that the parties' conduct has modified their contracts in the manner alleged by the Company. In order to have made such a request, the Company must clearly have regarded its presentation as an adequate basis for the Commission to rule thereon.

Wisconsin Michigan points out that in our Order on Reconsideration (mimeo page 14) we remarked on the lack of certain information concerning the precise amount and timing of wholesale filings in relation to industrial retail filings. This circumstance does not, however, invalidate our ultimate conclusion. In the very next sentence we wrote (mimeo pages 14–15):

> But even if we find persuasive the Company's assertion that it no longer look to state approval of its industrial retail rate as the event which triggers an equivalent wholesale filing, the Company has not proven enough.
>
> * * * * *
>
> * * * even if the Company ceased to view the industrial retail rate level and the wholesale rate level as being in lock step, nevertheless it was bound by its contract to set the wholesale rates no higher than the industrial retail rate level.

Thus, even after we assumed the truth of the Company's assertion that it no longer regards the timing and levels of its retail and wholesale filings as being in lock step, we still concluded (contrary to the "ultimate factual conclusion" of the Company) that the parties' conduct had not evidenced a clear intent to dispense with the retail rate ceiling on wholesale rates. We therefore find that the conclusions in our Order on Reconsideration were based on sufficient information and that the order was a proper exercise of this Commission's authority.

REHEARING APPLICATION OF THE CITIES

The Cities request that the Commission modify its Order on Reconsideration to reject the filing in Docket No. ER76–303 with respect to Shawano and New London and to order refunds of all amounts collected under that filing in excess of the previous approved rate. Alternatively, the Cities request that the order be clarified to provide that the refunds ordered therein will be based on the Company's retail industrial rate in effect on November 28, 1975, the date on which the filing in Docket No. ER76–303 was tendered.

The Cities cite a number of cases as authority for their request that the Commission reject Wisconsin Michigan's filing with respect to Shawano and New London. But in three of the cases cited—*Mobile*,[20] *Sierra* [21] and *Sam Rayburn Dam*

[16] 31 FPC 1445, 1449 (1964). The Opinion was not appealed.

[17] The Company's position is summarized in our Order on Reconsideration, mimeo page 11, footnote 11.

[18] The Supreme Court has written: But while it may be that the Commission may not normally impose upon a public utility a rate which would produce less than a fair return, it does not folow that the public utility may not itself agree by contract to a rate affording less than a fair return and that, if it does so, it is entitled to be relieved of its improvident bargain [citation omitted]. In such circumstances the sole concern of the Commission would seem to be whether the rate is so low as to adversely affect the public interest * * *. *F.P.C.* v. *Sierra Pacific Power Company*, 350 U.S. 348 (1955).

[19] 463 F. 2d 1242, 1252. See also *Citizens for Allegan County, Inc.* v. *F.P.C.*, 414 F. 2d 1125, 1128 (1969).

[20] *United Gas Pipe Line Co.* v. *Mobile Gas Service Corp.*, 350 U.S. 332 (1956).

[21] *F.P.C.* v. *Sierra Pacific Power Co.*, 350 U.S. 348 (1956).

Electric Cooperative v. *F.P.C.*[2]—the contracts in question were found to be fixed-rate. Accordingly, any unilateral filing by the utility company would have been inconsistent and therefore invalid.

The Cities also cite Richmond (supra). As has been discussed in this order, Richmond (and Anderson) dealt with contracts which tied the wholesale rate to a given retail rate. The court found that I&M's filing which raised the wholesale rate over the retail rate level was inconsistent with its contractual obligations and should have been rejected.[3] graph in the court's opinion as reaching We do not, however, read the final paratheissue of which procedure this Commission must necessarily follow in excising improper rate levels in a Richmond-type filing. The contracts in the instant case give Wisconsin Michigan the right to make unilateral rate filings, but the contracts limit the amount of the rate change. We regard it as unnecessary to reject Wisconsin Michigan's entire filing with respect to Shawano and New London, when only that portion of the filed rate which surpasses the industrial retail rate in effect at the time of the wholesale filing is in violation of the contract restriction. We consequently affirm our Order on Reconsideration requiring the Company to refund to Shawano and New London that portion of the rate which has been found to exceed the contract restriction. We believe this to be the equitable remedy in light of the fact that the Cities did not properly identify and raise their contract restriction argument until several months after Wisconsin Michigan filed the rate change in Docket No. ER76-303.

The Cities do however raise a valid point in their alternative pleading. They note that the Order on Reconsideration is ambiguous as to the industrial retail rate level at which the Company must file its revised tariffs and consequently as to the amount of refunds payable to the Cities. As we held in our previous order, state approval of Wisconsin Michigan's industrial retail rate is the triggering event for the filing of a corresponding wholesale rate. We shall therefore amend finding paragraph (2) and ordering paragraph (B) of our Order on Reconsideration, issued April 29, 1977, to direct Wisconsin Michigan to file revised tariff sheets reflecting rates reduced to the level of the Company's industrial retail rate in effect as of November 28, 1975, and to make appropriate refunds (at 9 percent per annum interest) of any amounts in excess thereof collected after March 1, 1976.

The Commission finds: (1) Good cause exists to deny Wisconsin Michigan Power Company's application for rehearing of our Order on Reconsideration, issued April 29, 1977.

(2) Good cause exists to deny that part of the Cities' application for rehearing which requests the rejection of Wisconsin Michigan's filing in Docket No. ER76-303 as it pertains to the Cities of New London and Shawano.

(3) Good cause exists to grant that part of the Cities' application for rehearing which requests clarification of the Order on Reconsideration as to the industrial retail rate level at which the Company must file its revised tariffs and pay refunds. Finding Paragraph (2) of the Order on Reconsideration, issued April 29, 1977, should be amended to read:

(2) It is proper and appropriate in the public interest that Wisconsin Michigan Power Company be directed to eliminate from the rates which became effective March 1, 1976, in Docket No. ER76-303, with respect to the Cities of New London and Shawano, that portion which is above the level of Wisconsin Michigan's approved industrial retail rate on file with the Public Service Commission of Wisconsin which was in effect on November 28, 1975.

The Commission orders: (A) Wisconsin Michigan Power Company's application for rehearing of the Order on Reconsideration, issued April 29, 1977, is hereby denied.

(B) That part of the Cities' application for rehearing which requests the rejection of Wisconsin Michigan's rate filing in Docket No. ER76-303 as it pertains to the Cities of New London and Shawano is hereby denied.

(C) That part of the Cities' application for rehearing which requests clarification as to the industrial retail rate level at which the Company must file its revised tariffs and pay refunds is hereby granted, and Finding Paragraph (2) of the Order on Reconsideration is hereby amended as set forth in Finding Paragraph (3), supra.

(D) Within 60 days of the date of issuance of this order, Wisconsin Michigan Power Company shall file revised tariff sheets reflecting reduced rates to the Cities of New London and Shawano consistent with our findings herein and shall make appropriate refunds at 9 percent per annum interest of any amounts collected after March 1, 1976, which are above the level of Wisconsin Michigan's approved industrial retail rate on file with the Public Service Commission of Wisconsin which was in effect on November 28, 1975.

(E) Wisconsin Michigan Power Company shall file a report with this Commission attesting to its compliance with the refund obligations imposed in Ordering Paragraph (D), supra, within 15 days of such compliance.

(F) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-22514 Filed 8-4-77;8:45 am]

[2] 515 F. 2d 998 (1975).
[3] 481 F. 2d 490, 501.

[Docket No. ER77-521]

ARIZONA PUBLIC SERVICE CO.

Order Accepting for Filing and Suspending Proposed Increased Rates

AUGUST 1, 1977.

On July 21, 1977, Arizona Public Service Company (Company) tendered for filing proposed increased rates and charges for jurisdictional sales to six of its customers.[1] The filing would increase the Company's revenues by $937,638, based on the 12-month period ending December 31, 1976.[2] The Company proposes an effective date of September 1, 1977.

A preliminary review of Company's filing indicates that the proposed increase in rates and charges have not been shown to be justified and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful.

The Commission finds: Good cause exists to accept for filing and suspend the proposed increased rates and charges tendered by the Company on July 21, 1977, as hereinafter ordered.

The Commission orders: (A) The proposed increased rates and charges tendered by the Company on July 21, 1977, are hereby accepted for filing.

(B) Pursuant to the authority contained in and subject to the provisions of the Federal Power Act, particularly sections 205 and 206 thereof, the Commission's Rules of Practice and Procedure, and the regulations under the Federal Power Act, a public hearing will be held at a time and place to be specified in a subsequent Commisison order concerning the lawfulness of the proposed increased rates and charges tendered by the Company.

(C) Pending such hearing and decision thereon, the increased rates and charges tendered by the Company are hereby suspended and the use thereof deferred until February 1, 1978, when they shall become effective subject to refund.

(D) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-22587 Filed 8-4-77;8:45 am]

[Docket No. ER77-519]

CLEVELAND ELECTRIC ILLUMINATING CO.

Order Accepting for Filing and Suspending Proposed Increased Rates

AUGUST 1, 1977.

On July 20, 1977, Cleveland Electric Illuminating Company (Company) ten-

[1] Electrical District No. 3, Electrical District No. 7, Maricopa County Municipal Water Conservation District No. 1, Buckey Water Conservation and Drainage District, Electrical District No. 6, and Electrical District No. 1.
[2] Rate Schedule Designation to be provided to the Comapny by future letter.

dered for filing proposed modifications to the pooling agreement which contains increased rates and charges for short-term power and system capacity for members of the CAPCO Power Pool.[1] The amount of increase cannot be determined at this time.[2] The Company requests waiver of the notice requirements to permit an effective date of August 1, 1977.

A preliminary review of Company's filing indicates that the proposed increase in rates and charges have not been shown to be justified and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unjust.

The Commission finds: Good cause exists to accept for filing and suspend the proposed increased rates and charges in the agreement tendered by the Company on July 20, 1977, as hereinafter ordered.

The Commission orders: (A) The proposed increased rates and charges in the agreement tendered by the Company on July 20, 1977, are hereby accepted for filing.

(B) Pursuant to the authority contained in and subject to the provisions of the Federal Power Act, particularly Sections 205 and 206 thereof, the Commission's Rules of Practice and Procedure, and the Regulations under the Federal Power Act, a public hearing will be held at a time and place to be specified in a subsequent Commission order concerning the lawfulness of the proposed increased rates and charges tendered by the Company.

(C) Waiver of the notice requirements is hereby granted.

(D) Pending such hearing and decision thereon, the increased rates and charges tendered by the Company are hereby suspended and the use thereof deferred until August 2, 1977, when they shall became effective subject to refund.

(E) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-22589 Filed 8-4-77;8:45 am]

[Docket Nos. C175-173, etc.]

GULF OIL CORP.

Order Approving Settlement Proposal

JULY 29, 1977.

Pursuant to Section 7(b) of the Natural Gas Act (15 U.S.C. § 717f(b)), Gulf Oil Corporation (Gulf) filed in the above-mentioned dockets applications (Docket Nos. CI75-173, CI77-131, CI77-149, CI77-199, CI77-255, and CI77-266) for Commission authorization to abandon sales of natural gas, in which Gulf proposed to terminate the present sales as certificated and instead deliver gas from the supplies involved to Texas Eastern Transmission Corporation (Texas Eastern) under Gulf's FPC Gas Rate Schedule No. 278.[1]

The above-entitled proceedings were consolidated and set for hearing by Commission orders issued February 28 and March 14, 1977. Pursuant to an order of the Presiding Administrative Law Judge issued April 28, 1977, a prehearing and settlement conference was held on June 14, 1977, during which Gulf presented a settlement proposal. The proposal was certified to the Commission by Presiding Administrative Law Judge Allen C. Lande on June 15, 1977. Notice of the certification of the settlement proposal was issued on June 22, 1977, and appeared in the FEDERAL REGISTER on June 30, 1977, at 42 FR 33370.

Under the terms of the settlement proposal, Gulf and the current pipeline purchasers will promptly execute short-term renewal contracts which will permit Gulf to collect the applicable renewal contract rate in accordance with the Commission's Regulations for the sales of gas involved in these proceedings. The renewal contracts will provide for a primary term to run until the conclusion of the proceedings in Docket Nos. CI77-95, et al.,[2] and any judicial review thereof, and thereafter the contracts will be in effect for successive secondary monthly terms, subject to termination by either party at the conclusion of the primary term. Upon Commission approval of the settlement proposal Gulf's abandonment applications will be withdrawn without prejudice. If Gulf prevails on its abandonment applications in Docket Nos. CI77-95, et al., then Gulf may terminate the short-term renewal contracts and refile its abandonment applications in the instant proceedings to be heard de novo. If Gulf does not prevail on its applications in Docket Nos. CI77-95, et al., then Gulf and the current pipeline purchasers will enter into new five-year-term renewal contracts if the short-term contracts are terminated.

No objections to the settlement proposal were raised at the prehearing and settlement conference. Written comments on the settlement proposal were filed by Michigan Wisconsin Pipe Line Company (Michigan Wisconsin), Texas Eastern, Algonquin Gas Transmission Company (Algonquin) and the Commission Staff.

Texas Eastern and Algonquin briefly state their support of the settlement proposal.

In its comments, Michigan Wisconsin states that it remains strongly opposed to the original abandonment applications, but that it supports the terms of the settlement proposal in the belief that the public interest will best be served by avoiding the necessity of lengthy and possibly unnecessary proceedings in these dockets, "so long as gas continues to flow to the jurisdictional pipelines which have relied upon Gulf to provide the certificated service for which it has sought abandonment authorization in these proceedings," and so long as the pipelines preserve their right to oppose the abandonment applications in the event that they are refiled under the terms of the settlement proposal.

Staff also opposes the original abandonment applications, but states that it does not oppose the settlement proposal in view of the fact that the issues involved here are essentially similar to those involved in the proceedings in Docket Nos. CI77-95, et al., and in consideration of the possibility of eliminating the time and expense of holding hearings in these proceedings. Staff also emphasizes that "the language of the settlement proposal is to be interpreted to provide that Gulf may collect the Commission's renewal contract rate ceiling for continued sales under the prescribed renewal contracts only in accordance with the Commission's Regulations, and only if permitted by the Commission's Regulations and the Commission's interpretation of its Regulations."

As Staff points out, the settlement proposal submitted by Gulf would essentially serve to postpone the question of the need for a hearing and decision in these proceedings pending judicial review of Opinion No. 799, and would permit Gulf to collect a renewal contract rate in the interim for its continued sales to the present pipeline purchasers from the gas supplies involved. If Gulf does not prevail in a final decision in the other proceedings, it would not press further with the applications involved in these proceedings. If Gulf does ultimately prevail, however, it may refile the instant abandonment applications.

We agree with Michigan Wisconsin and Staff that the prospect of eliminating lengthy, costly, and possibly unnecessary proceedings is a significant factor favoring the adoption of the settlement proposal. Another significant factor is the fact that none of the parties

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[1] Pennsylvania Power Co., Toledo Edison Co., Ohio Edison Co., and Duquesne Light Co. are the other members.

[2] Rate Schedule Designations to be provided to the Company by future letter.

[1] Gulf's FPC Gas Rate Schedule No. 278 includes a base contract that has been interpreted by the Commission to be a warranty contract. The warranty contract has been the subject of proceedings in Docket No. CI64-26. See Opinion No. 692, 51 F.P.C. 1340 (1974); Opinion No. 692-A, 52 F.P.C. 593 (1974); Opinion No. 780, issued October 15, 1976; and Opinion No. 780-A, issued December 9, 1976.

[2] Gulf filed similar applications for abandonment authorization in Docket Nos. CI77-95, et al., in which Gulf proposed to terminate presently-certificated sales and instead deliver the gas involved to Texas Eastern under the warranty contract. The Commission denied those abandonments in Opinion Nos. 799, issued May 10, 1977, and 799-A, issued July 6, 1977. Gulf has filed an appeal of Opinion Nos. 799 and 799-A in the U.S. Court of Appeals for the Third Circuit in *Gulf Oil Corp.* v. *F.P.C.*, No. 77-1893.

opposes the settlement proposal. No party alleges that it will suffer undue harm during the period that a final resolution of the proceedings in Docket Nos. CI77-95, et al., is pending, and consequently, we will approve the settlement proposal. Our approval of the settlement proposal is based on our understanding that Gulf will receive the renewal contract rate under the terms of the settlement proposal and the prescribed renewal contracts only if Gulf is otherwise entitled to collect such rate.

The Commission finds: The settlement proposal submitted by Gulf is in the public interest.

The Commission orders: The settlement proposal submitted by Gulf in the above-entitled proceedings on June 14, 1977, and certified to the Commission by Presiding Administrative Law Judge Allen C. Lande on June 15, 1977, is hereby approved.

By the Commission.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-22583 Filed 8-4-77;8:45 am]

[Docket No. ER77-522]

KANSAS CITY POWER AND LIGHT CO.

Order Accepting for Filing and Suspending Proposed Increased Rates

AUGUST 1, 1977.

On July 22, 1977, Kansas City Power and Light Company (Company) tendered for filing proposed increased rates and charges for jurisdictional sales to twelve of its customers.[1] The filing would increase the Company's revenues by $2,916,000.00, based on the 12-month period ending June 30, 1978.[2] The Company proposes an effective date of August 31, 1977.

A preliminary review of Company's filing indicates that the proposed increase in rates and charges has not been shown to be justified and may be unjust, unreasonable, unduly preferential or discriminatory, or otherwise unlawful.

The Commission finds: Good cause exists to accept for filing and suspend the proposed increased rates and charges tendered by the Company on July 22, 1977, as hereinafter ordered.

The Commission orders: (A) The proposed increased rates and charges tendered by the Company on July 22, 1977, are hereby accepted for filing.

(B) Pursuant to the authority contained in and subject to the provisions of the Federal Power Act, particularly Sections 205 and 206 thereof, the Commission's Rules of Practice and Procedure, and the Regulations under the Federal Power Act, a public hearing will be held at a time and place to be specified in a subsequent Commission order concerning the lawfulness of the proposed increased rates and charges tendered by the Company.

(C) Pending such hearing and decision thereon, the increased rates and charges tendered by the Company are hereby suspended and the use thereof deferred until January 31, 1978, when they shall become effective subject to refund.

(D) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-22590 Filed 8-4-77;8:45 am]

[Docket No. ER77-388]

LAKE SUPERIOR DISTRICT POWER CO.

Order Granting Late Intervention

AUGUST 1, 1977.

On May 16, 1977, Lake Superior District Power Company (Lake Superior) submitted for filing proposed contracts for wholesale electric service to Medford Electric Utility and to the City of Wakefield. Notice of this filing was issued on June 6, 1977 with all protests, comments and petitions to intervene due on or before June 13, 1977.

On July 11, 1977, an untimely petition to intervene was filed by the Public Service Commission of Wisconsin.

Upon consideration of the late petition to intervene filed on behalf of this petitioner, the Commission finds that good cause exists to grant the petition to intervene.

The Commission finds: Participation by the above-named petitioner in this proceeding may be in the public interest and good cause exists for permitting such intervention.

The Commission orders: (A) The above-named petitioner is hereby permitted to intervene in this proceeding as hereinbefore discussed, subject to the Rules and Regulations of the Commission; *Provided, however,* That the participation of such intervenor shall be limited to matters affecting rights and interests specifically set forth in the petition to intervene; *Provided, further,* That the admission of such intervenor shall not be construed as recognition by the Commission that it might be aggrieved because of any order or orders issued by the Commission in this proceeding.

(B) The intervention granted herein shall not be the basis for delaying or deferring any procedural schedule heretofore established for the orderly and expeditions disposition of the proceeding.

(C) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-22585 Filed 8-4-77;8:48 am]

[Docket No. ER77-211]

MT. CARMEL PUBLIC UTILITY CO.

Extension of Time

JULY 29, 1977.

On July 27, 1977, Commission Staff filed a motion to extend the time for filing its response to the Village of Allendale, Illinois, Motion of Juy 18, 1977, to compel the Mt. Carmel Public Utility Company to comply with the Commission Order issued March 31, 1977, in the above designated docket.

Upon consideration, notice is hereby given that the date for filing responses to the July 18 Motion is extended to and including August 19, 1977.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-22586 Filed 8-4-77;8:45 am]

[Docket No. ER77-511]

NEW YORK POWER POOL

Order Accepting for Filing and Suspending Proposed Increased Rates

AUGUST 1, 1977.

On July 11, 1977, the New York Power Pool (Pool) tendered for filing proposed superseding New York Power Pool Agreement containing increased rates and charges for Power Pool members.[1] The amount of increase or decrease involved cannot at this time be determined from the change in computation of rates filed by the Pool as it will depend on the mechanics of day-to-day operation.[2] The Pool proposes waiver of the notice requirements to permit an effective date of April 4, 1977. It also requests waiver of filing of statements A through O.

A preliminary review of Pool's filing indicates that the proposed increase in rates and charges has not been shown to be justified and may be unjust, unreasonable, unduly preferential or discriminatory, or otherwise unlawful.

The Commission finds: Good cause exists to accept for filing and suspend the proposed increased rates and charges tendered by the Pool on July 11, 1977, as hereinafter ordered.

[1] Missouri Power and Light Company, City of Marshall, Mo., City of Armstrong, Mo., City of Higginsville, Mo., City of Salisbury, Mo., City of Slater, Mo., City of Gardener, Kan., City of Pomona, Kan., City of Prescott, Kan., Missouri Public Service Company, Coffey County Rural Electric Cooperative Association, Inc., United Electric Cooperative, Inc. (Formerly Sugar Valley Electric Cooperative Ass'n Inc.).

[2] Rate Schedule Designation to be provided to the Company by future letter.

[1] Participants in the Pool include Central Hudson Gas and Electric Corp., Consolidated Edison Co. of New York, Long Island Lighting Co., New York State Electric and Gas Corp., Niagara Mohawk Power Corp., Orange and Rockland Utilities, Inc., Rochester Gas and Electric Corp., Power Authority of the State of New York.

[2] Rate Schedule Designation to be provided to the Company by future letter.

The Commission orders: (A) The proposed increased rates and charges tendered by the Pool on July 11, 1977, are hereby accepted for filing.

(B) Pursuant to the authority contained in and subject to the provisions of the Federal Power Act, particularly Sections 205 and 206 thereof, the Commission's Rules of Practice and Procedure, and the Regulations under the Federal Power Act, a public hearing will be held at a time and place to be specified in a subsequent Commission order concerning the lawfulness of the proposed increased rates and charges tendered by the Pool.

(C) Pending such hearing and decision thereon, the increased rates and charges tendered by the Pool are hereby suspended and the use thereof deferred until April 5, 1977, when they shall become effective subject to refund.

(D) The Waiver of filing of Statements A through O by the Pool and Waiver of the notice requirements are hereby granted.

(E) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-22588 Filed 8-4-77;8:45 am]

[Docket No. ER76-739]

PUBLIC SERVICE CO. OF INDIANA, INC.

Order Accepting Notice of Termination of Pooling Agreement for Filing, Granting Waiver of Notice Requirements, Instituting Investigation, Denying Motion To Suspend or To Reject and Granting Interventions

AUGUST 1, 1977.

On June 7, 1976, Public Service Company of Indiana, Inc. (PSCI), filed a notice terminating the Kentucky-Indiana Pool Planning and Operating (KIP) Agreement and all amendments and supplements thereto as of July 1, 1976. The KIP Agreement is presently on file at the Commission as PSCI Rate Schedule FPC No. 225. The instant notice purports to terminate only contractual planning functions pursuant to Section 6.01 of the Agreement. For the reasons hereinafter stated the Commission shall accept PSCI's Notice of Termination for filing, grant a waiver of the statutory thirty day notice requirement making such filing effective as of July 1, 1976, and institute an investigation pursuant to Sections 202, 206 and 307 of the Federal Power Act to determine if such termination is just and reasonable and consistent with the public interest.

Public notice of PSCI's filing was issued for publication in the FEDERAL REGISTER on July 28, 1976, with protests, petitions, or responses due on or before August 20, 1976. On August 20, 1976, the Electric and Water Plant Board of the City of Frankfort, Kentucky (Frankfort) filed a Petition to Intervene, a request for an investigation and motion requesting rejection of PSCI's filing or, in the alternative, suspension of its operation for five months pursuant to Section 205 of the Federal Power Act. On August 20, 1976, the Indiana Municipal Electric Association and the Cities and Towns of Bainbridge; Bargersville; Centerville; Covington; Darlington; Edinburg; Flora; Greendale; Greenfield; Hagerstown; Lawrenceburg Utilities, Lawrenceburg; Lebanon; Linton; Middletown; Paoli; Pendleton; Rising Sun; Rockville; Scottsburg; South Whitley; Thorntown; Tipton; Veedersburg; and the Town of Waynetown, all located in the State of Indiana (IMEA Cities), filed a Petition to Intervene and a request for investigation to determine whether PSCI's filing is in the public interest. Frankfort and IMEA Cities shall hereinafter be referred to as Municipal Intervenors.

Municipal Intervenors state that they are municipal electric utilities purchasing their power from members of KIP.[1] As a result, Municipal Intervenors state that they are likely to be adversely affected if PSCI's costs are increased or reliability of service decreased due to termination of KIP.[2] Frankfort itself states that since it is seeking to enter the bulk supply business, termination of KIP may adversely affect its opportunities to obtain bulk power supply, coordination, joint planning services and necessary support services in the KIP area. Municipal Intervenors also state that their interests are not represented by the persons now parties to the proceeding. Wherefore, Municipal Intervenors respectfully request that they be permitted to intervene in this proceeding.

In their petitions Municipal Intervenors state that PSCI has not supplied the specific information required by 18 C.F.R. § 35.13(a)[3] of the Commission's Regulations, and that the Commission would be "derelict" in carrying out its duties under Section 202(a) of the Act if it did not order an investigation. Frankfort separately requested by motion that the Commission either reject PSCI's filing as insufficient, or in the alternative, suspend its operation for five months pursuant to Section 205 of the Act pending the outcome of an investigation and hearing.

On September 3, 1976, KU and Indianapolis Power and Light Company (IP&L), filed late Petitions to Intervene and Answers in opposition to Municipal Intervenors' prior filings. KU and IP&L state that since they did not contest PSCI's right under the KIP Agreement to terminate joint planning functions, and since they assumed that no entity not a party to KIP had standing to challenge PSCI's action, they did not respond by the Commission's August 20, 1976, intervention deadline. KU and IP&L further state that they did not receive Municipal Intervenor's petitions until August 23, 1976. Accordingly, KU and IP&L respectfully request leave to intervene out of time. The Commission's review indicates that good cause exists to grant KU and IP&L intervention despite their petition being late filed.

On September 7, 1976, PSCI filed a response in opposition to Municipal Intervenors' Petitions to Intervene advancing substantially the same grounds advanced by KU and IP&L[4]. Together, the KIP Companies state that Municipal Intervenors' petitions, and attendant requests, are "substantive nullities" and should be rejected. In support thereof, the KIP Companies state that said intervenors have not demonstrated an interest, pursuant to Section 1.8 of the Commission's Regulations, sufficient to justify granting them intervention; that Frankfort's motion to reject or suspend PSCI's submittal is inappropriate because PSCI's filing does not modify or cancel current rate schedules on file with the Commission covering existing commitments for various transactions under KIP; and that the Commission has no authority under Section 202(a), Section 205 or any other provision of the Federal Power Act to order public utilities to engage in planning activities, to compel regional interconnection and coordination (or planning therefor), or to order the requested investigation and hearing.

The KIP Companies state that Municipal Intervenors are not members of KIP and will not be directly affected by termination of the joint planning functions of KIP. KU and IP&L separately state that since their interests in seeking to minimize costs are identical to Municipal Intervenors', said Intervenors' interests are adequately represented by KU and IP&L.

The KIP Companies further state that since PSCI's action affects only contractual planning functions, not rate schedules or rates and services thereunder, and since physical interconnections among the KIP Companies will remain intact, coincident with the fact that preexisting Interconnection and Pooling Agreements suspended during the effectiveness of KIP, will be reactivated upon its termination, Municipal Intervenor's action in the proceeding" as required by 18 C.F.R. § 1.8(b)(2).

In the sum, the KIP Companies view PSCI's submittal as an informational filing not subject to the requirements of 18 C.F.R. Part 35 governing changes in rate

[1] Frankfort is a total requirements customer of Kentucky Utilities Company (KU). IMEA Cities are total requirements customers of Public Service Company of Indiana, Inc.

[2] Presumably these allegations relate to the impact of PSCI's action on current KIP operations and on existing rate schedules covering transactions under KIP.

[3] By alleging the applicability of 18 C.F.R. § 35.13(a) and Section 205 of the Act, Municipal Intervenors have characterized PSCI's filing as a rate schedule change.

[4] PSCI, KU and IP&L shall hereinafter be referred to as the KIP Companies. East Kentucky Power Cooperative, Inc. is the forth member of KIP, is not a party to this proceeding and is excluded in the foregoing reference.

schedules, and therefore, not subject to rejection or suspension. They point out that KIP was entered into voluntarily consistent with the policy expressed in Section 202(a) of the Federal Power Act, and that the instant filing merely indicates the exercise of a contractual right reserved under the KIP Agreement. PSCI asserts that the KIP Companies' position is supported by the legislative history underlying Sections 202 and 205.

The Commission's review of the filing in this docket indicates that two basic issues exist: whether, pursuant to 18 C.F.R. § 1.8, Municipal Intervenors have standing to intervene and whether the Commission has authority to reject, suspend or institute an investigation regarding PSCI's termination of the joint planning functions of KIP.

The Commission concludes that Municipal Intervenors have met the requirements of 18 C.F.R. § 1.8 and that their intervention may be in the public interest. The Commission believes that as wholesale customers of the KIP companies, said intervenors may be directly affected by proven increased costs, decreased reliability or anticompetitive effects resulting from the instant termination.

Since the KIP Agreement is a rate schedule currently on file at the Commission [1] and since the KIP Companies' commitment to engage in planning, coordination and pooling is a service under that rate schedule, PSCI's June 7 filing purportedly terminating the service, is a rate schedule change within the meaning of Section 2.4 of the Commission's Regulations and is subject to the requirements of Section 205 of the Federal Power Act. Furthermore, PSCI's June 7 filing is the first step in terminating KIP in its entirety since PSCI stated therein that it "will submit notices of termination of the rate schedules attached to the KIP Agreement at the appropriate times." Since the foregoing attached rate schedules were entered into while the KIP Agreement planning provisions were in effect, the Commission's review indicates that customers purchasing electric power under these rate schedules might be required to bear increased costs or reduced reliability of service as a result of PSCI's filing. Consequently, the Commission has an obligation to determine if PSCI's filing is consistent with the standards of Section 205 and 206 of the Federal Power Act, and the Commission's Regulations thereunder.

PSCI's statement in its June 7 filing that contractual planning functions under KIP will terminate "as of July 1, 1976" does not meet the thirty day notice requirement of Section 205(d) of the Federal Power Act. Consequently, implicit in PSCI's filing is a request for waiver of such requirement which request is permitted by Sections 1.7(b), 1.14(a) and 35.11 of the Commission's Regulations. With regard thereto, the Commission notes that the June 7 filing merely purports to terminate the future planning functions of KIP, but does not address, or purport to change, rate schedules underlying KIP. Accordingly, the Commission concludes that good cause exists to waiver the aforesaid notice requirement under its Regulations and to grant PSCI's implicit request, thus assigning an effective date of July 1, 1976, to its June 7 filing.

Attached to PSCI's June 7 filing was a letter dated June 1, 1976, from PSCI's management to the other KIP members which stated the reasons for its actions: "(D)ue to the inability of the parties to agree: (i) Upon the terms and conditions for the inclusion of our two proposed nuclear generating units in the pool, (ii) upon revisions in the KIP Agreement that we feel are financially vital to our Company; and, (iii) upon operating procedures that are financially important to our Company, we have no alternative other than to terminate this KIP Agreement." The Commission shall accept these reasons as meeting the requirements of 18 C.F.R. 35.13(a) for filing purposes and shall accept PSCI's submittal for filing, giving it the effective date of July 1, 1976, stated above. Accordingly, Frankfort's motion requesting rejection of PSCI's filing shall be denied.

Commission review of Municipal Intervenors' request that PSCI's filing be suspended for five months pursuant to Section 205 of the Federal Power Act indicates that a grant of such request is neither warranted by the circumstances surrounding PSCI's filing, nor necessary to carry out Commission responsibilities to protect the public interest under the Act. Accordingly Frankfort's motion requesting a five month, suspension of PSCI's filing shall be denied.

Section 202(a) of the Federal Power Act mandates that "It shall be the duty of the Commission to promote and encourage such interconnection and coordination . . . ". The importance of encouraging coordinated planning and operation of bulk power supply systems has been a cornerstone of Commission policy for many years. In the 1964 National Power Survey, the Commission reviewed the various ways in which coordination can reduce the overall cost of power through savings in reduced reserve requirements, through utilization of larger and more economical bulk power supply facilities, and in other ways. The Commission concluded: "What is now needed is acceleration of the trend toward increasingly comprehensive coordination over expanding geographic areas." In the 1970 National Power Survey, the Commission stated: "The large increase in the electric power requirements anticipated during the next decade makes it imperative that electric utilities accelerate coordinated planning and operations in order to optimize the use of resources and to minimize the environmental impact of electric facilities."

The Commission has broad authority to consider public utility actions touching the "public interest" under all sections of the Federal Power Act, including Section 202(a). See *Gulf States Utilities* v. *F.P.C.*, 411 U.S. 747 (1973). Recognizing this authority and the possible harm to the public interest as a result of the termination of the planning function under the KIP Agreement, the Commission at its meeting of January 4, 1977, directed the staff to meet with representatives of the KIP Pool and representatives of the Municipal Intervenors. Among the matters mentioned for discussion were the reasons for the impending breakup of the pool, the possibilities for keeping the pool in being, the economic effects of termination of the members, and the alternatives available to pool members.

A Notice of Conference was issued on January 6, 1977, and on February 10, 1977, FPC's staff held the meeting, and reported to the Commission at the regular agenda meeting of May 18, 1977, that the information reluctantly elicited was not sufficient to get a clear understanding of the necessity for the termination and its future effects.

As a follow-up to the foregoing effort, the Commission directed staff to contact the East Central Area Commission Reliability Council (ECAR) to determine the impact of termination of KIP on power supply in the region. Staff contacted a number of ECAR officials and reported at the agenda meeting of June 29 that none of the officials contacted were familiar in any detail with the problems within KIP.

Subsequent contacts by Staff with officials of the Kentucky Public Service Commission and Eastern Kentucky Power Cooperative the smallest of the four KIP members, did not shed light on the basis or the public interest effects of PSCI's submittal.

Wherefore, the Commission shall order an investigation of the circumstances surrounding PSCI's filing in order to effectuate its Section 202(a) duties of protecting the public interest and promoting and encouraging voluntary interconnection and coordination. The importance of power pooling for the efficient planning and operation of power systems cannot be questioned thus making the impending breakup of the KIP power pool a matter of the utmost seriousness. It is not enough to know that the KIP members were unable to agree on the treatment of two nuclear units proposed to be built by PSCI. To effectuate its 202(a) responsibilities the Commission must know the extent of the efforts made to preserve the planning functions of this pool, the reasons why they could not be preserved, the alternatives available to pool members, and the extent to which the problems of this pool may be typical of other pools, since it may be that legislative proposals need to be formulated

[1] PSCI Rate Schedule FPC No. 225, filed pursuant to Section 205(c) of the Act. 18 C.F.R. § 35.2(b) defines a rate schedule as "a statement of (1) electric service as defined in paragraph (a) of this section (2) rates and charges for or in connection with that service, and (3) all classifications, practices, rules, regulations, or contracts which in any manner affect or relate to the aforementioned service, rates and charges."

or to allow the Commission to respond to Congressional inquiries on legislation now pending.[6] Certainly the Commission has the authority to investigate such matters for this purpose under Section 307.[7] In addition, the Commission needs to know the economic impact on the

Wherefore, the Commission's review indicates that PSCI's filing has not been shown to be in the public interest. Accordingly, the Commission shall accept PSCI's June 7 Notice of Termination for filing, grant a waiver of the statutory thirty day notice requirement making such filing effective as of July 1, 1976, and institute an investigation under Sections 202, 206, 307 and 311 of the Federal Power Act to determine if such termination is consistent with the public interest.

In order to expedite this investigation we shall order a pre-hearing conference at which a Presiding Administrative Law Judge shall set further procedural dates, establish procedures for expeditious discovery of the relevant facts, and receive the views of the parties on such other matters as affect the conduct of the investigation herein ordered.

The Commission finds: (1) Good cause exists to accept for filing PSCI's Notice of Termination filed herein on June 7, 1976, grant a waiver of the statutory thirty day notice requirement making such filing effective as of July 1, 1976, and deny Frankford's motion to reject the filing or to suspend its operation for five months.

(2) It is necessary and proper in the public interest and to aid in enforcement of the Federal Power Act that the Commission enter upon an investigation of the circumstances surrounding the termination of joint planning functions of the KIP Agreement.

(3) Good cause exists to grant the Petitions to Intervene of the Municipal Intervenors, KU and IP&L, as hereinafter ordered and conditioned.

The Commission orders: (A) Pursuant to the authority of the Federal Power Act, particularly Sections 202, 206, 307, and 311 thereof, and the Commission's Rules and Regulations, the Commission hereby institutes an investigation of the circumstances surrounding the termination of joint planning functions of the KIP Agreement.

(B) PSCI's June 7 submittal is hereby accepted for filing, the implicit request for waiver of notice requirements as permitted by Section 35.11 of the Commission's regulations is hereby granted, and the filing is hereby assigned an effective date of July 1, 1976.

(C) Frankfort's motion to reject PSCI's filing or to suspend its operation for five months, is hereby denied.

(D) A prehearing conference shall be held at 10 A.M., August 22, 1977, for the purpose of setting further procedural dates, establishing procedures for expeditious discovery of the relevant facts, and receiving the views of the parties on such other matters as affect the conduct of the investigation herein ordered.

(E) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (See Delegation of Authority, 18 CFR 3.5(d)), shall preside at the pre-hearing conference and at the later hearings, shall prescribe relevant procedural matters not herein provided, and shall control this proceeding in accordance with the policies and limitations expressed in this order.

(F) Municipal Intervenors, KU and IP&L are hereby permitted to intervene in these proceedings subject to the rules and regulations of the Commission; *Provided, however,* That participation of such intervenors shall be limited to matters affecting asserted rights and interests as specifically set forth in their respective Petitions to Intervene; and *Provided, further,* That the admission of such intervenors shall not be construed as recognition by the Commission that they might be aggrieved because of any order or orders of the Commission entered in this proceeding.

(G) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-22582 Filed 8-4-77;8:45 am]

[Docket No. CP77-513]

TENNESSEE GAS PIPELINE

Application

JULY 29, 1977.

Take notice that on July 20, 1977, Tennessee Gas Pipeline Company, a Division of Tenneco Inc., (Applicant), P.O. Box 2511, Houston, Texas 77001, filed in Docket No. CP77-513 an application pursuant to Section 7(c) of the Natural Gas Act and Section 2.79 of the Commission's General Policy and Interpretations (18 CFR 2.79) for a certificate of public convenience and necessity authorizing the transportation for two years of up to 2,000 Mcf of natural gas per day for Owens-Corning Fiberglas Corporation, an existing direct industrial customer of Transcontinental Gas Pipe Line Corporation (Transco), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that Owens-Corning owns and operates an industrial plant located in Anderson, South Carolina, where it utilizes natural gas in the manufacture of fiberglass products. In order to moderate the effects of curtailment imposed upon its system, Owens-Corning has entered into a contract with Kilroy Properties, Inc. (Kilroy) for the purchase by Owens-Corning of natural gas produced from the East Chatham Field Jackson Parish, Louisiana, it is indicated. It is stated that Owens-Corning would pay, for gas purchased from Kilroy, a total initial price of $2.00 per million Btu's, which price would escalate to $2.15 at the end of the 12-month period following initial deliveries under said contract. It is further stated that in order to make such gas available to it, Owens-Corning has made arrangements with Applicant and Transco for the transportation and delivery of such gas to Owens-Corning at its Anderson, South Carolina plant.

Applicant proposes (1) to receive from Kilroy at an interconnection of Applicant and Kilroy's facilities in Jackson Parish, Louisiana, up to a Maximum Daily Quantity (MDQ) of 2,000 Mcf, and (2) through the utilization of existing facilities, to transport and deliver to Transco for the account of Owens-Corning, equivalent daily volumes of natural gas, up to said MDQ, at an existing interconnection between Applicant and Transco's facilities in Acadia Parish, Louisiana or when required by operating conditions, at other mutually agreeable existing interconnections between the facilities of Applicant and Transco for a period of 2 years.

Applicant indicates that it has entered into a transportation contract dated July 15, 1977, with Owens-Corning and Transco, which contract provides that Applicant would receive into its pipeline facilities at its Main Line Valve 44 plus 9.7 miles near the East Chatham Field in Jackson Parish, Louisiana, such volumes as Owens-Corning would cause Kilroy to make available to Applicant and which determines its operating conditions would permit it to receive, up to the MDQ. It is stated that Applicant would transport and deliver equivalent quantities of gas to Transco for the account of Owens-Corning at Applicant's Main Line Valve 509 plus 3.5 miles in Acadia Parish, Louisiana, or at other mutually agreeable points.

It is indicated that Owens-Corning would pay Applicant each month for the proposed transportation service (1) a demand charge to be determined by multiplying 45.0 cents by the MDQ, less any demand charge credit provided therein, if applicable; and (2) a volume charge equal to 5.73 cents multiplied by (a) the total of the daily volumes delivered by Applicant during such month or (b) the number of days in said month multiplied by 66⅔ percent of the MDQ, whichever is greater, less any applicable annual minimum bill credit as provided therein.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 23, 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) as the Regu-

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[6] See e.g., H.R. 6831, National Energy Act; H.R. 6660, Electric Utility Act of 1977; H.R. 2615, Electric Utility Rate Reform and Regulatory Improvement Act; H.R. 2393, Federal Power Commission Reform Act of 1977; and H.R. 823, Electric Rate Regulatory Reform Act of 1977.

[7] Section 307 provides in part: "The Commission may investigate any * * * matters * * * in obtaining information to serve as a basis for recommending further legislation concerning matters to which this Act relates.".

lations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-23584 Filed 8-4-77;8:45 am]

[Docket Nos. CP69-82, CP72-34, and CP75-282]

TEXAS EASTERN TRANSMISSION CORP. AND TRANSCONTINENTAL GAS PIPE LINE CORP.

Findings and Order Vacating and Partially Vacating Certificates of Public Convenience and Necessity

AUGUST 1, 1977.

On June 22, 1977, Texas Eastern Transmission Corporation (TETCO) filed petitions, with respect to orders issued pursuant to Section 7(c) of the Natural Gas Act, asking the Commission to (1) vacate in part the certificate issued in Docket No. CP69-82, (2) allow TETCO to withdraw its applications for certificates in Docket Nos. CP72-34 and CP75-282, and (3) vacate the certificates issued in Docket Nos. CP72-34 and CP75-282. Transcontinental Gas Pipe Line Corporation (Transco) joined TETCO in its petition in Docket No. CP75-282. The requests are more fully set forth in the petitions.

Docket No. CP69-82: Following a statutory hearing, the Commission issued, on May 6, 1969, authorization for a major expansion program involving an aggregate 330 miles of 36-inch pipeline loop, 193,500 compressor horsepower, and other facilities (41 FPC 596). The capacity increase was to have been constructed over a three-year period and would have totaled 229,506 Mcf per day (102,003 Mcf per day during 1969, 76,502 Mcf per day during 1970, and 51,001 Mcf per day during 1971) at a total estimated cost of $177,295,000. The order authorized sales increases to sole requirements customers aggregating 64,022 Mcf per day. The remaining capacity increase was reserved for emergency utilization pending acquisition of additional gas supplies. TETCO was to file for additional authorizations to make additional sales. All facilities were to be built by November 1, 1971. Later orders extended the time to December 31, 1976.

Only that portion of the facilities necessary to obtain a capacity increase of 64,022 Mcf per day, the quantity of additional sales authorized, was ever built. These consisted of approximately 92 miles of 36-inch loopline, 114,900 horsepower and minor appurtenant facilities at a cost of $51,900,000, as reported in a progress statement filed by TETCO March 2, 1970. TETCO now seeks an order that would (1) vacate that portion of the authorization relating to the remaining facilities consisting of 238 miles of 36-inch loop line, 78,400 horsepower and appurtenant facilities and (2) terminate proceedings in this docket.

After the certificate application was filed, the Public Service Commission of New York (PSC) filed a notice of intervention requesting a formal hearing in this docket. Because the request was prompted chiefly by TETCO's proposal to limit expanded first year service to its sole requirement customers, PSC withdrew the request after receiving assurances from TETCO that it intended to meet the increased needs of all customers regardless of whether they had other sources of supply. Since PSC withdrew its request for a formal hearing, no impediment remains to our granting TETCO's petition to vacate its certificate in part. In any event, PSC's objection to allocating a pipeline's incremental supply to full requirement customers is no longer relevant to this docket. TETCO has constructed only that portion of the new facilities necessary to handle the additional sales actually authorized. It has not sought authorization for any additional sales, nor has it constructed the facilities to handle its uncommitted capacity, even though the deadline of December 31, 1976, has passed. To reopen these proceedings is therefore unnecessary.

Docket No. CP72-34: After a statutory hearing in this docket, the Commission, on January 21, 1972, authorized the construction of a 4,500 horsepower addition to TETCO's Joaquin, Texas, compressor station within one year of the order (47 FPC 135). By later orders the time for such construction was extended to January 20, 1976. These facilities have not been constructed. In view of the gas shortage, TETCO no longer has need for the additional capacity and requests authorization to withdraw its application. TETCO also requests the Commission to vacate the order granting a certificate of public convenience and necessity issued in this matter.

The Commission does not consider it appropriate to allow TETCO to withdraw its application in this docket. The application was considered on the merits and a certificate issued. Furthermore, permission to withdraw the application would be superfluous in the face of an order vacating the certificate.

Docket No. CP75-282: By an order issued on June 4, 1975, the Commission, following a statutory hearing, authorized TETCO and Transcontinental Gas Pipe Line Corporation (Transco) to construct and operate facilities to exchange gas in Neuces County, Texas. The total cost of the interconnection was estimated to be $49,050. The facilities were to have been completed by June 6, 1976. Because they have been unable to secure the measuring station site at reasonable cost, Applicants do not intend to construct the interconnection. The gas supplies will continue to be delivered at another point.

TETCO and Transco request authority to withdraw their application and request the Commission to vacate the order issuing a certificate of public convenience and necessity in this matter.

For the reasons set forth above in the discussion of Docket No. CP72-34, the Commission does not consider permission to withdraw the application an appropriate form of relief.

The Commission finds: (1) The requests by Texas Eastern Transmission Corporation that the Commission partially vacate the certificate of public convenience and necessity issued in Docket No. CP69-82 and terminate those proceedings and that the Commission completely vacate the certificate issued in Docket No. CP72-34 are in the public interest and should be granted.

(2) The request by Texas Eastern Transmission Corporation and Transcontinental Gas Pipe Line Corporation that the Commission vacate the certificate of public convenience and necessity issued in Docket No. CP75-282 is in the public interest and should be granted.

(3) The requests by Texas Eastern Transmission Corporation that it be allowed to withdraw its applications in Docket Nos. CP72-34 and CP75-282 and by Transcontinental Gas Pipe Line Corporation that it be allowed to withdraw its application in Docket No. CP75-282 are not in the public interest and should not be granted.

The Commission orders: (A) The certificate of public convenience and necessity granted to Texas Eastern Transmission Corporation in Docket No. CP69-82 by Commission order of May 6, 1969, as amended, is vacated insofar as it applies to facilities authorized but not constructed as of December 31, 1976.

(B) The proceeding in Docket No. CP69-82 is terminated.

(C) The certificate of public convenience and necessity issued to Texas Eastern Transmission Corporation in Docket No. CP72-34 by Commission order of August 9, 1971, as amended, is vacated.

(D) The certificate of public convenience and necessity issued to Texas Eastern Transmission Corporation and to Transcontinental Gas Pipe Line Corporation in Docket No. CP75–282 by Commission order of June 4, 1975, is vacated.

(E) The request by Texas Eastern Transmission Corporation that it be allowed to withdraw its application in Docket No. CP72–34 is denied.

(F) The request by Texas Eastern Transmission Corporation and by Transcontinental Gas Pipe Line Corporation that they be permitted to withdraw their application in Docket No. CP75–282 is denied.

By the Commission.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc.77-22581 Filed 8-4-77;8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[FRA WAIVER PETITION NO. HS–77–9]

FORE RIVER RAILROAD CO.

Notice of Petition for Exemption From the Hours of Service Act

The Fore River Railroad Company has petitioned the Federal Railroad Administration pursuant to 45 U.S.C. 64a(e) for exemption, with respect to certain employees, from the Hours of Service Act, as amended, 45 U.S.C. 61–64(b).

Interested persons are invited to participate in this proceeding by submitting written data, views, or comments. Communications should be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, Attention: FRA Waiver Petition No. HS–77–9, Room 5101, 400 Seventh Street, S.W., Washington, D.C. 20590. Communications received before August 31, 1977, will be considered before final action is taken on this petition. All comments received will be available for examinatjon by interested persons during business hours in Room 5101, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590.

Issued in Washington, D.C. on July 29, 1977.

DONALD W. BENNETT,
Chairman,
Railroad Safety Board.

[FR Doc.77-22530 Filed 8-4-77;8:45 am]

FEDERAL RESERVE SYSTEM

BANCO CENTRAL, S.A.

Order Approving Formation of Bank Holding Company

Banco Central, S.A., Madrid, Spain, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) of the formation of a bank holding company through acquisition of all the voting shares of Banco Central y Economias ("Bank"), Hato Rey, Puerto Rico. Bank, a new bank organized under the laws of the Commonwealth of Puerto Rico, proposes to purchase assets and assume liabilities, including deposit liabilities, of Banco Economias, San German, Puerto Rico. Bank would be the successor to Banco Economias and, accordingly, the proposed acquistion of voting shares of Bank is treated in this Order as a proposed acquistion of voting shares of Banco Economias.

Notice of the application has been given to the Secretary of the Treasury of the Commonwealth of Puerto Rico, who has advised the Board that he has no objection to approval of the application. Published notice of the application has been dispensed with because of the emergency that exists.[1] The Act does not require such notice. The Board has considered the application and the comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. § 1842(c)).

Applicant, a Spanish commercial bank with total assets of approximately $8.5 billion and total deposits of approximately $7.2 billion, is the second largest commercial bank in Spain. Applicant has 1,181 offices, including six foreign branches, and nine representative offices. Applicant also plans to establish an agency in New York City.[2]

Banco Economias, the assets and liabilities of which Bank will acquire, is the sixth largest of 15 nongovernment-owned banking organizations operating in Puerto Rico, and holds deposits of approximately $199 million, or 4.1 percent of the total deposits in commercial banks in the Commonwealth of Puerto Rico.[3] Applicant does not now operate in Puerto Rico, and it does not appear that any meaningful competition would be eliminated as a result of the proposal. Consummation of the proposal should, in fact, have a salutary effect on competition by restoring Bank to a condition that will enable it to compete with other banking organizations in the market. Therefore, on the basis of the record, the Board concludes that competitive considerations are consistent with approval of the application.

The financial and managerial resources of Applicant are considered satisfactory and its future prospects appear favorable. Without consummation of this proposal, the financial resources and future prospects of Banco Economias would be considered poor, and if it is to continue as a viable banking institution it must be acquired by a sound and well-managed organization such as Applicant. Applicant will provide Bank with needed financial and managerial resources and will greatly improve its future prospects. These factors lend great weight toward approval. Considerations relating to the convenience and neds of the community to be served also lend weight toward approval, as the continuity of banking services by a locally-chartered institution would be maintained in areas now served by Banco Economias. It is the Board's judgment, therefore, that the proposed acquisition would be in the public interest and that the application should be approved.

Applicant appears to qualify, upon consummation of the proposed transaction, as a foreign bank holding company under section 225.4(g)(1) of Regulation Y, and as such it will be exempt from certain of the nonbanking prohibitions of the Act applicable to domestic bank holding companies. Specifically, a foreign bank holding company may, without the Board's prior approval, retain and acquire shares of any company that is not engaged, directly or indirectly, in any activities in the United States except those incidental to such company's international or foreign business. Applicant does not itself engage in any nonbanking activity in the United States and it does not own, directly or indirectly, more than five percent of the shares of any company located in the United States. Applicant is in the process of submitting information to clarify whether Board approval is necessary for the retention of shares it holds directly or indirectly in any foreign company on the basis of that company's direct activities in the United States. Under section 4(a)(2) of the Act, Applicant would have a two-year period from the time it becomes a bank holding company to secure such approval or to dispose of shares of any such company in excess of five percent.

On the basis of the record, the application is approved for the reasons summarized above, subject to the issuance of all necessary regulatory approvals for Bank to commence business as an insured bank. The transaction shall not be made before the thirtieth day after the effective date of this Order, or later than three months after the effective date of this Order unless such period is extended for good cause by the Board or the Federal Reserve Bank of New York pursuant to delegated authority.

By order of the Board of Governors,[4] effective July 1, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-22531 Filed 8-4-77;8:45 am]

[1] The Federal Deposit Insurance Corporation has asked the Board to act on this application as soon as possible for reasons related to the condition of Banco Economias.

[2] Banking data are as of December 31, 1976.

[3] Deposit and market data within Puerto Rico are as of June 30, 1976.

[4] Voting for this action: Vice Chairman Gardner and Governors Wallich, Jackson, Partee and Lilly. Absent and not voting: Chairman Burns and Governor Coldwell.

PREFERRED MANAGEMENT CO.

Correction

In F.R. document 77–18668 appearing at page 33379 of the issue for Thursday,

June 30, 1977, footnote 2 should have read:

[2] Applicant also provides management consulting and investment advice to Bank and leases real and personal property to Bank. Upon consummation of the acquisition of additional shares of Bank by Applicant, these activities would be exempt from the prohibitions of § 4 and § 4(a)(2) of the Act (12 U.S.C. § 1843(a)(2)).

Board of Governors of the Federal Reserve System, August 1, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-22532 Filed 8-4-77;8:45 am]

SUMMIT HOLDING CORP.

Formation of Bank Holding Company

Summit Holding Corporation, Tamarac, Florida, 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 90 per cent or more of the voting shares of Summit Bank, Tamarac, Florida. 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 Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than August 31, 1977.

Board of Governors of the Federal Reserve System, August 1, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-22533 Filed 8-4-77;8:45 am]

[Docket No. TCR 76-126]

UNION FINANCIAL CORP.

Prior and Final Certifications Pursuant to the Bank Holding Company Tax Act of 1976

Union Financial Corporation, Denver, Colorado ("UFC") (formerly Stuarco Oil Company, Inc. ("Stuarco")), 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 its sales of various oil and gas properties during 1973 and 1974 were necessary or appropriate to effectuate the policies of § 4 of the Bank Holding Company Act (12 U.S.C. § 1843) ("BHC Act"). UFC has also requested a final certification pursuant to § 6158(c)(2) of the Code that UFC has (before the expiration of the period prohibited property is permitted to be held under the BHC Act by a bank holding company) disposed of all the property the disposition of which is necessary or appropriate to effectuate § 4 of the BHC Act.[1]

In connection with these requests, the following information is deemed relevant, for purposes of issuing the requested certification:[2]

1. UFC is a corporation organized under the laws of the State of Colorado on March 25, 1966.

2. On August 28, 1969, UFC acquired ownership and control of 990 shares, representing 100 percent of the outstanding voting shares, of UNB Corporation, Denver, Colorado ("UNB").[3] On that date UNB owned and controlled 57,360 shares, representing 95.6 percent of the outstanding voting shares, of Union National Bank (later United Bank & Trust), Denver, Colorado ("Bank").

3. UFC became a bank holding company on December 31, 1970, as a result of the 1970 Amendments to the BHC Act, by virtue of its direct and indirect ownership and control at that time of more than 25 percent of the outstanding voting shares of UNB, and by virtue of its indirect ownership and control at that time, through UNB, of more than 25 percent of the outstanding voting shares of Bank, and it registered as such with the Board on July 2, 1971.[4] UFC 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 direct and indirect ownership and control on that date of more than 25 percent of the outstanding voting shares of UNB and Bank, respectively. At the time of each of the sales described in paragraph 4 below UFC directly and indirectly owned and controlled more than 25 percent of the outstanding voting shares of UNB and Bank, respectively.

4. On or about May 31, 1973, UFC sold substantially all of its drilling rigs and related equipment to Exeter Drilling Contractors, Denver, Colorado, for cash. On October 1, 1973, after receiving written bids, UFC sold substantially all of its producing oil and gas properties and its undeveloped oil and gas properties to the highest bidder, Terra Resources, Houston, Texas, for cash.[5] Shortly thereafter, various minor mineral interests were sold to the major stockholders of UFC at an appraised value of $23,000. Concurrently, certain other office furniture, fixtures, and leasehold improvements were sold to one of UFC's stockholders at an independently appraised value. All of the foregoing transactions were for cash.

5. On each of the dates set forth in paragraph 4, UFC held property acquired by it on or before July 7, 1970, the disposition of which was necessary or appropriate to effectuate § 4 of the BHC Act if UFC were to continue to be a bank holding company beyond December 31, 1980, which property was "prohibited property" within the meaning of §§ 6158(b)(1) and 1103(c) of the Code.

6. Neither UFC nor any subsidiary of UFC holds any interest in any of the purchasers of the property described in paragraph 4 (the "Purchasers"), or in any subsidiary of any of the Purchasers.

7. None of the Purchasers, or any subsidiary of any of the Purchasers, holds any interest in UFC or any subsidiary of UFC.

8. No officer, director (including honorary or advisory director) or employee with policy-making functions of UFC or any subsidiary of UFC also holds any such position with any of the Purchasers or any subsidiary of any of the Purchasers.

9. UFC does not control in any manner the election of a majority of the directors, or exercise a controlling influence over the management or policies, of any of the Purchasers or any subsidiary of any of the Purchasers.

10. UFC does not presently own or control any property the disposition of which would be necessary or appropriate to effectuate § 4 of the BHC Act if UFC were to remain a bank holding company beyond December 31, 1980.

On the basis of the foregoing information and other facts of record, it is hereby certified that:

(A) at the time of the sales described in paragraph 4 above, UFC 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 property sold by UFC as described in paragraph 4 above was "prohibited property" within the meaning of §§ 6158(f)(2) and 1103(c) of the Code;

(C) UFC 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 is necessary or appropriate to effectuate § 4 of the BHC Act.

This certification is based upon the representations made to the Board by UFC and upon the facts set forth above.

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[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. UFC's application for such certification was postmarked December 31, 1976.

[2] This information derives from UFC's correspondence with the Board concerning its request for this certification, UFC's Registration Statment filed with the Board pursuant to the BHC Act, and other records of the Board.

[3] UNB engages in no other activity than the holding of Bank's stock.

[4] UNB similarly became a bank holding company on December 31, 1970, by virtue of its direct ownership and control of more than 25 percent of the outstanding voting shares of Bank, and it registered as such with the Board on December 30, 1971.

[5] In connection with its request for this certification, UFC submitted a copy of its Tax Return Schedule showing the oil and gas properties and leasehold equipment it sold during 1973-74. Those properties and equipment were located in the following States: Colorado, Nebraska, Wyoming, Texas, Oklahoma, Louisiana and Montana. In addition, pursuant to § 1102(d) of the Code, UFC submitted an itemization of all oil and gas leases and related property and equipment divested during the period 1970-1974.

In the event the Board should hereafter determine that facts material to this certification are otherwise than as represented by UFC, or that UFC 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 C.F.R. § 265.2(b)(3), effective July 29, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-22534 Filed 8-4-77;8:45 am]

GENERAL SERVICES ADMINISTRATION

REGIONAL PUBLIC ADVISORY PANEL ON ARCHITECTURAL AND ENGINEERING SERVICES

Notice of Meeting

"Pursuant to Public Law 92-463, notice is hereby given of a meeting of the Regional Public Advisory Panel on Architectural and Engineering Services, Region 4, August 26, 1977, from 9:30 a.m. to 4:00 p.m., Room 3E1, 1776 Peachtree St., NW, Atlanta, Georgia. The meeting will be devoted to the initial step of the procedures for screening and evaluating the qualifications of architect-engineers under consideration for selection to furnish professional services for the proposed Conversion and Renovation of the Miami, FL, USPO & Courthouse. The The meeting will be open to the Public."

Dated: July 22, 1977.

L. D. STROM,
Regional Administrator.

[FR Doc.77-22499 Filed 8-4-77;8:45 am]

REGIONAL PUBLIC ADVISORY PANEL ON ARCHITECTURAL AND ENGINEERING SERVICES

Notice of Meeting

"Pursuant to Public Law 92-463, notice is hereby given of a meeting of the Regional Public Advisory Panel on Architectural and Engineering Services, Region 4, August 25, 1977, from 9:30 a.m. to 4:00 p.m., Room 102E, 1776 Peachtree St., NW, Atlanta, Georgia. The meeting will be devoted to the initial step of the procedures for screening and evaluating the qualifications of architect-engineers under consideration for selection to furnish professional services for the proposed Conversion and Renovation of the Charlotte, North Carolina, Federal Building. The meeting will be open to the public."

Dated: July 21, 1977.

L. D. STROM,
Regional Administrator.

[FR Doc.77-22500 Filed 8-4-77;8:45 am]

REGIONAL PUBLIC ADVISORY PANEL ON ARCHITECTURAL AND ENGINEERING SERVICES

Notice of Meeting

"Pursuant to Public Law 92-463, notice is hereby given of a meeting of the Regional Public Advisory Panel on Architectural and Engineering Services, Region 4, August 23, 1977, from 9:30 a.m. to 4 p.m., Room 3E1, 1776 Peachtree St., NW., Atlanta, Georgia. The meeting will be devoted to the initial step of the procedures for screening and evaluating the qualifications of architect-engineers under consideration for selection to furnish professional services for the proposed Conversion and Renovation of the Louisville, Kentucky, U.S. Post Office-Court House-Custom House. The meeting will be open to the public."

Dated: July 21, 1977.

L. D. STROM,
Regional Administrator.

[FR Doc.77-22501 Filed 8-4-77;8:45 am]

REGIONAL PUBLIC ADVISORY PANEL ON ARCHITECTURAL AND ENGINEERING SERVICES

Notice of Meeting

"Pursuant to Public Law 92-463, notice is hereby given of a meeting of the Regional Public Advisory Panel on Architectural and Engineering Services, Region 4, August 24, 1977, from 9:30 a.m. to 4:00 p.m., Room 102E, 1776 Peachtree St., NW., Atlanta, Georgia. The meeting will be devoted to the initial step of the procedures for screening and evaluating the qualifications of architect-engineers under consideration for selection to furnish professional services for the proposed Conversion and Renovation of the Lexington, Kentucky, U.S. Post Office and Court House. The meeting will be open to the public."

Dated: July 21, 1977.

L. D. STROM,
Regional Administrator.

[FR Doc.77-22502 Filed 8-4-77;8:45 am]

REGIONAL PUBLIC ADVISORY PANEL ON ARCHITECTURAL AND ENGINEERING SERVICES

Notice of Meeting

"Pursuant to Public Law 92-463, notice is hereby given of a meeting of the Regional Public Advisory Panel on Architectural and Engineering Services, Region 4, August 24 & 25, 1977, from 9:30 a.m. to 4:00 p.m., Room 3E1, 1776 Peachtree St., NW., Atlanta, Georgia. The meeting will be devoted to the initial step of the procedures for screening and evaluating the qualifications of architect-engineers under consideration for selection to furnish professional services for the proposed Conversion and Renovation of the Atlanta, Georgia, U.S. Courthouse. The meeting will be open to the public."

Dated: July 22, 1977.

L. D. STROM,
Regional Administrator.

[FR Doc.77-22504 Filed 8-4-77;8:45 am]

GENERAL SERVICES ADMINISTRATION

[GSA Bulletin FPMR E-166]

SUPPLY AND PROCUREMENT

Elimination of Use of Cash Shopping Plates in GSA Self-Service Stores

1. *Purpose.* This bulletin provides advance notice to agencies that on or about October 1, 1977, GSA will discontinue the issuance and use of cash shopping plates.

2. *Expiration date.* This bulletin expires on December 31, 1977.

3. *Background.* For several years GSA has offered both cash and charge shopping plates for the convenience of agency personnel using GSA self-service stores. A recent review and analysis of this practice and expenses associated therewith disclosed that the cost of handling cash transactions compared unfavorably with that of handling charge transactions, and outweighed the benefits derived from providing a cash purchase capability. Consequently, GSA will discontinue the issuance of cash shopping plates and will not accept them for purchases of items at its self-service stores.

4. *Recommended actions.* Agencies should take action to inform their authorized holders of GSA self-service store cash shopping plates of the information in this bulletin and advise them to arrange for the issuance of a charge shopping plate, if needed. Futher, the holders of cash shopping plates should be advised to either destroy the plates or return them to the GSA regional office that issued them.

5. *Additional information.* Inquiries concerning the discontinuance of the use of cash shopping plates should be directed to the appropriate GSA regional retail services activity.

ROBERT P. GRAHAM,
Commissioner,
Federal Supply Service.

[FR Doc.77-22573 Filed 8-4-77;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Alcohol, Drug Abuse, and Mental Health Administration

ADVISORY COMMITTEES

Notice of Meetings

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix I), announcement is made of the following National Advisory bodies scheduled to assemble during the month of September 1977:

NATIONAL ADVISORY MENTAL HEALTH COUNCIL

Date and time: September 7-9; 9:30 a.m.
Place: Conference Rooms G and H, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.
Type of meeting: Open—September 7. Closed—Otherwise.
Contact: Mrs. Zelia Diggs, Room 11-101, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301-443-4333.

Purpose: The National Advisory Mental Health Council advises the Secretary, Department of Health, Education, and Welfare, the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, and the Director, National Institute of Mental Health, regarding the policies and programs of the Department in the field of mental health. The Council reviews applications for grants-in-aid relating to research, training, and services in the field of mental health and makes recommendations to the Secretary with respect to approval of applications for, and the amount of, these grants.

Agenda: On September 7, the meeting will be open for discussion of NIMH policy issues. These will incude current administrative, legislative and program developments. Otherwise, the Council will conduct a final review of grant applications for Federal assistance and this session will not be open to the public in accordance with the determination by the Acting Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions set forth in Section 552b(c)(6), Title 5 U.S. Code, and Section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

NATIONAL ADVISORY COUNCIL ON ALCOHOL ABUSE AND ALCOHOLISM

Date and time: September 19-20; 9:30 a.m.

Place: Conference Rooms G and H, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

Type of meeting: Open—September 19, Closed—September 20.

Contact: Rhoda L. Christensen, Parklawn Building, Room 16-86, 5600 Fishers Lane, Rockville, Maryland 20857, 301-443-4703.

Purpose: Advises the Secretary, Department of Health, Education, and Welfare regarding policy direction and program issues of national significance in the area of alcohol abuse and alcoholism. Reviews all grant applications submitted, evaluates these applications in terms of scientific merit and coherence with Department policies, and makes recommendations to the Secretary with respect to approval and amount of award.

Agenda: September 19 will be devoted to a discussion of the Fiscal Year 1978 Budget, Status of Third Special Report to the U.S. Congress on Alcohol and Health, Progress Report on Intramural Research, Institute Goals and Priorities. Agenda items are subject to change as priorities dictate.

September 20, the Council will conduct a final review of grant applications for Federal assistance and this session will not be open to the public in accordance with the determination by the Acting Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions set forth in Section 552b(c)(6), Title 5 U.S. Code, and Section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

PSYCHIATRIC NURSING EDUCATION REVIEW COMMITTEE

Date and time: September 26; 9:00 a.m.

Place: Conference Room A, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

Type of meeting: Open Meeting.

Contact Dr. M. Leah Gorman, Room 8C-06, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301-443-4423.

Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to psychiatric nursing manpower development and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00 a.m. to 3:00 p.m., on September 26, the meeting will be open for administrative announcements and discussion of review criteria in the light of new program initiatives and priorities of the Institute. Attendance by the public will be limited to space available.

PARAPROFESSIONAL MANPOWER DEVELOPMENT REVIEW COMMITTEE

Date and time: September 29-30; 9:00 a.m.

Place: Conference Room H, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

Type of meeting: Open Meeting.

Contact—Vernon R. James, Room 8C-02 Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301-443-1333.

Purpose: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to paraprofessional manpower development and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00 a.m. to 4:30 p.m., on September 29 and 30, the meeting will be open for administrative announcements and discussion of review criteria in the light of new program initiatives and priorities of the Institute. Attendance by the public will be limited to space available.

Substantive information may be obtained from the contact persons listed above.

The NIAAA Information Officer who will furnish summaries of the meeting and rosters of the committee members is Mr. Harry Bell, Associate Director, Office for Public Affairs, NIAAA, Room 6C-15, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301-443-3306. The NIMH Information Officer who will furnish upon request summaries of the meeting and rosters of the Council members is Mr. Edwin Long, Deputy Director, Division of Scientific and Public Information, NIMH, Room 15-105, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, 301-443-3600.

Dated: August 1, 1977.

CAROLYN T. EVANS,
Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc.77-22504 Filed 8-4-77;8:45 am]

[Docket No. 76F-0446]

E. I. DUPONT DE NEMOURS & CO.

Notice of Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The notice of filing pertaining to a petition (FAP 6B3243) submitted by E. I. duPont de Nemours & Co. proposing that the food additive regulations be amended to provide for the safe use of nylon 66 resins reinforced with calcium silicate intended to contact food is amended to provide that such regulation provide for the safe use of 3-(triethoxysilyl) propylamine.

FOR FURTHER INFORMATION CONTACT:

John J. McAuliffe, Bureau of Foods (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409 (b)(5)), 72 Stat. 1786 (21 U.S.C. 348 (b)(5)), notice was given in the FEDERAL REGISTER of November 23, 1976 (41 FR 51655) that a petition (FAP 6B3243) had been filed by E. I. duPont de Nemours & Co., 1007 Market St., Wilmington, DE 19898, proposing that § 177.1500 Nylon resins (21 CFR 177.-1500, formerly § 121.2502, prior to recodification published in the FEDERAL REGISTER of March 15, 1977 (42 FR 14302)), be amended to provide for the safe use of nylon 66 resins reinforced with calcium silicate for use as articles or components of articles intended for repeated use in contact with nonacidic food.

Notice is given that in addition, the petition proposes that such regulation provide for the safe use of 3-(triethoxysilyl) propylamine as a component of the reinforced nylon 66 resins.

Dated: July 25, 1977.

HOWARD R. ROBERTS,
Acting Director, Bureau of Foods.

[FR Doc.77-22505 Filed 8-4-77;8:45 am]

Food and Drug Administration

[Docket No. 76N-0245; DESI 5856]

PHENYTOIN AND PHENYTOIN SODIUM

Drug for Human Use; Drug Efficacy Study Implementation; Followup Notice

AGENCY: Food and Drug Administration (FDA).

ACTION: Notice.

SUMMARY: This notice announces that all single entity non-controlled-release oral dosage forms of phenytoin or phenytoin sodium are new drugs and require approved abbreviated new drug applications (ANDA's) in order to market in interstate commerce. It also affirms that all combinations and controlled-release products are new drugs and require approved "full" new drug applications (NDA's).

DATES: Notice effective August 5, 1977.

ANDA's for single entity non-controlled-release products being marketed commercially on August 5, 1977, must be submitted by February 1, 1978.

Submissions in support of a claimed exemption from the new drug provisions of the Federal Food, Drug, and Cosmetic Act must be submitted by October 4, 1977.

ADDRESSES: Communications pursuant to this notice should be identified with the reference number DESI 5856 and FDA Docket Number 76N-0245, addressed to the attention of the office named below, the Food and Drug Administration, 5600 Fishers Lane, Rockville, MD. 20857.

Original full new drug applications and supplements thereto: Division of Neuropharmacological Drug Products (HFD-120), Room 10B-45, Bureau of Drugs.

Original abbreviated new drug applications and supplements thereto: Division of Generic Drug Monographs (HFD-530), Bureau of Drugs.

Requests for protocols for bioavailability studies: Division of Biopharmaceutics (HFD-520), Bureau of Drugs.

Submissions concerning exemption from new drug provisions of the act: Hearing Clerk, Food and Drug Administration (HFC-20), Room 4-65.

FOR FURTHER INFORMATION CONTACT:

Robert H. Hahn, Bureau of Drugs (HFD-32), Department of Health, Education, and Welfare, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857 (301-443-3650).

SUPPLEMENTARY INFORMATION: In a notice (DESI 5856, Docket No. 76N-0245) published in the FEDERAL REGISTER of July 29, 1976 (41 FR 31588), the Director of the Bureau of Drugs concluded that diphenylhydantoin (now officially named phenytoin) in oral form is regarded as a new drug (as defined in section 201(p) of the Federal Food, Drug, and Cosmetic Act (the "act")) and is effective for control of grand mal and psychomotor seizures. The notice stated that all persons who manufacture or distribute a drug product that is identical, related, or similar to a drug product named in the notice (as defined in 21 CFR 310.6) must have an approved new drug application as a condition to lawfully marketing that product. One phenytoin product was named in the notice: Dilantin (oral) Suspension (NDA 8-792) held by Parke, Davis & Co., Joseph Campau Ave. at the River, Detroit, MI 48232.

Just prior to this notice, the Food and Drug Administration (FDA) had published a revision of a booklet entitled "Holders of Approved New Drug Applications for Drugs Presenting Actual or Potential Bioequivalence Problems" (Department of Health, Education, and Welfare Publication No. (FDA)-76-3009 dated June 1976); because of the color of its cover, it has become known as the "Blue Book." It identified phenytoin as a drug presenting an actual or potential bioequivalence problem and listed two firms that are holders of approved new drug applications for phenytoin oral suspension. The Blue Book stated that phenytoin sodium capsules were related drugs and indicated that no new drug application had been approved for this dosage form. The Blue Book also stated that as of June 1976 a new drug application was not required for marketing phenytoin sodium capsules. The Blue Book statement that a new drug application is not required as a condition for marketing phenytoin sodium capsules is rescinded and superseded by this DESI notice.

Because of the discrepancies between the Blue Book and the DESI notice, questions have arisen whether FDA considers phenytoin tablets, capsules, phenytoin sodium capsules, or other dosage forms of phenytoin, to be related to the phenytoin oral suspension identified in the DESI notice and therefore a new drug requiring an approved new drug application for marketing. The purpose of this notice is to resolve these questions.

The legal status and conditions for marketing such products are discussed below.

I. SINGLE ENTITY NON-CONTROLLED-RELEASE ORAL FORMS OF PHENYTOIN OR PHENYTOIN SODIUM INTENDED FOR USE FOR THE CONTROL OF GRAND MAL AND PSYCHOMOTOR SEIZURES:

A. *Legal status.* Such products are regarded as new drugs as defined in section 201(p) of the act, and subject to the requirements of section 505 of the act, for the following reasons:

1. The Food and Drug Administration is not aware of a past finding by experts that any such product is generally recognized as safe and effective.

2. The finding of an actual or potential bioavailability/bioequivalence problem precludes a finding that such products are generally recognized as safe and effective. The finding that such problems exist was published in the FEDERAL REGISTER of June 20, 1975 (40 FR 26168).

3. The July 29, 1976 DESI notice referenced 21 CFR 310.6 concerning drug products which may be identical, related, or similar to phenytoin oral suspension. The last sentence quoted from 21 CFR 310.6(a) emphasizes that the scope of the phrase "identical, related, or similar" depends on the extent to which conclusions that a reviewed drug is effective or ineffective may be applied to other nonreviewed drugs. Paragraph (b) expands on this to say:

Where experts qualified by scientific training and experience to evaluate the safety and effectiveness of drugs would conclude that the findings in a drug efficacy notice of opportunity for hearing concerning effectiveness are applicable to an identical, related, or similar drug product, such product is affected by the notice.

The Director concludes that the finding of effectiveness for phenytoin oral suspension is also applicable to other single entity non-controlled-release oral dosage forms of phenytoin and phenytoin sodium, provided such dosage forms fulfill bioavailability/bioequivalence requirements. Accordingly, such products are subject to the ANDA provisions of the July 29, 1976 DESI notice, as amended by this notice.

B. *Conditions for marketing.* The DESI notice stated that approval of a new drug application must be obtained prior to marketing any product covered by the notice that was not subject to an approved or effective new drug application on July 29, 1976, and, for products covered by such applications, a supplemental application containing certain data was required. The notice also indicated that an abbreviated new drug application (21 CFR 314.1(f)) would be accepted to fulfill this requirement. The notice did not indicate that such applications or supplements must contain data to show that the drug is biologically available in the formulation marketed or proposed to be marketed. Because phenytoin is currently identified by FDA as a drug with an actual or potential bioequivalence problem, the DESI notice of July 29, 1976 is hereby amended to require bioavailability data as part of the applications or supplements. Protocols for bioavailability studies are available upon request from the Division of Biopharmaceutics (HFD-520), Bureau of Drugs.

The DESI notice did not address the conditions for continuing to market a product covered by the notice that was not then subject to an approved or effective new drug application. Because the FDA has not previously identified these products as new drugs, because phenytoin is medically necessary for the treatment of epilepsy, and because appropriate bioavailability studies must be completed and submitted as part of the abbreviated new drug applications in order to evaluate the safety and effectiveness of these products, any single entity, non-controlled-release oral dosage form of phenytoin or phenytoin sodium intended to control grand mal and psychomotor seizures that was marketed commercially on August 5, 1977 may continue to be marketed without an approved new drug application until May 2, 1978, provided that (1) on or before February 1, 1977 the sponsor submits an abbreviated new drug application to FDA for the product and that (2) FDA does not issue a nonapprovable letter regarding such application. The Food and Drug Administration believes that this allows the manufacturer adequate time to conduct the appropriate scientific studies and to prepare and submit the required application, as well as allowing FDA sufficient time to review and evaluate these applications. This special provision for continuation of marketing, which applies only to products marketed on or before the publication of this notice, is consistent with the District Court's order in *Hoffmann-LaRoche, Inc. v. Weinberger*, 425 F. Supp. 890 (D.D.C., 1975), reprinted in the FEDERAL REGISTER of September 22, 1975 (40 FR 43531) and March 2, 1976 (41 FR 9001).

II. COMBINATION *NON-CONTROLLED-RELEASE* ORAL DOSAGE FORMS OF PHENYTOIN OR PHENYTOIN SODIUM AND ONE OR MORE OTHER ACTIVE INGREDIENTS INTENDED TO CONTROL GRAND MAL AND PSYCHOMOTOR SEIZURES.

A. *Legal status.* Such products are regarded as new drugs as defined in section

201(p) of the act, and subject to the requirements of section 505 of the act, for the following reasons:

1. Single-entity products containing phenytoin or phenytoin sodium are regarded as new drugs, as discussed above. It follows then that such a drug in combination with other drug(s) is also a new drug. 21 CFR 310.3(h)(1).

2. The Food and Drug Administration is not aware of a past finding by experts that any combination containing phenytoin or phenytoin sodium is generally recognized as safe and effective.

3. The new drug status of a combination product is not necessarily dependent upon the new drug status of any of its active ingredients. Even if one or more of the individual drug substances were not new, the combination of them could create a "new drug". 21 CFR 310.3(h)(2). Past experience of FDA has established that combining two or more active ingredients, each of which is safe and effective for a particular indication, may result in a product which is either less safe, or less effective, or both. For this reason, FDA has determined that the combination of two or more drugs, even ones that individually are generally recognized as safe and effective, cannot create a combination that is always and immediately recognizable as safe and effective. The agency, therefore, has required that new combinations have separate NDA's containing evidence demonstrating the safety and effectiveness of the combination product. In addition, FDA has established a policy regarding fixed combination drugs that requires that each component make a contribution to the claimed effects and that the dosage of each be such that the combination is safe and effective for a significant patient population. 21 CFR 300.50 and 314.1(c)(2), item 12.c. The Food and Drug Administration is not aware of any combination containing phenytoin or phenytoin sodium that meets these requirements, except those already approved in full new drug applications. No combination containing phenytoin or phenytoin sodium was reviewed in the Drug Efficacy Study.

For these reasons, together with the bioavailability/bioequivalence problems with the single entity product, the Director concludes that the finding of effectiveness for the oral suspension form of phenytoin is not applicable under 21 CFR 310.6 to phenytoin or phenytoin sodium in combination with one or more other active ingredients. Accordingly, the DESI notice of July 29, 1976 does not authorize an ANDA for any combination. Further, FDA does not have in its files sufficient publicly available data and information to justify a conclusion that the requirements for safety and effectiveness data in a full NDA can be waived and ANDA's allowed. However, the fact that FDA does not waive any of the requirements of an NDA for a particular product does not necesarily mean that an applicant must conduct his own preclinical and clinical studies regarding safety and effectiveness. An applicant may be able to include in his application published articles and other publicly available data and information that provide an adequate basis for approval of the application.

B. *Conditions for marketing.* Prior approval of a full NDA is a requirement for marketing any combination product containing phenytoin or phenytoin sodium and one or more other active ingredients that is intended to control grand mal and psychomotor seizures. The Food and Drug Administration is not aware of a significant patient population requiring treatment with a combination product. Patients now being treated with combination drugs may continue to be treated with the single entity components. The Food and Drug Administration does not believe that any such fixed combination is "medically necessary" under the order in *Hoffmann-LaRoche* cited above and thus will not permit marketing to continue pending completion of the necessary clinical studies and approval of a full NDA. However, those products which are subjects of requests for hearing pursuant to the July 29, 1976 notice may continue to be marketed pending a ruling on a hearing request.

Regulatory action is to be taken with respect to such combinations under Category IV of Compliance Policy Guide 7132C.08—Marketed New Drugs Without Approved NDA's or ANDA's. The FEDERAL REGISTER of September 23, 1976 (41 FR 41770) gave notice of the availability of this document.

III. CONTROLLED-RELEASE ORAL DOSAGE FORMS OF PHENYTOIN OR PHENYTOIN SODIUM EITHER AS A SINGLE ENTITY OR IN COMBINATION WITH ONE OR MORE OTHER ACTIVE INGREDIENTS INTENDED FOR USE FOR THE CONTROL OF GRAND MAL OR PSYCHOMOTOR SEIZURES.

A. *Legal status.* Such products are regarded as new drugs as defined in section 201(p) of the act, and subject to the requirements of section 505 of the act for the following reasons:

1. Single entity non-controlled-release forms of phenytoin and phenytoin sodium and combinations of these drugs with one or more other active ingredients are new drugs as discussed in sections I and II above.

2. Any controlled-release dosage form that contains a quantity of active ingredients which is not generally recognized as safe for administration as a single dose is regarded as a new drug. 21 CFR 200.31. Further, the newness of a dosage, or method or duration of administration, may cause a product to be regarded as a new drug. 21 CFR 310.3(h)(5).

3. The Food and Drug Administration is not aware of a past finding by experts that any controlled-release product containing phenytoin or phenytoin sodium, whether it contains a single active ingredient or a combination of ingredients, is generally recognized as safe and effective.

4. No single entity or combination controlled-release products containing phenytoin or phenytoin sodium were reviewed in the Drug Efficacy Study. Any controlled-release claim for products containing phenytoin or phenytoin sodium, because of bioavailability/bioequivalence problems and the long half-life of the drug, requires studies to establish the precise nature of the claim. For these reasons and reasons discussed in section II above, the Director concludes that the finding of effectiveness for the single entity oral suspension is not applicable under 21 CFR 310.6 to any controlled-release product, and that the July 29, 1976 notice does not authorize ANDA's for such products.

B. *Conditions for marketing.* Prior approval of a full NDA is a requirement for marketing any controlled-release product containing phenytoin or phenytoin sodium. All controlled-release dosage forms containing these drugs known to FDA to be marketed without an approved NDA have been removed from the market as a result of regulatory action by the agency.

IV. "GRANDFATHER" STATUS.

The Food and Drug Administration is not aware of any phenytoin products on the market that can qualify either for the "grandfather" exemption from the new drug requirements of section 505 of the act contained in section 201(p) of the act for products marketed prior to June 25, 1938, or for the "grandfather" exemption from the effectiveness standards otherwise applicable to new drugs contained in section 107(c) of the Drug Amendments of 1962. Parke, Davis & Co. has marketed Dilantin (phenytoin sodium) Capsules for many years without an approved new drug application, contending that the product was so "grandfathered". At the time of publication of the Blue Book, the "grandfather" issue with respect to phenytoin sodium capsules had not been resolved, but subsequently Parke, Davis & Co. waived its claims and submitted an abbreviated new drug application (ANDA 84-349) for Dilantin Capsules containing 30 milligrams and 100 milligrams phenytoin sodium per capsule that was approved August 27, 1976. No other firm has claimed exemption from section 505 of the act under the "grandfather" clauses. A person may not claim exempt status for his product merely because an identical, related, or similar product may be entitled to such an exemption. The Food and Drug Administration has long maintained that approval of applications under section 505 of the act approves only the products named in the application; likewise, an exemption from the application requirements of section 505 of the act applies only to the particular products that meet all of the requirements for an exemption. If any manufacturer believes his product is entitled to an exemption from the new drug provisions of the act, he may file on or before October 4, 1977 documentation in support of the contention. The

requirements governing such a submission are contained in 21 CFR 314.200(e)(2). Failure to submit such documentation shall constitute a waiver of all claims to exemption under section 201(p). Such submissions shall be filed in quintuplicate, identified with FDA Docket Number 76N-0245 and directed to the Hearing Clerk (address given above).

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050-1053, as amended (21 U.S.C. 352, 355)) and under the authority delegated to the Director of the Bureau of Drugs (21 CFR 5.82).

Dated: July 29, 1977.

J. RICHARD CROUT,
Director, Bureau of Drugs.

[FR Doc.77-22336 Filed 8-4-77;8:45 am]

Public Health Service

ADMINISTRATOR, HEALTH SERVICES ADMINISTRATION

Delegations of Authority

Notice is hereby given that pursuant to the authority delegated to the Assistant Secretary for Health on July 29, 1974, (39 F.R. 32171) by the Secretary of Health, Education, and Welfare, the Assistant Secretary for Health on July 25, 1977 made the following delegations of authority under the Health Maintenance Organization Act of 1973 (Public Law 93-222) to the Administrator, Health Services Administration. Unless otherwise noted, the citations below refer to sections of the Public Health Service Act, as amended by Public Law 93-222:

1. Authority under Section 1303 to authorize grants and contracts for feasibility surveys;

2. Authority under Section 1304 to authorize grants and contracts and to make loan guarantees for planning and for initial development costs;

3. Authority under Section 1305 to make loans and loan guarantees for initial operation costs;

4. Authority under Section 6 of Public Law 93-222 for provision of health services for Indians and domestic agricultural migratory and seasonal workers;

5. Authority under Section 1308.

Except for the authority (a) to waive the Secretary's right of recovery under Sections 1308(a)(2)(A) and 1308(b)(3); (b) to sell loans and guarantee such loans under Section 1308(c); (c) to issue notes or other obligations under Section 1308(d); and (d) to sell assets under Section 1308(e), the authorities delegated herein may be redelegated by the Administrator, Health Services Administration. A redelegation by the Administrator, Health Services Administration, or the bureau director acting as his designee, of authority to make loans and to guarantee loans shall contain the provision that the approval of loans and loan guarantees may be made only with the concurrence of the appropriate loan officer except where written authorization to approve the loans and loan guarantees is given by the Administrator, Health Services Administration, or the bureau director acting as his designee.

The Assistant Secretary for Health's delegation of March 19, 1975, (40 F.R. 15118-15119) to the Administrator, Health Services Administration, has been superseded.

Dated: July 25, 1977.

R. MOURE,
Executive Officer,
Public Health Service.

[FR Doc.77-22432 Filed 8-4-77;8:45 am]

REGIONAL HEALTH ADMINISTRATORS AND ADMINISTRATOR, HEALTH RESOURCES ADMINISTRATION

Delegations of Authority

Notice is hereby given that pursuant to the authority delegated to the Assistant Secretary for Health on May 22, 1975, (40 F.R. 25079) by the Secretary of Health, Education, and Welfare, the Assistant Secretary for Health on July 25, 1977 made the following delegations of authority under Part B of Title VI of the Public Health Service Act (42 U.S.C. 291j-1 *et seq.*) concerning loan guarantees and loans for modernization and construction of hospitals and other medical facilities. The Assistant Secretary for Health's delegation of April 5, 1976, (41 F.R. 17807-17808) to the Regional Health Administrators and the Administrator, Health Resources Administration, has been superseded.

1. To the Regional Health Administrators, the authority to enter into agreements to make loans and to guarantee loans; the authority to make such loans and to guarantee such loans; the authority to modify the terms and conditions of such agreements, loans, and loan guarantees; the authority to carry out the responsibilities of the Secretary under such agreements, loans, and loan guarantees, except for the authority to waive the Secretary's right of recovery under Sections 623(e)(1) and 627(d) of the Act; and the authority to afford State agencies an opportunity for a hearing and to conduct such hearings under Section 623(c) of the Act. These authorities may be redelegated by the Regional Health Administrators with further redelegation prohibited. A redelegation by any Regional Health Administrator of authority to make loans and to guarantee loans shall contain the provision that the approval of loans and loan guarantees may be made only with the concurrence of the appropriate loan officer except where written authorization to approve the loans and loan guarantees is given by the Regional Health Administrator.

2. To the Administrator, Health Resources Administration, the authority delegated to the Assistant Secretary for Health under Part B of Title VI of the Public Health Service Act, except the authority to enter into agreements to make loans and to guarantee loans; the authority to make such loans and to guarantee such loans; the authority to modify the terms and conditions of such agreements, loans, and loan guarantees; the authority to carry out the responsibilities of the Secretary under such agreements, loans, and loan guarantees; and the authority to afford State agencies an opportunity for a hearing and to conduct such hearings under Section 623(c) of the Act. This delegation includes the authority to waive the Secretary's right of recovery under Sections 623(e)(1) and 627(d) of the Act. These authorities may be redelegated, except for the authority to issue notes or other obligations under Section 626(b) of the Act; to sell loans and guarantee such loans under Sections 627(b) and 627(c) of the Act; and to waive the Secretary's right of recovery under Sections 623(e)(1) and 627(d) of the Act.

Dated: July 25, 1977.

R. MOURE,
Executive Officer,
Public Health Service.

[FR Doc.77-22431 Filed 8-4-77;8:45 am]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Serial No. I-12752]

IDAHO

Notice of Proposed Withdrawal and Reservation of Lands

The Bureau of Land Management, Department of the Interior, on October 21, 1976, filed application, Serial No. I-12752, for the withdrawal of the following described lands from settlement, sale, location, or entry, under all of the general land laws, except the mining and mineral leasing laws and the Recreation and Public Purposes Act.

BOISE MERIDIAN, IDAHO

SAYLOR CREEK WILDLIFE LEAVE AREAS

T. 6 S., R. 9 E.,
Sec. 23, W½SW¼;
Sec. 26, NW¼NW¼, W½SE¼;
Sec. 27, NE¼NE¼;
Sec. 34, E½SW¼, W½SE¼, SE¼SE¼;
Sec. 35, E½ SW¼, N½SE¼.
T. 6 S., R. 10 E.,
Sec. 32, E½NW¼, W½SE¼, SE¼SE¼.
T. 6 S., R. 12 E.,
Sec. 20, W½NE¼, N½SE¼;
Sec. 22, W½NW¼, E½NE¼;
Sec. 27, SW¼NW¼, NW¼SW¼;
Sec. 28, NE¼, NW¼SW¼, N½SE¼, SW¼SE¼.
T. 7 S., R. 9 E.,
Sec. 1, SW¼SW¼.
T. 7 S., R. 10 E.,
Sec. 3, SW¼SW¼;
Sec. 4, lots 1, 2;
Sec. 6, lot 2, W½SE¼;
Sec. 8, E½SE¼;
Sec. 9, S½SW¼;
Sec. 10, E½NW¼, W½SE¼;
Sec. 14, NW¼SW¼, SE¼SW¼;
Sec. 15, E½NE¼;
Sec. 17, NE¼SW¼, N½SE¼, SE¼SE¼;
Sec. 21, NE¼NW¼, SW¼NW¼, S½SE¼;
Sec. 22, NE¼NW¼, SW¼SE¼;
Sec. 23, W½NE¼, NE¼SE¼;
Sec. 26, S½NW¼;
Sec. 27, W½NW¼, NW¼SW¼;
Sec. 28, NE¼NE¼.

T. 7 S., R. 12 E.,
Sec. 1, lots 3, 4, E½SW¼;
Sec. 2, lot 4, S½SE¼;
Sec. 3, lots 1, 2;
Sec. 11, N½NE¼, SW¼NE¼, E½W½, W½SE¼;
Sec. 12, E½NW¼;
Sec. 14, SW¼NE¼, E½NW¼, N½SE¼, SE¼SE¼;
Sec. 23, SE¼NW¼, E½SW¼, E½NE¼;
Sec. 24, W½NW¼, NE¼SW¼;
Sec. 25, SW¼NW¼;
Sec. 26, NE¼SE¼, E½SW¼, NE¼NW¼;
Sec. 27, S½SW¼SW¼;
Sec. 34, N¼NW¼NW¼.
T. 7 S., R. 13 E.,
Sec. 6, lots 8, 9, E½E½E½SE¼;
Sec. 7, E½E½E½E½;
Sec. 18, E½E½E½E½;
Sec. 19, E½E½E½E½;
Sec. 30, E½E½E½NE¼, E½E½NE¼SE¼.
T. 8 S., R. 12 E.,
Sec. 1, lots 1, 2, SE¼NE¼, NE¼SE¼.
The area described contains 4,984.33 acres.

The Bureau of Land Management desires that the lands be withdrawn and reserved to assure protection of public values, including wildlife habitat, outdoor recreation and other public purposes. The wildlife habitat values for upland game birds are of particular importance.

On or before September 6, 1977, all persons who wish to submit comments, suggestions or objections in connection with the proposed withdrawal may present their views to the undersigned authorized officer of the Bureau of Land Management.

Pursuant to Section 204(h) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2754, Notice is hereby given that an opportunity for a public hearing is afforded in connection with the pending withdrawal application. All interested persons who desire to be heard on the proposed withdrawal must file a written request for a hearing to the State Director, Bureau of Land Management, Federal Building, 550 West Fort Street, Post Office Box 042, Boise Idaho 83724 within 30 days of date of publication of this notice. Notice of the public hearing will be published in the FEDERAL REGISTER giving the time and place of such hearing. The hearing will be scheduled and conducted in accordance with BLM Manual Sec. 2351.16B.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the lands will be withdrawn and reserved as requested. The determination of the Secretary on the application will be published in the FEDERAL REGISTER.

The above described lands are temporarily segregated from the operation of the public land laws, to the extent that the withdrawal applied for, if and when effected, would prevent any form of disposal or appropriation under such laws. Current administrative jurisdiction over the segregated lands will not be affected by the temporary segregation. In accordance with section 204(g) of the Federal Land Policy and Management Act of 1976, the segregative effect of the pending withdrawal application will terminate on October 20, 1991, unless sooner terminated by action of the Secretary of the Interior.

All communications (except for public hearing requests) in connection with the pending withdrawal application should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, Room 398, Federal Building, 550 West West Fort Street, Post Office Box 042, Boise, Idaho 83724.

VINCENT S. STROBEL,
Chief, Branch of L & M Operations.

[FR Doc.77-22498 Filed 8-4-77;8:45 am]

Office of the Secretary

TRANS-ALASKA PIPELINE SYSTEM CRITIQUE

Meeting

Notice is hereby given that the Department of the Interior, as part of its review responsibilities, will conduct a Trans-Alaska Pipeline System (TAPS) critique session on August 18 and 19 in Anchorage, Alaska.

TAPS is the largest privately-funded construction project in U.S. history to date. It is the intention of the Department to assess how well the terms and conditions attached to the use of public lands have served their purpose, and how future use of public lands for similar purposes might be benefited by the experience gained in the construction of this project.

Among the objectives of the critique will be:

(1) To determine the effectiveness of the Stipulations between the U.S. Government and the pipeline owners for the Agreement and Grant of Right-of-Way for TAPS construction;

(2) To pinpoint positive aspects of the Stipulations in respect to environmental impact abatement during the use of public land, while identifying areas of inadequacy in the Stipulations for better results, if any, in future pipeline or other projects requiring extensive use of Federal land;

(3) To consider the effectiveness of the organization used for Federal and State roles;

(4) To assess the effectiveness of the Federal-State agreement;

(5) To consider the question of balance between government and private interests in the monitoring efforts.

The critique will be conducted in a workshop format. Topics to be treated are the technical, environmental, socio-economic, and governmental administrative aspects of TAPS.

Participants in the critique will be representatives of concerned Federal agencies, Alaska State and local officials, the Alaska congressional delegation, relevant congressional committees, Alyeska and its oil company owners, environmental organizations, labor unions, business and civic organizations in Alaska, the Alaskan Federation of Natives and other native organizations, and academic groups.

The public is invited to attend the critique. The daily sessions will begin at 9 a.m. on the campus of the University of Alaska, 2651 Providence Drive, Anchorage, Alaska 99504. Space will be limited and will be available on a first-come-first-served basis. Persons desiring to attend should contact Terry Adlhock, Room 3425, U.S. Department of the Interior, 18th and C Streets NW., Washington, D.C. 20240, telephone: 202-343-2038, or the Alaska Pipeline Office, 808 E St., Anchorage, Alaska 99501, Telephone: 907-272-3422, specifying which of the workshop sessions they wish to attend.

GARY J. WICKS,
Acting Assistant Secretary for Land and Water Resources.

AUGUST 3, 1977.

[FR Doc.77-22796 Filed 8-4-77;9:45 am]

INTERNATIONAL TRADE COMMISSION

[Investigation No. TA-201-22]

FRESH CUT FLOWERS

Report to the President

AUGUST 1, 1977.

To the President: In accordance with section 201(d)(1) of the Trade Act of 1974 (88 Stat. 1978), the U.S. International Trade Commission herein reports the results of an investigation made under section 201(b)(1) of that act, relating to fresh cut flowers.

The investigation to which this report relates was undertaken to determine whether—cut flowers, fresh, provided for in item 192.20 of the Tariff Schedules of the United States, are being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing an article like or directly competitive with the imported articles.

The investigation was instituted on February 12, 1977, upon receipt of a petition filed on January 31, 1977, by the Growers Division of the Society of American Florists and Ornamental Horticulturists.

Notice of the institution of the investigation and of the dates when and cities where public hearings would be held was issued on February 16, 1977. Notice of the starting times of the public hearings, of the buildings wherein they would be held, and of a change of date and city for the Florida hearing was issued on March 17, 1977. The notices were posted at the Commission's offices in Washington, D.C., and New York City, and were published in the FEDERAL REGISTER on February 22 and March 22, 1977, respectively (42 FR 10347 and 15474). The public hearings were duly held at the times and places announced. All interested parties were afforded an opportunity to be present, to produce evidence, and to be heard.

The information contained in this report was obtained from fieldwork, from questionnaires sent to domestic growers and importers, and from the Commission's files, other Government agencies, and evidence presented at the hearings

and in briefs filed by interested parties.

A transcript of the hearings and copies of briefs submitted by interested parties in connection with the investigation are attached.[1]

DETERMINATION OF THE COMMISSION

On the basis of its investigation, the Commission determines (Vice Chairman Parker not participating) that cut flowers, fresh, provided for in item 192.20 of the Tariff Schedules of the United States, are not being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing an article like or directly competitive with the imported article.

VIEWS OF CHAIRMAN DANIEL MINCHEW AND COMMISSIONERS GEORGE M. MOORE, CATHERINE BEDELL, AND ITALO H. ABLONDI

On January 31, 1977, the Growers Division of the Society of American Florists and Ornamental Horticulturists petitioned the United States International Trade Commission for import relief pursuant to section 201 of the Trade Act of 1974. Following receipt of the petition, the Commission instituted an investigation on February 12, 1977, to determine whether cut flowers, fresh, provided for in item 192.20 of the Tariff Schedules of the United States, are being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing an article like or directly competitive with the imported article.

Section 201(b)(1) of the Trade Act requires that each of the following conditions must be satisfied before the Commission can make an affirmative determination.

(1) Imports of an article into the United States are increasing (either actually or relative to domestic production);

(2) The domestic industry producing an article like or directly competitive with the imported article is being seriously injured or threatened with serious injury; and

(3) Increased imports are a substantial cause of serious injury, or the threat thereof, to the domestic industry producing an article like or directly competitive with the imported article.

DETERMINATION

On the basis of information obtained in the present investigation, we have determined that fresh cut flowers, provided for in item 192.20 of the Tariff Schedules of the United States, are not being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing an article like or directly competitive with the imported article. Because our negative determination is based on the lack of evidence supporting the "serious injury" criterion, it is unnecessary to discuss the other criteria of section 201 of the Trade Act of 1974.

DOMESTIC INDUSTRY

For the purpose of this investigation we have concluded that the relevant domestic industry consists of those facilities in the United States devoted to the production of fresh cut flowers.

SERIOUS INJURY OR THE THREAT THEREOF

Evidence developed during the investigation shows that the domestic producers of fresh cut flowers are being injured by imported fresh cut flowers. However, in order for the requirement of section 201 to be met, such injury must be "serious injury." When making a determination of serious injury, the Commission is directed by the Trade Act to take into account all economic factors which it considers relevant, including the significant idling of productive facilities in the industry, the inability of a significant number of firms to operate at a reasonable level of profit, and significant unemployment or underemployment within the industry. The act further directs that the threat of serious injury is to be considered in light of a decline in sales, a higher and growing inventory, and a downward trend in production, profits, wages, or employment. In our opinion, imports of fresh cut flowers are not causing injury to the domestic industry of the magnitude necessary for an affirmative determination in this case. The evidence supporting this conclusion is discussed below.

The facts do not support a finding that there is significant idling of productive facilities in the domestic industry. In the period 1972–76, the wholesale value of domestic fresh cut flower production increased by 12 percent—from $252 million to $283 million. During the same period, U.S. exports of fresh cut flowers more than tripled in value, rising from $4.3 million to nearly $14 million. The acreage devoted to fresh cut flower production was the same in 1976 as it was in 1972.

There is no significant unemployment (or underemployment) in the domestic industry. The average annual number of employees increased by 6 percent over the period 1972–76.

The evidence regarding profitability of the domestic fresh cut flower industry does not support a finding of serious injury. Responses to the Commission questionnaire show that sales have increased every year since 1972 and that despite a decline in average operating margins for the industry from 1972 to 1974, such margins rose from 4.9 percent in 1974 to 7.7 percent in 1976. Since 1974, profit margins have increased by 57 percent. In addition, prices of imported fresh cut flowers have generally been the same as or higher than prices received by U.S. growers for the same flower type, thereby negating any tendency toward price depression. The foregoing facts indicate that the average operating profit margin for the industry is healthy, and the trend for such margins is positive at this time.

The trends evidenced in the above-mentioned factors indicate that at this time there is no threat of serious injury. Moreover, we note that a recent Department of State telegram from the U.S. Embassy in Bogota, Colombia, reports that the Minister of Agriculture for Colombia is attempting to implement a program whereby carnation and pompon chrysanthemum exports to the United States would be limited to be consistent with the absorptive capacity of the U.S. market.

CONCLUSION

On the basis of the considerations discussed above, we conclude that imports of fresh cut flowers are not a substantial cause of serious injury, or the threat thereof, to the domestic industry producing an article like or directly competitive with the imported article. Our determination is, therefore, in the negative.

The petitioner in this proceeding has recommended that the United States negotiate an orderly marketing agreement with Colombia to restrict the volume of fresh cut flower imports entering the United States. We do not believe that the Commission has the authority to recommend the negotiation of orderly marketing agreements to the President as a remedy in section 201 cases. However, it seems that in light of the market conditions in the U.S. industry, some form of marketing agreement may be given consideration by the President under his authority to negotiate trade agreements.[1]

By order of the Commission.

Issued: August 2, 1977.

KENNETH R. MASON,
Secretary.

[FR Doc 77-22562 Filed 8-4-77;8:45 am]

[1] Attached to the original report sent to the President. These materials are available for inspection at the U.S. International Trade Commission, except for information submitted in confidence.

[1] Commissioner Ablondi states that in light of the unanimous negative determination made by the Commission in this investigation, he does not join in the recommendation that the President give consideration to "some form of marketing agreement."

DEPARTMENT OF LABOR

Employment and Training Administration

EMPLOYMENT TRANSFER AND BUSINESS COMPETITION DETERMINATIONS UNDER THE RURAL DEVELOPMENT ACT

Applications

The organizations listed in the attachment have applied to the Secretary of Agriculture for financial assistance in the form of grants, loans, or loan guarantees in order to establish or improve facilities at the locations listed for the purposes given in the attached list. The financial assistance would be authorized by the Consolidated Farm and Rural Development Act, as amended, 7 USC 1924(b), 1932, or 1942(b).

The Act requires the Secretary of Labor to determine whether such Federal assistance is calculated to or is likely to result in the transfer from one area to another of any employment or busi-

ness 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 First day of August, 1977.

ERNEST G. GREEN,
Assistant Secretary
for Employment and Training.

Applications received during the week ending July 29, 1977

Name of applicant	Location of enterprise	Principal product or activity
Sterling Alloy Casting Corp.	Rock Falls, Ill.	Manufacture of grey iron castings.
McClure Sawmill Co.	McClure, Ill.	Sawmill and stave mill.
Pentajay Co.	The Palms, Ohio	Retail sales—grocery store.
Brooks Inc.	Sun Prairie, Wis.	Retail sale and service of construction equipment.
Viking Coca Cola Bottling Co.	St. Cloud, Minn.	Manufacture of soft drinks.
Bean Rouge Manor, Inc.	Bushnell, Ill.	Nursing facility.
A. J. Hochstettler	Wharton, Ohio	Grain elevator.
Krakauer Bros., Inc.	Brookville, Ohio	Manufacture of planes.
Monon & Evans Co.	Monon, Ind.	Trailer manufacture facility.
Bedford County Press	Everett, Pa.	Newspaper printing and publishing.
Jefferson Associates, Ltd.	Charles Town, W. Va.	Nursing home care.
Spring Hope Grocery Co., Inc.	Spring Hope, N.C.	Retail sale of fuel oil.
Gaby Hosiery Mill (tenant of the city of Dandridge).	Dandridge, Tenn.	Knitting and finishing of hosiery.
Wilson's Ice Cream Co., Inc.	Lumberton, N.C.	Manufacture of ice cream and frozen dessert products.
Tri-County Farmers Co-op.	Ipava, Ill.	Provides grain storage and marketing services and farm supplies to farmers.
Ross Seed Co.	Fisher, Minn.	Certified seed and custom cleaning.
Coca Cola Bottling Co.	Portland, Ind.	Manufacture of coke and allied products; wholesale candy and tobacco.
Lamun Asphalt & Paving Co., Inc.	Ludington, Mich.	Manufacture of bituminous concrete and ready mixed concrete.
Industrial Metal Works, Inc.	Amelia, La.	Sheet metal fabrication and specialized metal design.
Superior Concrete Accessories, Inc.	Parsons, Kans.	Manufacture of wire reinforcements for concrete.
Eddy County Equipment, Inc.	New Rockford, N.D.	Sales and service of agricultural equipment.
Superior Concrete Accessories, Inc.	Parker, Ariz.	Manufacture of wire reinforcements for concrete.
Brookstone Co., Inc.	Peterborough, N.H.	Retail sales of hardware homewares and miscellaneous gifts.

[FR Doc.77-22602 Filed 8-4-77;8:45 am]

EXTENDED BENEFITS AND FEDERAL SUPPLEMENTAL BENEFITS

Ending of Extended Benefit Period and Federal Supplemental Benefit Period in Massachusetts

This notice announces the ending of the Extended Benefit Period and the Federal Supplemental Benefit Period in the State of Massachusetts, effective on August 6, 1977.

BACKGROUND

The Federal-State Extended Unemployment Compensation Act of 1970 (title II of Public Law 91-373; 84 Stat. 695, 708) created a program of extended unemployment benefits (referred to as Extended Benefits) as a permanent part of the Federal-State Unemployment Compensation Program, for unemployed individuals who have exhausted their rights to regular unemployment benefits under State and Federal unemployment compensation laws. Extended Benefits are payable during an Extended Benefit Period, which is triggered on in a State when unemployment in the State or in all States collectively reaches the high levels set in the Act. During an Extended Benefit Period the maximum amount of Extended Benefits which is payable to eligible individuals is up to 13 weeks. An extended Benefit Period commenced in the State of Massachusetts on September 22, 1974.

The Emergency Unemployment Compensation Act of 1974 (Public Law 93-572, enacted December 31, 1974) created a temporary program of supplementary unemployment benefits (referred to as Federal Supplemental Benefits) for unemployed individuals who have exhausted their rights to regular benefits and Extended Benefits under State and Federal unemployment compensation laws. Federal Supplemental Benefits are payable during a Federal Supplemental Benefit Period in a State which has entered into an Agreement under the Act with the United States Secretary of Labor. A Federal Supplemental Benefit Period is triggered on in a State when unemployment in the State or in the State and the nation reaches the high levels set in the Act. During a Federal Supplemental Benefit Period the maximum amount of Federal Supplemental Benefits which is payable to eligible individuals is up to 13 weeks. A Federal Supplemental Benefit Period commenced in the State of Massachusetts on January 5, 1975.

The statutes also provide that benefit periods in a State will trigger off when unemployment in the State is no longer at the high levels set in the Acts. A benefit period actually terminates at the end of the third week after the week for which there is an "off" indicator. In Massachusetts both the Extended Benefit Period and the Federal Supplemental Benefit Period have triggered off.

DETERMINATION OF "OFF" INDICATORS

The employment security agency of the State of Massachusetts has determined in accordance with the applicable statutes and regulations that the average rate of insured unemployment in the State for the period consisting of the week ending on July 16, 1977, and the immediately preceding twelve weeks, was less than 5 percent.

Therefore, I have determined in accordance with the applicable statutes and regulations, 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 an Extended Benefit "off" indicator and a Federal Supplemental Benefit "off" indicator in the State of Massachusetts for the week ending on July 16, 1977, and that both the Extended Benefit Period and the Federal Supplemental Benefit Period in that State terminates on August 6, 1977.

INFORMATION FOR CLAIMANTS

Any individual to whom Extended Benefits or Federal Supplemental Benefits were payable in the State (whether or not any payment actually was made), for any portion of the last week of the Federal Supplemental Benefit Period, will have an additional eligibility period beginning immediately following the end

of the Federal Supplemental Benefit Period. During the additional eligibility period the individual will be entitled to Federal Supplemental Benefits to the same extent as if the Federal Supplemental Benefit Period continued to be in effect. The additional eligibility period will have a duration of 13 weeks, unless it is terminated sooner by reason of the beginning of a new Federal Supplemental Benefit Period in the State. There will not be an additional eligibility period of Extended Benefits.

Individuals currently filing claims for Extended Benefits or Federal Supplemental Benefits will receive written notices from the Massachusetts Division of Employment Security of the end of the Extended Benefit Period and the Federal Supplemental Benefit Period in that State and its effect on their entitlement to Extended Benefits and Federal Supplemental Benefits. The notice to any individual who will have an additional eligibility period following the Federal Supplemental Benefit Period will include information concerning potential entitlement to Federal Supplemental Benefits during the additional eligibility period.

Persons who wish information about their rights to Extended Benefits and Federal Supplemental Benefits in the State of Massachusetts should contact the nearest State Employment Office of the Massachusetts Division of Employment Security in their locality.

Signed at Washington, D.C., on August 2, 1977.

ERNEST G. GREEN,
Assistant Secretary for Employment and Training.

[FR Doc.77-22600 Filed 8-4-77;8:45 am]

MIGRANT AND SEASONAL FARMWORKER PROGRAMS

Fiscal Year 1978 State Planning Estimates Programs and Areas To Be Renewed Without Competition and Areas Open for Competition

AGENCY: Employment and Training Administration, Labor.

ACTION: Correction.

SUMMARY: This notice is a correction of areas to be renewed without competition for Fiscal Year 1978 funds provided under section 303 of the Comprehensive Employment and Training Act (CETA) of 1973 as amended.

SUPPLEMENTARY INFORMATION: Pursuant to 29 CFR 97.211, the Employment and Training Administration announced areas to be renewed without competition by a notice of the Federal Register of July 8, 1977, Volume 42, No. 131, page 35330. Due to a computer error in failing to enter plan information from an approved modification, United Migrant Opportunity Services of Wisconsin was erroneously omitted from the list of areas to be renewed without competition. United Migrant Opportunity Services will not have to compete for Fiscal Year 1978 funds for the State of Wisconsin provided their performance continues during the grant negotiation period to be at an acceptable level.

Signed at Washington, D.C., this 25th day of July 1977.

PAUL A. MAYRAND,
Chief, Division of Farmworker Programs.

[FR Doc.77-22601 Filed 8-4-77;8:45 am]

NATIONAL ENDOWMENT FOR THE ARTS AND THE HUMAITIES

ADVISORY COMMITTEE FELLOWSHIPS PANEL

Notice of Meeting

AUGUST 1, 1977.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended) notice is hereby given that a meeting of the Fellowships Panel will be held at 806 15th Street, NW., Washington, D.C. 20506, in room 1130 from 9:30 am. to 5:30 pm. on August 29.

The purpose of the meeting is to review 1978 Summer Seminar applications from prospective seminar directors in the field of Anthropology/Sociology submitted to the National Endowment for the Humanities for projects beginning in the summer of 1978.

Because the proposed meeting will consider financial information and disclose information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Acting Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated April 28, 1977, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552(c) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. John W. Jordan, 806 15th Street, N.W., Washington, D.C. 20506, or call area code 202-724-0256.

JOHN W. JORDAN,
Advisory Committee Management Officer.

[FR Doc.77-22535 Filed 8-4-77;8:45 am]

ADVISORY COMMITTEE FELLOWSHIPS PANEL

Notice of Meeting

AUGUST 1, 1977.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended) notice is hereby given that a meeting of the Fellowships Panel will be held at 806 15th Street, NW., Washington, D.C. 20506, in room 1023 from 9:30 am. to 5:30 pm. on August 29.

The purpose of the meeting is to review 1978 Summer Seminar applications from prospective seminar directors in the field of Russian submitted to the National Endowment for the Humanities for projects beginning in the summer of 1978.

Because the proposed meeting will consider financial information and disclose information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Acting Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated April 28, 1977, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552b(c) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. John W. Jordan, 806 15th Street, N.W., Washington, D.C. 20506, or call area code 202-724-0256.

JOHN W. JORDAN,
Advisory Committee Management Officer.

[FR Doc.77-22536 Filed 8-4-77;8:45 am]

ADVISORY COMMITTEE FELLOWSHIPS PANEL

Notice of Meeting

AUGUST 1, 1977.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended), notice is hereby given that a meeting of the Fellowships Panel will be held at 806 15th Street, N.W., Washington, D.C. 20506, in room 1130 from 9:30 a.m. to 5:30 p.m. on August 26.

The purpose of the meeting is to review 1978 Summer Seminar applications from prospective seminar directors in the field of History submitted to the National Endowment for the Humanities for projects beginning in the summer of 1978.

Because the proposed meeting will consider financial information and disclose information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Acting Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated April 28, 1977, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552b(c) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. John W. Jordan, 806 15th Street, N.W.,

Washington, D.C. 20506, or call area code 202–724–0256.

JOHN W. JORDAN,
Advisory Committee Management Officer.

[FR Doc.77–22537 Filed 8–4–77;8:45 am]

ADVISORY COMMITTEE FELLOWSHIPS PANEL

Notice of Meeting

AUGUST 1, 1977.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, as amended), notice is hereby given that a meeting of the Fellowships Panel will be held at 806 15th Street, N.W., Washington, D.C. 20506, in room 314 from 9:30 a.m. to 5:30 p.m. on August 26.

The purpose of the meeting is to review 1978 Summer Seminar applications from prospective seminar directors in the field of Philosophy submitted to the National Endowment for the Humanities for projects beginning in the summer of 1978.

Because the proposed meeting will consider financial information and disclose information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Acting Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated April 28, 1977, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552b(c) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. John W. Jordan, 806 15th Street, N.W., Washington, D.C. 20506, or call area code 202–724–0256.

JOHN W. JORDAN,
Advisory Committee Management Officer.

[FR Doc.77–22538 Filed 8–4–77;8:45 am]

ADVISORY COMMITTEE FELLOWSHIPS PANEL

Notice of Meeting

AUGUST 1, 1977.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, as amended), notice is hereby given that a meeting of the Fellowships Panel will be held at 806 15th Street, N.W., Washington, D.C. 20506, in room 1130 from 9:30 a.m .to 5:30 p.m. on August 31

The purpose of the meeting is to review 1978 Summer Seminar applications from prospective seminar directors in the field of Political Science submitted to the National Endowment for the Humanities for projects beginning in the summer of 1978.

Because the proposed meeting will consider financial information and disclose information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Acting Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated April 28, 1977, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552b(c) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. John W. Jordan, 806 15th Street, N.W., Washington, D.C. 20506, or call area code 202–724–0256.

JOHN W. JORDAN,
Advisory Committee Management Officer.

[FR Doc.77–22539 Filed 8–4–77;8:45 am]

ADVISORY COMMITTEE FELLOWSHIPS PANEL

Notice of Meeting

AUGUST 1, 1977.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, as amended) notice is hereby given that a meeting of the Fellowships Panel will be held at 806 15th Street, N.W., Washington, D.C. 20506, in room 314 from 9:30 a.m. to 5:30 p.m. on August 25.

The purpose of the meeting is to review 1978 Summer Seminar applications from prospective seminar directors in the field of Drama, Film, American Studies, Afro-American Literature Composition and Rhetoric submitted to the National Endowment for the Humanities for projects beginning in the summer of 1978.

Because the proposed meeting will consider financial information and disclose information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Acting Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated April 28, 1977, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552b(c) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. John W. Jordan, 806 15th Street, N.W., Washington, D.C. 20506, or call area code 202–724–0256.

JOHN W. JORDAN,
Advisory Committee Management Officer.

[FR Doc.77–22540 Filed 8–4–77;8:45 am]

ADVISORY COMMITTEE FELLOWSHIPS PANEL

Notice of Meeting

AUGUST 1, 1977.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, as amended,) notice is hereby given that a meeting of the Fellowships Panel will be held at 806 15th Street, N.W., Washington, D.C. 20506, in room 1023 from 9:30 am. to 5:30 pm. on August 26.

The purpose of the meeting is to review 1978 Summer Seminar applications from prospective seminar directors in the field of Linguistics submitted to the National Endowment for the Humanities for projects beginning in the summer of 1978.

Because the proposed meeting will consider financial information and disclose information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Acting Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated April 28, 1977, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552b(c) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. John W. Jordan, 806 15th Street, N.W., Washington, D.C. 20506, or call area code 202–724–0256.

JOHN W. JORDAN,
Advisory Committee Management Officer.

[FR Doc.77–22541 Filed 8–4–77;8:45 am]

ADVISORY COMMITTEE FELLOWSHIPS PANEL

Notice of Meeting

AUGUST 1, 1977.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, as amended), notice is hereby given that a meeting of the Fellowships Panel will be held at 806 15th Street, N.W., Washington, D.C. 20506, in room 314 from 9:30 am. to 5:30 pm. on August 27.

The purpose of the meeting is to review 1978 Summer Seminar applications from prospective seminar directors in the field of English and American Literature submitted to the National Endowment for the Humanities for projects beginning in the summer of 1978.

Because the proposed meeting will consider financial information and disclose information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Acting Chairman's Delegation of Authority To Close Advisory Committee Meetings, dated April 28,

1977, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552b(c) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. John W. Jordan, 806 15th Street, N.W., Washington, D.C. 20506, or call area code 202–724–0256.

JOHN W. JORDAN,
Advisory Committee Management Officer.

[FR Doc.77-22542 Filed 8-4-77;8:45 am]

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

ADVISORY GROUP ON WHITE HOUSE INFORMATION SYSTEMS

Establishment

Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463), it is hereby determined that the establishment of the Adivsory Group on White House Information Systems is necessary, appropriate, and in the public interest in connection with the performance of the duties imposed upon the Director, Office of Sciece and Technology Policy (OSTP) by the National Science and Technology Policy, Organization, and Priorties Act of 1976. This determination follows consultation with the Office of Management and Budget (OMB), pursuant to Section 9(a)(2) of the Federal Advisory Committee Act and OMB Circular No. A–63, Revised.

1. NAME OF GROUP: Advisory Group on White House Information Systems.

2. PURPOSE AND FUNCTION: The Office of Science and Technology Policy, in accordance with the statutory mandate to advise the President and to analyze and interpret significant developments and trends in science and technology, will be identifying the information systems needs and the impact of technological advances in information and data handling as these might support the decision processes of the White House and the Executive Office of the President. The work of the Advisory Group will be based upon inputs from the relevant departments and earlier work carried out by other organizations in the Executive Branch including the Reorganization Team. The Advisory Group will consider the implications for policy initiatives that may be appropriate to exploit advances that may be identified, but it will not consider or propose specific computer and supporting systems or the procurement of same. The Group will submit a report and briefing for appropriate officials in the Executive Branch upon completion of its activities.

3. EFFECTIVE DATE OF ESTABLISHMENT AND DURATION: The Advisory Group is established to provide advice to the Director of the Office of Science and Technology Policy and to the Special Assistant to the President for Budget and Organization, and is established until December 1, 1977. Due to the need to provide a prompt followup to related efforts by the President's Reorganization Project, the Office of Management and Budget has agreed to waive the requirement for a 15-day delay between the publication of this notice and the filing of the charter for this Advisory Group.

4. MEMBERSHIP: Membership of the Advisory Group on White House Information Systems will consist of approximately six members who are particularly knowledgeable in the areas of information and automation.

5. ADVISORY GROUP OPERATION: The Advisory Group on White House Information Systems will operate in accordance with provisions of the Federal Advisory Committee Act (Pub. L. 92–463), OSTP policy and procedures, OMB Circular No. A–63, Revised, and other directives and instructions issued in implementation of the Act.

FRANK PRESS,
Director.

[FR Doc.77-22564 Filed 8-4-77;8:45 am]

DEPARTMENT OF STATE

Agency for International Development

JOINT RESEARCH COMMITTEE OF THE BOARD FOR INTERNATIONAL FOOD AND AGRICULTURAL DEVELOPMENT

Meeting

Pursuant to Executive Order 11769 and the provisions of Section 10(a)(2), P.L. 92–463, Federal Advisory Committee Act, notice is hereby given of the second meeting of the Joint Research Committee of the Board for International Food and Agricultural Development on August 25 and 26, 1977.

The purpose of this two-day meeting is: To review research priorities; consider a proposal for a nutrition project; review other project proposals; review the status of Planning Grants; review and update the list of eligible universities under Title XII; and review the questionnaire to be sent to the university community to expand the information on university interests and capabilities for participating in the Title XII program.

The meeting will begin each day at 9 a.m., will adjourn at 5:30 p.m., and will be held at the Ramada Inn, Rosslyn, 1900 Fort Myer Drive, Arlington, Virginia. The meeting room designation will be posted in the lobby of the Inn on each day of the meeting. The meeting is open to the public. Any interested person may attend, may file written statements with the Committee before or after the meeting, or may present oral statements in accordance with procedures established by the Committee, and to the extent the time available for the meeting permits.

Dr. Erven J. Long, Associate Assistant Administrator of the Technical Assistance Bureau, is designated as A.I.D. Advisory Committee Representative at this meeting. It is suggested that those desiring further information write to him in care of the Agency for International Development, State Department, Washington, D.C. 20523, or telephone him at 701–235–9001.

Dated: July 30, 1977.

ERVEN J. LONG,
Aid for International Development, Advisory Committee Representative, Joint Research Committee, Board for International Food and Agricultural Development.

[FR Doc.77-22615 Filed 8-4-77;8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 452]

ASSIGNMENT OF HEARINGS

AUGUST 1, 1977.

Cases assigned for hearing, postponement, cancellation, or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish 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.

No. MC 116677 (Sub-No. 3), Sheridan Travel Bureau, Inc., now being assigned November 2, 1977 (3 days), at Buffalo, N.Y., in a hearing room to be later designated.

MC 116519 (Sub-No. 40), Frederick Transport Ltd., now being assigned November 7, 1977 (3 days), at Buffalo, N.Y., in a hearing room to be later designated.

MC 139579 (Sub-No. 4), George H. Golding, Inc., now being assigned November 10, 1977 (2 days), at Buffalo, N.Y., in a hearing room to be later designated.

MC-F-13140, Marty's Express, Inc.—Purchase—Kruse Trucking Co., MC 39249 (Sub-No. 19), Marty's Express, Inc., now being assigned October 3, 1977 (1 day), for hearing in Philadelphia, Pa., in a hearing room to be later designated.

MC 141776 (Sub-No. 4), Foodtrain, Inc., now being assigned October 4, 1977 (1 day), in Philadelphia, Pa., in a hearing room to be later designated.

MC 142785 (Sub-No. 1), Brotherly Love Express, Inc., now being assigned October 5, 1977 (1 day), in Philadelphia, Pa., in a hearing room to be later designated.

MC 143173, Dependable Delivery Service, Inc., now being assigned October 6, 1977 (2 days), in Philadelphia, Pa., in a hearing room to be later designated.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-22595 Filed 8-4-77;8:45 am]

[No. 36589]

CHICAGO, MILWAUKEE, ST. PAUL & PACIFIC RAILROAD CO. AND UNIT-TRAINSHIP, INC.

Joint Petition—Experimental Piggyback Train Service

Present: Dale W. Hardin, Commissioner, to whom this matter has been assigned for action thereon.

By petition filed May 12, 1977, the Chicago, Milwaukee, St. Paul & Pacific Railroad Co. (Milwaukee) and Unit-Trainship, Inc. (UTI) seek an order declaring the lawfulness of the proposed innovative service described in their petition or a finding of exemption under section 12(1)(b) of the Interstate Commerce Act. Replies were filed June 9, 1977, by the Burlington Northern, Inc., and June 13, 1977, by the Union Pacific Railroad Co.

The Milwaukee and UTI propose to establish dedicated nonstop piggyback train service on a round-trip basis with established mutually agreed upon schedules and subject to existing railroad rates applicable on Freight, All Kinds, between Chicago, Ill., on the one hand and Seattle/Tacoma, Wash., and Washington/Portland, Oreg., on the other. UTI, acting in the capacity of a broker, contractually undertakes to provide the Milwaukee with a minimum of 60 loaded or empty trailers or containers three times a week in each direction. In return for the guarantee of a minimum fixed amount of revenue for each 60 unit train, UTI receives a commission equal to 10 percent of the applicable tariff rate applying to the revenue traffic carried by the Milwaukee pursuant to the agreement. UTI receives 20 percent of the tariff rate for revenue traffic offered but not accommodated by the Milwaukee, excluding empty units tendered by UTI to satisfy minimum guarantees. In addition to promoting traffic UTI will prepare a comprehensive manifest for the Milwaukee and take over billing and collecting. Each Monday the Milwaukee will submit a statement of charges and UTI will undertake to remit payment within the specified period less its compensation and credit for each unit not accommodated and for failure to accommodate units.

The Milwaukee on its part agrees to provide and control all rail services necessary to accommodate traffic generated by UTI in accordance with the terms of the agreement. It will pay penalties for its failure to accommodate the agreed upon level of generated traffic, and it will retain sole liability for traffic tendered to it through the agreement that is lost, damaged, stolen or delayed.

Because of the novelty of the experimental proposal, interested persons are urged to participate in the development of a record in this proceeding. All statements should address the underlying lawfulness of the proposal with respect to the applicable provisions of the Interstate Commerce Act, 49 U.S.C. 1 et seq., the Elkins Act, 49 U.S.C. 41(1), and such issues as: (1) the status of UTI, (2) whether the proposal constitutes a special service such as would require tariff publication, and (3) the penalty aspect of the agreement.

It is ordered: Pursuant to section 5(e) of the Administrative Procedure Act, 5 U.S.C. 554(e), and in the exercise of the Commission's sound discretion thereunder, this petition for a declaratory order is granted to determine the lawfulness of the proposed arrangement between petitioners.

Petitioners, the Burlington Northern Inc., and the Union Pacific Railroad Co. are made parties to this proceeding. All other persons desiring to participate shall make such fact known by notifying the Office of Proceedings, Room 5342, Interstate Commerce Commission, Washington, D.C. 20423, on or before August 25, 1977. As soon as practicable the Commission will serve a list of the names and addresses of all persons whom service of statements under the Commission's modified procedure shall be made and the schedule to be followed.

A copy of this order shall be served upon petitioners, the Burlington Northern Inc., and the Union Pacific. Copies shall also be deposited in the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and given to the public along with a copy of the petition and the attached draft agreement by delivery to the Director, Office of the Federal Register for publication.

Dated at Washington, D.C., this 27th day of July, 1977.

By the Commission, Commissioner Hardin.

H. G. Homme, Jr.,
Acting Secretary.

[FR Doc.77-22594 Filed 8-4-77;8:45 am]

[Section 5a Application No. 58 (Amendment No. 2)]

MACHINERY HAULERS ASSOCIATION

Agreement

July 27, 1977.

The Commission is in receipt of an application in the above-entitled proceeding for approval of amendments to the agreement therein approved.

Filed July 20, 1977 by:
Charles W. Singer, Singer & Sullivan, 2440 East Commercial Blvd., Ft. Lauderdale, Fla. 33308 (of Counsel).

The Amendments involve: (1) Proposed broadening of commodity scope jurisdiction to include general commodities, (2) expansion of rate committee's jurisdiction regarding consideration of matters jointly with foreign carriers, (3) increasing the size of the Rate Committee, (4) granting the Association power to meet and otherwise cooperate and confer with other organizations of common carriers, approved under section 5a by this Commission, with reference to specified matters, and (5) other incidental changes.

The complete application may be inspected at the Office of the Commission, in Washington, D.C.

Any interested person desiring to protest and participate in this proceeding shall notify the Commission in writing on or before September 6, 1977. As provided by the General Rules of Practice of the Commission, persons other than applicants should fully disclose their interest, and the position they intend to take with respect to the application. Otherwise, the Commission, in its discretion, may proceed to investigate and determine the matters involved in such application, without further or formal hearing.

H. G. Homme, Jr.,
Acting Secretary.

[FR Doc.77-22593 Filed 8-4-77;8:45 am]

[Notice No. 96]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

August 2, 1977.

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protest to an application may be filed with the field official named in the Federal Register publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the Federal Register. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

Motor Carriers of Property

No. MC 531 (Sub-No. 347TA), filed July 6, 1977. Applicant: YOUNGER BROTHERS, INC., 4904 Griggs Rd., P.O. Box 14048, Houston, Tex. 77021. Applicant's representative: Wray E. Hughes (same address as applicant). Authority sought to operate as a *common carrier,*

by motor vehicle, over irregular routes, transporting: *Sodium salt solutions*, in bulk, in tank truck vehicles, from plantsite of Merichem Co. and/or storage facilities of Merichem Co. in Houston, Tex., to all points in Alabama, Florida, Georgia, Louisiana, Mississippi, and Oklahoma for 180 days. Supporting shipper(s): Merichem Co., 1914 Haden Road, Houston, Tex. 77015. Send protests to: Mensing District Supervisor, Interstate Commerce Commission, 515 Rusk, Room 8610, Federal Bldg., Houston, Tex. 77002.

No. MC 43038 (Sub-No. 463TA), filed July 19, 1977. Applicant: COMMERCIAL CARRIERS, INC., 10701 Middlebelt Rd., Romulus, Mich. 48174. Applicant's representative: Paul H. Jones, 29725 Shacket Ave., Madison Heights, Mich. 48071. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Motor vehicles*, excluding trailers, in secondary movements, in truckaway service between Sharonville, Cementdale, and Cincinnati, Ohio, on the one hand, and on the other, points in the states of Virginia and West Virginia. Restriction: The operations authorized herein are restricted to the transportation of shipments manufactured, assembled, imported, or distributed by Ford Motor Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Ford Motor Co., K. R. Hammond, Manager, Vehicle Transportation Dept., Ford Division General Office, P.O. Box 1529B Dearborn, Mich. 48121. Send protests to: Interstate Commerce Commission, Bureau of Operations, Erma W. Gray, Secretary, 604 Federal Bldg. and U.S. Courthouse, 231 West Lafayette Blvd., Detroit, Mich. 48226.

No. MC 43038 (Sub-No. 464TA), filed July 19, 1977. Applicant: COMMERCIAL CARRIERS, INC., 10701 Middlebelt Rd., Romulus, Mich. 48174. Applicant's representative: Paul H. Jones, 29725 Shacket Ave., Madison Heights, Mich. 48071. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Motor vehicles, excluding trailers*, in secondary movements in driveaway service, between Sharonville, Cementdale, and Cincinnati, Ohio, on the one hand, and on the other, points in the States of Virginia and West Virginia. Restriction: The operations authorized herein are restricted to the transportation of shipments manufactured, assembled, imported, or distributed by Ford Motor Co., for 180 days.

Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Ford Motor Co., K. R. Hammond, Manager, Vehicle Transportation, Ford Division General Office, P.O. Box 1529B, Dearborn, Mich. 48121. Send protest to: Erma W. Gary, Secretary, Interstate Commerce Commission, Bureau of Operations, 604 Federal Bldg. and U.S. Courthouse, 231 West Lafayette Blvd., Detroit, Mich. 48226.

No. MC 43268 (Sub-No. 65TA), filed July 11, 1977. Applicant: WELLS CARGO, INC., 1775 East 4th St., Reno, Nev. 89512. Applicant's representative: David N. Inwood, P.O. Box 1511, Reno, Nev. 89505. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except household goods as defined by the Commission in bulk and Classes A and B explosives), between Carson City, Nev., and Ridgecrest, Calif., via U.S. Highway 395, serving all intermediate points, restricted against traffic originating south of Ridgecrest, Calif., on the one hand, and points and places within 4 miles of the California-Nevada state line on the other, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): There are approximately 57 statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: William J. Huetig, District Supervisor, Interstate Commerce Commission, 203 Federal Bldg., 705 North Plaza St., Carson City, Nev. 89701.

No. MC 47171 (Sub-No. 94TA), filed July 22, 1977. Applicant: COOPER MOTOR LINES, INC., P.O. Box 4255, Greenville, S.C. 29608. Applicant's representative: Harris G. Andrews, P.O. Box 4259, Greenville, S.C. 29608. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Floor coverings and materials, equipment*, and *supplies* used in the installation, manufacture, packaging, and sale of floor coverings, from Lyerly, Ga., to points in Connecticut, Delaware, Massachusetts, Maryland, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Virginia, and Washington, D.C., for 180 days. Supporting shipper(s): Bigelow-Sanford, Inc., P.O. Box 3089, Greenville, S.C. 29602. Send protests to: E. E. Strotheid, District Supervisor, Interstate Commerce Commission, Room 302, 1400 Building, 1400 Pickens St., Columbia, S.C. 29201.

No. MC 69492 (Sub-No. 55TA), filed July 22, 1977. Applicant: HENRY EDWARDS d.b.a. HENRY EDWARDS TRUCKING CO., P.O. Box 97, Clinton, Ky. 42031. Applicant's representative: Mr. Walter Harwood, Attorney, P.O. Box 15214, Nashville, Tenn. 37215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Rubber, rubber products, and such other commodities* as are manufactured and/or dealt in by rubber manufacturers from the plantsite and warehouse facilities of The General Tire & Rubber Co., at or near Mayfield, Ky., and the plantsite and warehouse facilities of The Goodyear Tire & Rubber Co., at or near Union City, Tenn., to points in Michigan on and east of U.S. Hwy. 27 from the Indiana-Michigan State Line to its junction with Michigan Hwy. 21, thence on and south of Michigan Hwy. 21 eastwards to Port Huron, Mich., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): The General Tire & Rubber Co., One General St., Akron, Ohio 44329; The Goodyear Tire & Rubber Co., 1144 East Market St., Akron, Ohio 44316. Send protests to: Mr. Floyd A. Johnson, District Supervisor, Interstate Commerce Commission, 100 North Main Bldg., Suite 2006, 100 North Main St., Memphis, Tenn. 38103.

No. MC 106956 (Sub-No. 4TA), filed July 19, 1977. Applicant: SYLVESTER TRUCKING CO., 2930 Gradwohl Rd., Toledo, Ohio 43617. Applicant's representative: Wilhemina Boersma, 1600 First Federal Bldg., 1001 Woodward Ave., Detroit, Mich. 48226. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Scrap iron*, between Kripke Tuschman facilities in Toledo, Ohio, on one hand, and on the other, Wayne County, Branch County, Kalamazoo County, Genesse County, and Ingham County in Michigan, and DeKalb County and Allen County in Indiana, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Kripke-Tuschman Ind., Inc., 5000 North Detroit Ave., Toledo, Ohio 43612. Send protests to: Keigh D. Warner, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 313 Federal Office Bldg., 234 Summit St., Toledo, Ohio 43604.

No. MC 107496 (Sub-No. 1092TA), filed July 22, 1977. Applicant: RUAN TRANSPORT CORP., 3200 Ruan Center, 666 Grand Ave., Des Moines, Iowa 50309. Applicant's representative: E. Check (same as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes transporting: *Water reducing admixtures*, in bulk, in metered tank vehicles from North Judson, Ind., to points in Indiana, Illinois, Michigan, Wisconsin, Iowa, Minnesota, Ohio, Kentucky, West Virginia, Missouri, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Penn-Dixie Chemical Co., 2 Porete Ave., North Arlington, N.J. 07032. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Bldg., Des Moines, Iowa 50309.

No. MC 111401 (Sub-No. 494TA), filed July 21, 1977. Applicant: GROENDYKE TRANSPORT, INC., 2510 Rock Island Blvd., P.O. Box 632, Enid, Okla. 73701. Applicant's representative: Victor R. Comstock, P.O. Box 632, Enid, Okla. 73701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Molasses, liquid feeds and liquid feed supplements*, in bulk, in tank vehicles from the facilities of Cargill, Inc. at Garden City, Kans. to points in Colorado, Kansas, Nebraska, New Mexico, Oklahoma, and Texas, for 180 days. Supporting shipper(s): Cargill, Inc., P.O. Box 9300, Minneapolis, Minn. 55440. Send protests to: Transportation Assistant Kathy

Henson, Rm. 240, Old Post Office Bldg., 215 Northwest Third St., Oklahoma City, Okla. 73102.

No. MC 114569 (Sub-No. 184TA), filed July 12, 1977. Applicant: SHAFFER TRUCKING, INC., P.O. Box 418, New Kingstown, Pa. 17072. Applicant's representative: Herbert R. Nurick, P.O. Box 1166, Harrisburg, Pa. 17108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Confectionery, cocoa, chocolate, and products related thereto* (except in bulk), and materials, supplies, equipment, and machinery, used in the manufacture, production, distribution or sale of confectionery, cocoa, chocolate, and products related thereto: From the facilities of Hershey Foods Corp., at or near Oakdale, Calif.; to Chicago, Ill.; Cincinnati, Ohio; Detroit, Mich.; East St. Louis, Ill.; Derry Township, Dauphin County, Pa.; Kansas City, Mo.; Milwaukee, Wis.; St. Paul, Minn.; and their commercial zones, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Hershey Foods Corp., Hershey, Pa. 17033. Send protests to: Charles F. Mayers, Dist. Supv. Bureau of Operations, Interstate Commerce Commission, 278 Federal Building, P.O. Box 869, Harrisburg, Pa. 17108.

No. MC 114632 (Sub-No. 118TA), filed July 21, 1977. Applicant: APPLE LINES, INC., 212 Southwest Second St., Madison, S. Dak. 57042. Applicant's representative: Robert Gisvold, 1000 First National Bank Bldg., Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat byproducts and articles distributed by meat packinghouses* as described in sections A and C of Appendix I to the report in descriptions in motor carrier certificates, 61 MCC 209 and 766 (except hides and commodities in bulk) from Dodge City, Kans., to points in Connecticut, Delaware, District of Columbia, Illinois, Indiana, Iowa, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Dakota, Tennessee, Texas, Vermont, West Virginia, and Wisconsin, for 180 days. Supporting shipper(s): Hyplains Dressed Beef, Inc., P.O. Box 539, Dodge City, Kans. 67801, Max Kline, Assistant Manager, Beef Department. Send protests to: J. L. Hammond, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 455, Federal Bldg., Pierre, S. Dak. 57501.

No. MC 119555 (Sub-No. 16TA), filed July 14, 1977. Applicant: OIL & INDUSTRY SUPPLIERS, LTD., P.O. Box 3500, Calgary, Alberta, Canada. Applicant's representative: Ray F. Koby, 314 Montana Bldg., Great Falls, Mont. 59401. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Muriatic acid*, in bulk, in tank vehicles, from the United States-Canada International Boundary Line, located at or near the port of entry of International Falls, Minn., to Duluth and St. Paul, Minn., restricted to traffic originating in Ontario, Canada, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Van Waters & Rogers, 2313 Wycliff St., St. Paul, Minn. 55114. Send protests to: Paul J. Labane, District Supervisor, Interstate Commerce Commission, 2602 1st Ave., North Billings, Mont. 59101.

No. MC 120761 (Sub-No. 23TA), filed July 12, 1977. Applicant: NEWMAN BROS. TRUCKING COMPANY, 6559 Midway Road, P.O. Box 13302, Fort Worth, Tex. 76118. Applicant's representative: Clint Oldham, 1108 Continental Life Bldg., Fort Worth, Tex. 76102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing materials, composition shingles, rolled roofing, roofing compounds, and accessories thereto*, from the plantsite and storage facilities of ELK Corp., at or near Stephens and Camden, Ark., to points in Alabama, Kentucky, Louisiana, Mississippi, Oklahoma, Tennessee and Texas for 180 days. Applicants has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): ELK Corp., P.O. Box 37, Stephens, Ark. 71764. Send protests to: Robert J. Kirspel, District Supervisor, Room 9A27, Federal Building, 819 Taylor Street, Fort Worth, Tex. 76102.

No. MC 121664 (Sub-No. 22 TA), filed July 12, 1977. Applicant: G. A. HORNADY, CECIL M. HORNADY, AND B. C. HORNADY, A PARTNERSHIP, d.b.a. HORNADY BROTHERS TRUCK LINE, P.O. Box 846, Drewry Road, Monroeville, Ala. 36460. Applicant's representative: W. E. Grant, 1702 First Avenue, South Birmingham, Ala. 35233. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, lumber products, particleboard and plywood*, between points in Alabama, Florida, Georgia, Kentucky, Mississippi and Tennessee, restricted to shipments originating at or destined to a facility of Moore-Hadley, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Moore-Hadley, Inc., P.O. Box 2607, Birmingham, Ala. 35202. Send protests to: Clifford W. White, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 1616, 2121 Building, Birmingham, Ala. 35203.

No. MC 123233 (Sub-No. 77TA), filed July 20, 1977. Applicant: PROVOST CARTAGE, INC., 7887 Grenache St., Ville d'Anjou, Quebec, Canada, H1J 1C4. Applicant's representative: J.P. Vermette (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Corn syrup*, in bulk, in tank vehicles, from Chicago, Ill., and its Commercial Zone, to the Ports of Entry on the International Boundary Line, between the United States and Canada located in Michigan and New York. Restricted to the transportation of traffic in foreign commerce destined to points in Quebec, Canada, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Clinton Corn Processing, Inc., Subsidiary of Standard Brands, Inc., P.O. Box 340, Clinton, Iowa 52732. Send protests to: District Supervisor, David A. Demers, Interstate Commerce Commission, P.O. Box 548, 87 State St., Montpelier, Vt. 05602.

No. MC 123387 (Sub-No. 8TA), filed July 7, 1977. Applicant: E. E. HENRY, an individual, 1923 Sparrow Rd., Chesapeake, Va. 23320. Applicant's representative: William P. Jackson, Jr., 3426 North Washington Blvd., P.O. Box 1267, Arlington, Va. 22210. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alcoholic liquors* (except in bulk), from Laredo, Tex., to points in North Carolina, Virginia, West Virginia, Maryland, Delaware, and the District of Columbia, for 180 days. Supporting shipper(s): De-Mar Internationale, Ltd., Donald P. Eden, Ex Vice President, 1285 North King St., Hampton, Va. 23669. Send protests to: District Supervisor, Paul D. Collins, Bureau of Operations, Room 10502, Federal Bldg., 400 North 8th St., Richmond, Va.

No. MC 123765 (Sub-No. 10TA), filed July 21, 1977. Applicant: *BARRY* TRANSFER & STORAGE CO., INC., 120 E. National Avenue, Milwaukee, Wis. 53205. Applicant's reprsentative: Wm. C. Dineen, 710 N. Plankinton Avenue, Milwaukee, Wis. 53203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities* manufactured, shipped, or received by Outboard Marine Corp., its subsidiaries and divisions (except commodities in bulk), between Milwaukee, Manawa and Beloit, Wisconsin, and Waukegan and Galesburg, Ill. Restriction: Restricted to traffic orginating at and/or destined to, the plantsites, warehouses and distribution facilities of Outboard Marine Corp., its subsidiaries and divisions, for 180 days. Supporting shipper(s): Outboard Marine Corp., 100 Sea Horse Drive, Waukegan, Ill. 60085 (Roland Ronshausen). Send protests to: Gail Daugherty, Transportation Asst., Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building & Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, Wis. 53202.

No. MC 129951 (Sub-No. 3TA), filed July 15, 1977. Applicant: HARLEY I. KEETER, 6379 Valmont Drive Boulder, Colo. 80301. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Ore and ore concentrates*, from Boulder County, Colo., to ports of entry located at the International boundaries in the States of Washington and Idaho for 90

days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Hendricks Mining Co., Inc., 3000 N. 63rd, Boulder, Colo. 80301. Send protests to: Roger L. Buchanan, District Supervisor, Interstate Commerce Commission, 492 U.S. Customs House, 721 19th Street, Denver, Colo. 80202.

No. MC 135082 (Sub-No. 49TA), filed July 21, 1977. Applicant: Bursch Trucking, Inc., d.b.a., Roadrunner Trucking, Inc., P.O. Box 26748, 415 Rankin Road, NE., Albuquerque, N. Mex. 87125. Applicant's representative: D. F. Jones, President, P.O. Box 26748, Albuquerque, N. Mex. 87125. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Forest products*, from Prescott, Ariz., to points in California, Colorado, Oklahoma, Nevada, New Mexico, Texas, and Utah, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Southwest Forest Industries, P.O. Box 7548, Phoenix, Ariz. 85011, Attention: Homer Davenport, General Traffic Manager. Send protests to: Darrell W. Hammons, District Supervisor, 1106 Federal Office Building, 517 Gold Avenue, SW., Interstate Commerce Commission, Bureau of Operations, Albuquerque, N. Mex. 87101.

No. MC 136008 (Sub-No. 84TA), filed July 22, 1977. Applicant: Joe Brown Co., Inc., 8005 South I–35, Suite 102, Oklahoma City, Okla. 73149. Applicant's representative: John Tipsword, 8005 South I–35, Suite 102, Oklahoma City, Okla. 73149. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Gypsum, gypsum products and building materials* from the plantsite of United States Gypsum Co., Southard, Okla. to Colorado, Kansas, Missouri, and Texas, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): U.S. Gypsum Co., 101 S. Wacker Drive, Chicago, Ill. 60606. Send protests to: Transportation Assistant Kathy Henson, Rm. 240, Old Post Office Bldg., 215 Northwest Third St., Oklahoma City, Okla. 73102.

No. MC 138861 (Sub-No. 5TA), filed July 6, 1977. Applicant: C–LINE, INC., Tourtellot Hill Road, Chepachet, R.I. 02814. Applicant's representative: Ronald N. Cobert, 1730 "M" Street NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Automotive oil and lubricants*, in containers, from Bay Way, N.J., and Bradford and Emlenton, Pa., to points in Connecticut, Florida, Indiana, Kentucky, Massachusetts, Maine, Maryland, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, Tennessee, Vermont, Virginia and West Virginia for 180 days. Supporting shipper(s): Shore Sales Co., 97 River Street, Beverly, Mass. 01915. Send protests to: Gerald H. Curry District Supervisor, 24 Weybosset Street, Room 102, Providence, R.I. 02903.

No. MC 139360 (Sub-No. 8TA), filed July 19, 1977. Applicant: RAEMARC, INC., 153 Taylor, Racine, Wis. 53403. Applicant's representative: Daniel C. Sullivan, 10 S. LaSalle St., Chicago, Ill. 60603. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Materials and supplies* (except commodities in bulk), used in the manufacture of agricultural, industrial and contruction machinery and equipment; (2) *parts and attachments* for agricultural, industrial and construction machinery and equipment between the manufacturing and storage facilities of J. I. Case Co., at or near Racine, Winneconne, and Wausau, Wis.; Bettendorf and Brulington, Iowa; Terre Haute, Ind.; and Rock Island, Ill.; on the one hand, and, on the other, points in Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Ohio and Wisconsin, under contract with J. I. Case Company, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: J. I. Case Co. 700 State St., Racine, Wis. 53404. Send protests to: Gail Daugherty, Transportation Asst. Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building & Courthouse, 517 East Wisconsin Ave., Rm. 619, Milwaukee, Wis. 53202.

No. MC 139577 (Sub-No. 7TA), filed July 20, 1977. Applicant: ADAMS TRANSIT, INC., P.O. Box 338, 204 East Winnebago St., Friesland, Wis. 53935. Applicant's representative: Wayne W. Wilson, P.O. Box 8004, Madison, Wis. 53708. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Containers, container closures and ends* from Friesland, Wis. to Fairmont, Minn., Scottville, Mich. and Hart, Mich., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Stokley-Van Camp, Inc., 941 North Meridian St., Indianapolis, Ind. 46206. Send protests to: Ronald A. Morken, District Supervisor, Interstate Commerce Commission, 139 W. Wilson St., Room 202, Madison, Wis. 53703.

No. MC 140216 (Sub-No. 4TA), filed July 18, 1977. Applicant: JOHN E. WAY, JR., doing business as WAY MESSENGER SERVICE, 205 East King St., Lancaster, Pa. 17602. Applicant's representative: John M. Musselman, P.O. Box 1146, Harrisburg, Pa. 17108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Printed matter* between Lancaster, Pa., on the one hand, and, on the other, Baltimore, Md., and Washington, D.C.; and between York, Pa., on the one hand, and, on the other, Baltimore, Md., New York, N.Y., and Washington, D.C.; service to be limited to expedited pickups and expedited deliveries by messenger drivers of minimum gross weight straight trucks, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: There are statements of support attached to the application, which may be examined at the Interstate Commerce Commission, in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Charles F. Mayers, Dist. Supv. Bureau of Operations, Interstate Commerce Commission, 278 Federal Bldg. P.O. Box 869, Harrisburg, Pa. 17108.

No. MC 140849 (Sub-No. 12TA), filed July 18, 1977. Applicant: ROBERTS TRUCKING CO., INC., P.O. Drawer G, U.S. Highway 271 South, Poteau, Okla. 74953. Applicant's representative: Prentiss Shelley (same address as applicant. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Fabrics, piece goods, materials, and supplies* used in the manufacture of clothing; (2) *clothing*, from: (1) Pauls Valley and Idabel, Okla.; to Roswell, Ga.; Hopkinsville, Ky.; and Nashville, Tennessee; (2) from Roswell, Ga.; Hopkinsville, Ky.; and Nashville, Tenn. to Pauls Valley and Idabel, Okla.; under a continuing contract with Kellwood Co., for 180 days. Supporting shipper: Kellwood Co., P.O. Box 656, Pauls Valley, Okla. 73075. Send protests to: District Supervisor, William H. Land, Jr., 3108 Federal Office Bldg., 700 West Capitol, Little Rock, Ark. 72201.

No. MC 143423 (Sub-No. 1TA), filed July 12, 1977. Applicant: WILLIAM T. AUSTIN, d.b.a. AUSTIN TRUCKING CO., Route 5, Box 249, Decatur, Ala. 35601. Applicant's representative: D. H. Markstein, Jr., 512 Massey Bldg., Birmingham, Ala. 35203. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Electrical wire cable and insulated copper wire*, from the plantsite of Cerro Wire & Cable Co., Division of Cerro Corp., at Hartselle, Ala., to points in Georgia, Indiana, Louisiana, Mississippi, Missouri, North Carolina, Tennessee, Texas, Illinois, South Carolina, Florida, Kentucky, Michigan, Pennsylvania, and New York; (2) *sugar* from Gramercy, La., to Decatur, Ala., from Decatur, Ala., to points in and east of North Dakota, South Dakota, Kansas, Oklahoma, and Texas, under contract with VIPCO, Inc., Decatur, Ala., for 180 days. Supporting shipper(s): Cerro Wire & Cable Co., 201 Cedar Cove Rd., Hartselle, Ala. 35640; Vipco, Inc., 1302 Southfield Industrial Park, Decatur, Ala. 35602. Send protests to: Clifford W. White, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 1616, 2121 Building, Birmingham, Ala. 35203.

No. MC 143471TA filed July 6, 1977. Applicant: SHERIDAN HEIGHTS, INC., doing business as KNECHT TRANSPORT, 301 Mount Rushmore Rd., Rapid City, S. Dak. 57701. Applicant's representative: J. Maurice Andren, 1734 Sheridan Lake Rd., Rapid City, S. Dak. 57701. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities*

as are handled or dealt in by wholesalers, warehousers, retailers, manufacturers, processors or distributors of building materials and supplies; hardware; plumbing supplies; electrical supplies; cement materials and landscaping materials: I. Between the plant sites, warehouses, stores, outlets or other facilities of Knecht Industries, Inc., including their wholly owned, unincorporated divisions of Building Material Distributors, Big K Cash & Carry, Mastercraft Factory, Homes by Knecht, Mastercraft Homes and Knecht Lumber Co., located in Campbell County, Wyo., and Pennington County, S. Dak., on the one hand, and on the other hand, points in California, Colorado, Idaho, Iowa, Minnesota, Montana, Nebraska, Nevada, North Dakota, Oregon, South Dakota, Utah, Washington and Wyoming; and II. Between construction sites and dealers of Knecht Industries, Inc., including their wholly owned, unincorporated divisions of Building Materials Distributors, Big K Cash & Carry, Mastercraft Factory, Homes by Knecht, Mastercraft Homes, and Knecht Lumber Co., located in Montana, Nebraska, North Dakota, South Dakota and Wyoming, on the one hand, and on the other hand, points in California, and Wyoming, on the one hand, and on the other hand, points in California, Colorado, Idaho, Iowa, Minnesota, Montana, Nebraska, Nevada, North Dakota, Oregon, South Dakota, Utah, Washington and Wyoming. Both parts under a continuing contract or contracts with Knecht Industries, Inc. and their wholly owned, unincorporated divisions of Building Materials Distributors, Big K Cash & Carry, Mastercraft Factory, Homes by Knecht, Mastercraft Homes and Knecht Lumber Co. Restriction: Against commodities in bulk in tank vehicles in both parts for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Knecht Industries, Inc., 301 Mount Rushmore Rd., Rapid City, S. Dak. 57701, Keith Danley, Director of Purchasing. Send protests to: J. L. Hammond, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Rm. 455, Federal Building, Pierre, S. Dak. 57501.

PASSENGER APPLICATION

No. MC 143475TA, filed July 7, 1977. Applicant: Potomac Valley Transit Authority, One Virginia Ave., Petersburg, W. Va. 26847. Applicant's representative: Kenneth W. Dyche, (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Passengers and their baggage*, in the same vehicle with passengers, over regular routes, turn over the same route. Passengers limited to transportation of no more than 20 passengers in any one vehicle, between Romney, W. Va.; and Cumberland Md.; via Springfield and Ridgely, W. Va.; and serving all intermediate points as follows: From Romney over West Virginia Route 28 to Cumberland, and return over the same route. Between Piedmont, W. Va.; and Cumberland, Md.; via Westernport, Md.; and Keyser, W. Va.; and serving all intermediate points as follows: From Piedmont, over Maryland Route 36 to Westernport; thence from Westernport over Maryland Route 135 to junction with U.S. Route 220; thence from the junction over U.S. Route 220 to Keyser; thence from Keyser over West Virginia Route 46 to junction with West Virginia Route 28; thence from the junction over West Virginia Route 28 to Cumberland; and return over the same route. Between Romney, W. Va.; and Cumberland, Md.; via Keyser, W. Va.; and serving all intermediate points as follows: From Romney over U.S. Route 50 to junction with U.S. Route 220; thence from the junction over U.S. Route 220 to Keyser; thence from Keyser over West Virginia Route 46 to junction with Mineral County Route 9; thence from the junction over County Route 9 to junction with West Virginia Route 28; thence from the junction over West Virginia Route 28 to Cumberland; and return over the same route. Between Petersburg, W. Va.; and Winchester, Va. via Moorefield and Wardensville, W. Va.; and serving all intermediate points; as follows; From Petersburg over U.S. Route 220 to Moorefield; thence from Moorefield over West Virginia Route 55 to Wardensville; thence from Wardensville over West Virginia Route 259 to junction with U.S. Route 50; thence from the junction over U.S. Route 50 to Winchester; and return over the same route. Between Moorefield, W. Va.; and Harrisonburg, Va. via Petersburg and Franklin, W. Va.; and serving all intermediate points; as follows: From Moorefield over U.S. Route 220 to Franklin; then from Franklin over U.S. Route 33 to Harrisonburg; and return over the same route. Between Petersburg, W. Va.; and Winchester, Va.; via Moorefield and Romney and Capon Bridge, W. Va.; and serving all intermediate points as follows:

From Petersburg over U.S. Route 220 to junction with U.S. Route 50; thence from the junction over U.S. Route 50 to Winchester; and return over the same route. Between Moorefield, W. Va.; and Harrisonburg, Va.; via Baker, W. Va.; and serving all intermediate points as follows: From Moorefield over West Virginia Route 55 to Baker; thence from Baker over West Virginia Route 259 to junction with Interstate Route 81; thence from the junction over Interstate Route 81 to Harrisonburg; and return over the same route, Between Keyser, W. Va.; and Piedmont, W. Va. via Westernport, Md.; and serving all intermediate points as follows: From Keyser over U.S. Route 220 to junction with Maryland Route 135; thence from the junction over Maryland Route 135 to Westernport; thence from Westernport over Maryland Route 36 to Piedmont; and re-and their baggage, in the same vehicle with passengers, in round-trip special and charter operations; limited to transportation of no more than twenty (20) passengers in any one vehicle as follows: Authority is requested for operations beginning and ending at places and points in Grant, Hampshire, Hardy, Mineral and Pendleton Counties of West Virginia and extending to places and points in the States of Maryland, Virginia, Pennsylvania, Delaware, New Jersey, The District of Columbia, and that part of the State of New York that is south of Interstate Highway 84, including all of Long Island, for 180 days. Supporting shipper: Region 8 Planning & Dev. Council, P.O. Box 887, Petersburg, W. Va. 26847. J. A. Niggermyer, District Supervisor, Interstate Commerce Commission, 416 Old Post Office Building, Wheeling, W. Va. 26003.

By the Commission,

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-22596 Filed 8-4-77;8:45 am]

[Volume No. 26]

PETITIONS, APPLICATIONS, FINANCE MATTERS (INCLUDING TEMPORARY AUTHORITIES), RAILROAD ABANDONMENTS, ALTERNATE ROUTE DEVIATIONS, AND INTRASTATE APPLICATIONS

Correction

In FR Doc. 77-20881 appearing at page 37468 in the issue for Thursday, July 21, 1977, on page 37474, in the third column, the paragraph beginning "No. MC 11274 (Sub-No. 25)" should begin "No. MC 111274 (Sub-No. 25)".

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).

CONTENTS

1

FEDERAL MARITIME COMMISSION.

TIME AND DATE: 10 a.m., August 10, 1977.

PLACE: Room 12126, 1100 L Street, NW., Washington, D.C. 20573.

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. Monthly Report of Managing Director's Actions Pursuant to Delegated Authority (June).

2. Agreement No. 9975-6: Petition to extend the duration of the Japan-East Coast U.S.A. Containership Service Agreement to August 22, 1980.

3. Agreement No. 10117-3: Modifications of the U.S. North Atlantic Spain Rate Agreement, regarding voting procedures, self-policing features, and amount of financial guarantee.

4. Agreement No. 10107-2: Application for Intermodal Authority by Trans-Pacific Freight Conference and eight nonconference competitors.

5. Agreements Nos. 8718-5 and 9731-7: Extensions of the Japanese Flag Containership Service Agreements in the trade between Japan and California and between Japan and California, Hawaii and Alaska, to August 22, 1980.

6. Docket No. 77-10—Agreement Nos. 10072 nd 10072-1 (Establishment of Conference of Passenger and Cruise Lines). Determination whether to Review Discontinuance by the Administrative Law Judge.

Portions closed to the public:

1. Agreement No. 10286: Italy-U.S.A. North Atlantic Pool Agreement, establishment of cargo and revenue pooling agreement.

2. Docket No. 75-3—*Chevron Chemical Company* v. *Mitsui O.S.K. Lines, Ltd.*, (Freight Overcharge Claim); Petition for Reconsideration of Adoption of Initial Decision.

3. Docket No. 77-4—Agreements Nos. 9902-3, 9902-4, 9902-5, and 9902-6 (Modification of Euro-Pacific Joint Service Agreement), Petition for Reconsideration and Motion for Stay of the Commission's Order of Conditional Approval of Agreement No. 9902-5 Pendente Lite.

4. Docket No. 77-21—In the Matter of Continued Qualification for Independent Ocean Freight Forwarder License No. 1744R-Orlando A. Puig d.b.a. Houston Export International; Determination whether to Review Discontinuance by Administrative Law Judge.

5. Docket Nos. 77-27—Trailer Marine Transport Corp., and 77-28—Gulf Caribbean Marine Lines, Inc., General Increases in Rates—Motion to Vacate Suspension.

CONTACT PERSON FOR MORE INFORMATION:

Joseph C. Polking, Acting Secretary (202-523-5727).

[S-1045-77 Filed 8-2-77;2:33 pm]

2

FEDERAL RESERVE SYSTEM.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Sent to FEDERAL REGISTER July 27, 1977.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., Wednesday, August 3, 1977.

CHANGES IN THE MEETING: Addition of the following open item to the meeting:

1. Board consideration of temporary suspension of Regulation Q (Interest on Deposits) penalty for early withdrawal of time deposits for Johnstown, Pennsylvania disaster area.

Previously announced open items:

1. (a) Proposed amendments to Regulation H (Membership of State Banking Institutions in the Federal Reserve System) and Y (Bank Holding Companies), to require certain municipal securities dealers to file with the Board information about persons associated with them as municipal securities principals or municipal securities representatives. (Proposed earlier for public comment; docket no. R-0090).

(b) In connection with the proposed amendments to Regulations H and Y, establishment of a system of records under the Privacy Act of 1974 dealing with persons who are or seek to be municipal securities principals or representatives and are associated with certain financial institutions. (Proposed earlier for public comment; docket no. R-0091).

2. Possible amendments to the Board's Rules Regarding Delegation of Authority to delegate to the Director of the Division of Banking Supervision and Regulation certain authority in connection with administration of Municipal Securities Rulemaking Board rules.

3. A possible Board interpretation of Regulation B (Equal Credit Opportunity) to clarify the meaning of § 202.8, Special Purpose Credit Programs, by defining the phrase "expressly authorized by law". (Proposed earlier for public comment; docket no. R-0100).

4. Proposal by the Federal Reserve Bank of Atlanta for approval of conceptual design for the Miami Branch building.

NOTE.—The initial notice for this meeting was received by the FEDERAL REGISTER on July 26, 1977, seven days in advance of the meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board: 202-452-3204.

Dated: August 2, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[S-1046-77 Filed 8-3-77;1:52 pm]

3

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 10 a.m., August 2, 1977.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 5. TXI Subpart M Application (Not. No. 7139-B) Doc. 30887.

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, (202-673-5068).

SUPPLEMENTARY INFORMATION: On May 16, 1977, Texas International Airlines (TXI) filed an application requesting the removal of certain restrictions on its certificate of public convenience and necessity in order to permit certain additional service. Order 77-5-167, dated May 31, 1977, directed TXI to filile additional material for the Board's consideration of this application. On July 15, 1977, TXI filed a supplement to its application with the required information and on July 25, 1977, supplemental statements requesting dismissal were filed by American and Delta. On July 26, 1977, the Bureau of Operating Rights submitted its recommendation to the Board.

TXI's application was filed under Subpart M of the Board's Rules of Practice (14 CFR § 302.1301-1315). Under the provisions of Subpart M the Board was required to stay or dismiss TXI's application by July 29, 1977, or the application would have automatically moved forward to the next procedural stage.

On July 29, 1977, the Board voted to dismiss the application and to so notify TXI and to issue the order after discussion of the language to be used in the order. So that the order can issue with minimum delay the following Board Members have voted that agency busi-

ness requires the addition of this Docket 30887, Application of Texas International Airlines, Inc., for amendment of its certificate of public convenience and necessity under Subpart M procedures, to the agenda of its August 2, 1977, meeting and that no earlier announcement of the addition was possible:

Chairman Alfred E. Kahn
Vice Chairman Richard J. O'Melia
Member G. Joseph Minetti
Member Lee R. West

[S-1047-77 Filed 8-2-77;4:15 pm]

4

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 10 a.m., August 9, 1977.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT:

1. Ratification of items adopted by notation.[1]
2. Docket 26573, application of American Airlines for renewal of its temporary Islip-Chicago authority (Memo. No. 7307, BOR).
3. Docket 29554, Airwest's application for authority between Las Vegas-Albuquerque-El Paso-Midland/Odessa-San Antonio-Corpus Christi and Houston and between Phoenix/Tucson-San Antonio-Houston and New Orleans and motion for immediate hearing (Memo. No. 7314, BOR, BLJ).
4. Docket 25342, complaint of aviation consumer action project against the local service carriers (Memo. No. 6563-A, BOR, OCCR, OGC).
5. Docket 20826 et al., bush route phase of Alaska service investigation (Memo. No. 7302, OGC).
6. Dockets 25427 and 25457, Laker Airways, Ltd., "Skytrain" Service Order 77-6-68, target date for Board ruling on petition for reconsideration filed by Laker Airways (Memo. No. 7316, OGC).
7. Docket 28807, Trans International Airlines, enforcement proceeding, notice of change of target date (Memo. No. 7309, OGC).
8. Docket 31103, American's application for exemption to provide free transportation to cargo agents from various points to Fort Worth, Tex., and return (Memo. No. 7308, BE).
9. Docket 31122, fare-effectiveness rule proposed by United (tariff sched. for eff. 8-15) (Memo. No. 6967-A, BE).
10. Dockets 15529 and 27589, baggage and liability rules case and domestic baggage liability rules investigation (Memos. Nos. 7132-A and 7132-B, BE).
11. Request of Air B.V.I., Ltd., to use a notice of deliberate overbooking of its own wording (Memo. No. 7313, BE).
12. Docket 30756, Pan American's request for permission to hold discussions on North/Central Pacific cargo rates (Memo. No. 7310, BE, BIA).
13. Docket 29160, subsidy rate amendment two to Order 76-12-169, class rate VIII (Memo. No. 5972-J, BE, OC).
14. Docket 31160, complaint of TWA against Frontier's proposed assembly group fares in various Las Vegas markets (sched. for eff. 8-15) (BE).
15. Docket 31201, complaint of Century Air Freight, an air freight forwarder, against addition by Airlift of container loading service provisions offering service by the carrier on its premises, applicable to traffic moving to/from San Juan, P.R. (sched. for eff. 8-15) (BE).
16. Docket 30985, application of Pan American for extension of embargo on all cargo destined for Caracas not holding confirmed reservations due to lack of storage facilities (BE).
17. Docket 30332, disposition of various IATA agreements dealing with currency matters, and cargo matters, Agreements CAB 26701, 26703, 26704, and 26707 (BE).
18. Docket 31031, disposition of complaint by Seaboard against a cargo tariff filed by KLM (BE).
19. Docket 27813, petition by Qantas for reconsideration of Order 77-5-133 dealing with combination fares over Pago Pago, Agreement CAB 25711 (BE).
20. Docket 31161, disposition of complaint by Seaboard against a cargo tariff filed by TWA (BE).
21. Dockets 31202 and 31203, disposition of complaints by Seaboard against cargo tariffs filed by KLM (BE).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary (202-673-5068).

[S-1048-77 Filed 8-2-77 4:16 pm]

[1] The ratification process provides an entry in the Board's minutes of items already adopted by the Board through the written notation process (memoranda circulated to the Members sequentially). A list of items ratified at this meeting will be available in the Board's Public Reference Room, Room 710, 1825 Connecticut Avenue NW., Washington, D.C. 20428, following the meeting.

5

SECURITIES AND EXCHANGE COMMISSION.

TIME AND DATE: August 2, 1977, 9:35 a.m.

PLACE: Room 812, 500 North Capitol Sreet, Washington, D.C.

STATUS: Closed meeting.

SUBJECT MATTER: Consideration of litigation matter. Chairman Williams, Commissioners Loomis, Evans, and Pollack determined that Commission business required consideration of this matter and that no earlier notice thereof was possible.

AUGUST 2, 1977.

[S-1049-77 Filed 8-3-77 9:04 am]

6

SECURITIES AND EXCHANGE COMMISSION.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 42 FR 38689, July 29, 1977.

PREVIOUS ANNOUNCED TIME AND DATE: August 5, 1977, 10 a.m.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

CHANGES IN THE MEETING: The following additional matter will be considered by the Commission at the open meeting:

Consideration of a proposed rule which would prohibit mutual funds from implementing arrangements involving the use of their assets to finance the distribution of shares as an interim measure.

The following additional matters will be considered by the Commission at the closed meeting, immediately following the open meeting: Institution of administrative proceedings; settlement of injunctive actions.

Chairman Williams and Commissioners Evans and Pollock determined that Commission business required consideration of these matters and that no earlier notice thereof was possible.

AUGUST 2, 1977.

[S-1050-77 Filed 8-3-77;9:04 am]

7

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 August 8, 1977, in Room 825, 500 North Capitol Street, Washington, D.C.

A closed meeting will be held on Tuesday, August 9, 1977, at 10 a.m. An open meeting will be held on Wednesday, August 10, 1977, at 10 a.m.

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries will attend the closed meetings. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meetings may be so considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c) (4), (8), (9)A, and (10) and 17 CFR 200.402(a) (4), (8), (9)(i), and (10).

Chairman Williams and Commissioners Evans and Pollack voted to hold the aforesaid meetings in closed session.

The subject matter of the closed meeting scheduled for Tuesday, August 9, 1977 will be:

Formal order of investigation.
Institution of injunctive actions.
Settlement of injunctive actions.
Settlement of administrative proceedings.
Referral of investigative filed to Federal, State, or self-regulatory authorities.
Regulatory matters arising from or bearing enforcement implications.
Freedom of Information Act appeals.
Request for confidential treatment.
Personnel matter.
Application for reinstatement.

The subject matter of the open meeting scheduled for Wednesday, August 10, 1977, will be:

1. Consideration of proposals submitted by CBOE, Amex, PHLX, MSE, and PSE to amend their respective rules setting forth option exercise price intervals.

2. Consideration of a proposal permitting self-regulatory organizations to establish criteria on which to base recommendations for permanent extensions of time for the

filing of Part I of Form X-17A-5, which is the monthly report submitted by clearing firms.

3. Consideration of the adoption of Rule 2a-5 under the Investment Company Act of 1940. Rule 2a-5 would declare that certain persons would not be deemed interested persons under the statutes of the Act.

4. Consideration of a petition for Commission review filed by Mortgage Investors of Washington regarding an extension of time requested by the company to file their annual report for the year ended March 31, 1977.

5. Consideration of the publication of releases regarding: (1) Reporting provisions relating to the remuneration received by officers and directors and (2) the disclosure of criminal litigation involving taxation.

6. Consideration of an application filed by Air Pollution Industries, Inc., pursuant to section 12(h) of the Securities Exchange Act of 1934 for an order which would exempt the company from certain reporting requirements.

FOR FURTHER INFORMATION CONTACT:

Edward B. Horahan at 202–376–8072 or Howard B. Scherer at 202–755–1280.

AUGUST 2, 1977.

[S-1051-77 Filed 8-3-77;9:04 am]

8

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

TIME AND DATE: 9:30 a.m. (eastern time), Wednesday, August 10, 1977.

PLACE: Chairman's Conference Room No. 5240, on the fifth floor of the Columbia Plaza Office Building, 2401 E Street N.W., Washington, D.C. 20506.

STATUS: Parts of the 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) *Freedom of Information Act Appeal* 77-2-FOIA-40. Request, on behalf of an employer charged with discrimination, for documents in the Commission's investigative file.

(2) *Freedom of Information Act Appeal* 77-2-FOIA-134. Request by an attorney representing an employer charged with discrimination, against whom a lawsuit has been filed by the Commission, for the internal memorandum upon which the Commission based its vote to commence litigation.

(3) *Designation of 706 Agency.* Recommendation that the Sioux Falls, S. Dak., Human Relations Commission be designated as one to which the Commission may defer charges.

(4) *Washington State Human Rights Commission.* Recommendation that the Commission allocate additional fiscal year 1977 funds to this State agency for the processing of more charges.

(5) *Revisions of EEOC's procedural regulations.*

Portions closed to the public:

(1) *Litigation authorization; General Counsel recommendations.* Matters closed to the public under sec. 1612.13(a) of the Commission's regulations (42 FR 13830, March 14, 1977).

(2) *Proposed procurement; processing of EEO-4 survey.* This matter is continued from the meeting of August 2. Commission approval is requested to contract with an organization to process the State and local government information report, identified as the EEO-4 survey.

(3) *Proposed budget request for fiscal year 1979.*

NOTE.—Any matter not discussed or concluded may be carried over to a later meeting.

CONTACT PERSON FOR MORE INFORMATION:

Marie D. Wilson, Executive Officer, Executive Secretariat, at 202–634–6748.

This notice issued August 3, 1977.

[S-1052-77 Filed 8-3-77;10:19 am]

9

FEDERAL DEPOSIT INSURANCE CORPORATION.

Pursuant to the provisions of the Government in the Sunshine Act (5 U.S.C. 552b), notice is hereby given that, in addition to the matters already on the agenda for consideration at the meeting of the Federal Deposit Insurance Corporation's Board of Directors scheduled for 10:45 a.m. on Monday, August 8, 1977 (public notice of which was given on August 1, 1977), the Board of Directors will also consider an application from the Anchor Savings Bank, New York (P.O. Brooklyn), New York, an insured mutual savings bank, for consent to merge under its charter and title with North New York Savings Bank, White Plains, N.Y., also an insured mutual savings bank, and to establish the five offices of North New York Savings Bank as branches of the resultant bank.

The time, date, place, and closed status of the meeting remain unchanged.

Dated: August 2, 1977.

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

[S-1053-77 Filed 8-3-77;10:47 am]

10

NATIONAL SCIENCE BOARD.

TIME AND DATE: August 19, 1977. Closed session: 8:30 a.m.; open session: 2:00 p.m.

PLACE: National Science Foundation, Room 540, 1800 G Street NW., Washington, D.C. 20550.

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. Minutes—191st meeting.
2. Chairman's report.
3. Director's report.
4. Board committee reports.
5. NSF advisory groups.
6. Site visits.

Portions closed to the public:

1. Minutes—closed session, 191st meeting.
2. Report of ad hoc committee on NSF staff and NSB nominees.
3. Possible options for RANN organization and leadership.
4. Grant and contracts—proposed awards.
5. NSF budget for fiscal year 1979.

CONTACT PERSON FOR MORE INFORMATION:

Vernice Anderson (202–632–5840).

[S-1054-77 Filed 8-3-77;11:23 am]

federal register

FRIDAY, AUGUST 5, 1977
PART II

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

■

LAETRILE

Commissioner's Decision on Status

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[Docket No. 77N-0048]

LAETRILE

Commissioner's Decision

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Commissioner of Food and Drugs announces that he has compiled a comprehensive administrative record containing information about the drug Laetrile in general and, specifically, about two issues concerning Laetrile's "new drug" status: (1) Whether Laetrile is generally recognized by qualified experts as a safe and effective cancer drug, and (2) whether Laetrile is exempt from the premarket approval requirements for new drugs by virtue of the "grandfather" provisions of the Federal Food, Drug, and Cosmetic Act. The Commissioner concludes, after careful review of this administrative record, including oral argument presented at a public hearing, that: (1) Laetrile is not generally recognized by qualified experts as a safe and effective cancer drug, and (2) Laetrile is not exempt from the premarket approval requirements for new drugs by virtue of the "grandfather" provisions of the act. Distribution of Laetrile in interstate commerce is thus illegal and subject to regulatory activity by the Food and Drug Administration. Conclusions on other issues related to the controversy concerning Laetrile are also set out.

EFFECTIVE DATE: August 5, 1977.

ADDRESSES: The transcript of oral argument presented at the public hearing, affidavits, written testimony, and all other submissions compiled as the administrative record for this proceeding may be seen in the office of the Hearing Clerk (HFC-20), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday. In addition, one copy of the administrative record (except two videotapes of interviews with cancer patients who had been treated with Laetrile) is available for public examination at the following Food and Drug Administration offices during regular business hours: 850 Third Ave., Brooklyn, NY 11232; 880 W. Peachtree St., Altanta, GA 30309; 433 W. Van Buren St., Chicago, IL 60607; 1009 Cherry St., Kansas City, MO 64106; 1521 W. Pico Blvd., Los Angeles, CA 90015; 909 First Ave., Seattle, WA 98104.

FOR FURTHER INFORMATION CONTACT:

Tenny P. Neprud, Compliance Regulations Policy Staff (HFC-10), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockille, MD 20857, 310-44-3480.

SUPPLEMENTARY INFORMATION: In a notice published in the FEDERAL REGISTER of February 18, 1977 (42 FR 10066), the Commissioner announced that he was initiating a rulemaking proceeding to comply with the opinion of the Court of Appeals in *Rutherford* v. *United States*, 542 F.2d 1137 (10th Cir. 1976), and the order of the District Court in *Rutherford* v. *United States*, 424 F. Supp. 105 (W. D. Okla. 1977). In those proceedings, the Food and Drug Administration (FDA) was ordered to develop an administrative record concerning the following two issues:

1. Whether the product Laetrile (also known as vitamin B-17 and amygdalin) is a "new drug" within the meaning of section 201(p) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(p)) in that it is not generally recognized, among experts qualified by scientific training and experience to evaluate the safety and effectiveness of drugs, as safe and effective for use in the cure, mitigation, treatment, or prevention of cancer in man ("the new drug issue").

2. Whether, if Laetrile is a "new drug" within the meaning of the act, it is exempt from the premarket approval requirements of section 505 of the act (21 U.S.C. 355) in that:

(a) At any time before June 25, 1938, it was subject to the Food and Drugs Act of 1906, as amended, and at such time its labeling contained the same representations concerning the conditions of its use as its present labeling ("the 1938 grandfather issue," 21 U.S.C. 321(p)(1)); or

(b) It meets each of the following conditions: (1) On October 9, 1962, it was commercially used or sold in the United States; (2) On October 9, 1962, it was generally recognized, among experts qualified by scientific training and experience to evaluate the safety of drugs, as safe for use in the cure, mitigation, treatment, or prevention of cancer in man; (3) On October 9, 1962, it was not covered by an effective new drug application (NDA) under section 505 of the act (21 U.S.C. 355); (4) It is currently intended solely for use under conditions prescribed, recommended, or suggested in its labeling on October 9, 1962 ("the 1962 grandfather issue," Pub. L. 87-781, section 107(c)(4)).

The February 18, 1977, notice included detailed information regarding the submission of testimony. In response to the notice, over 400 submissions totaling more than 5,500 pages were received. These submissions, representing the views of both proponents and opponents of Laetrile, came from cancer patients, consumers, experts in drug testing and cancer therapy, physicians, State governments, universities, hospitals, and interested organizations.

The District Court, in directing FDA to develop an administrative record, suggested that the agency invite the following individuals to participate in the administrative proceeding: Dr. Dean Burk, Ernst Krebs, Jr., Mike Culbert, Edward Griffin, and Mike Spencer, *Rutherford* v. *United States, supra*, 424 F. Supp. at 108. The three individuals whose addresses could be obtained were specifically invited to give their views (R 3, 4, 5).[1] (Kenneth Coe, attorney for plaintiff Glen Rutherford, who had proposed that FDA be required to invite the five named individuals, could not provide the addresses for Griffin and Spencer and agreed that invitations to the three individuals whose addresses he could supply would suffice.) Mr. Griffin did receive notice of the proceeding and he participated (see R 404). Written submissions were received from Dr. Burk (R 302) and Mr. Griffin (Tr. Ex. 1) and from plaintiff Glen Rutherford (R 258).

The Bureau of Drugs, FDA, presented evidence probative of the new drug and grandfather status of Laetrile. For the purposes of the administrative proceeding, separation of functions requirements were observed between the Commissioner and persons advising him and the Bureau of Drugs and persons advising it (see 21 CFR 10.55).

The February 18, 1977 notice stated that oral argument would be held in Kansas City on May 2. A subsequent notice published in the FEDERAL REGISTER of March 25, 1977 (42 FR 16191) set forth the exact time and place: beginning at 9 a.m. on May 2 at the Radisson Muehlebach Hotel, Kansas City, MO. Dr. John Jennings, Associate Commissioner for Medical Affairs, presided over the oral argument. Approximately 40 persons filed written requests to make oral presentations; others took advantage of the opportunity to speak without the filing of such a request as time allowed. Every person who wished to participate in, and who was present at, the oral argument was given a opportunity to express his or her views. In all, 47 persons made presentations. The transcript of the oral argument has been made a part of the record of the administrative proceeding.

Individuals named by the District Court were again notified of the exact time and place of the argument (R 253-55, see also R 247). Oral presentations were made by Edward Griffin (Tr. at 11), Michael L. Culbert (Tr. at 35), Ernst T. Krebs, Jr. (Tr. at 228) and Dr. Dean Burk (Tr. at 401). In addition, plaintiff Glen L. Rutherford and his attorney, Kenneth Coe, Esq., spoke at oral argument (Tr. at 297, 442).

Written submissions presented at the time of oral argument were made part of the record and considered despite the fact that they were received at a date later than the one set forth in the February 18, 1977, notice. The record of this proceeding was, however, closed at the conclusion of the oral argument. Submissions received thereafter have been docketed with the FDA Hearing

[1] Submissions to the record are referred to by the number assigned to them upon filing by the Hearing Clerk. When exhibits or attachments accompany a submission, they follow the record number of that submission, e.g., "R 12, Ex. A". References to the transcript of the oral argument are cited as "Tr. at" with the applicable page number supplied. Written submissions presented to the energy at the time of oral argument are referred to as transcript exhibits, e.g., Tr. Ex. 1.

Clerk, but have not been considered as part of the record. The Commissioner's opinion is based entirely upon the administrative record and does not reflect information brought to FDA's attention subsequent to the closing of that record.

No legal memoranda were solicited by the Commissioner in this proceeding. One such memorandum was submitted by the American Cancer Society and has been made a part of this docket in the Hearing Clerk's office.

In the Commissioner's opinion, the use of Laetrile in the United States has become a genuine public health problem. Increasingly, doctors dealing with cancer patients are finding that the patients are coming to legitimate therapy too late, having delayed while trying Laetrile. It seems clear that another substantial group of persons afflicted with cancer is avoiding effective therapy altogether and using Laetrile instead. The question has become one of life and death for these patients and for others who may be convinced to use Laetrile in the future. For this reason the Commissioner has considered not only the evidence in the record addressed to the specific legal issues remanded to FDA by the courts, but also the great amount of evidence submitted by both proponents and opponents of Laetrile regarding other issues of importance to the controversy over the use of the drug. Since the Commissioner's discussion of these issues is necessarily detailed, he is setting forth, for the reader's convenience, an outline of that discussion as follows:

I. LAETRILE

A. DEFINITION OF CANCER

B. COMPOSITION AND IDENTITY OF "LAETRILE"

1. Glossary.
2. What is Amygdalin?
3. What is Laetrile (with a capital L)?
4. What is laetrile (with a small l)?
5. What is Sarcarcinase?

C. CLAIMS FOR LAETRILE

1. Treatment (Cure or Mitigation of Cancer.
2. Analgesic (Pain Killer).
3. Prevention of Cancer.
4. Facilitation of Other Cancer Therapy.
5. Hemoglobin Index.
6. Reduction of Odor Associated with Malignancy.
7. Sickle Cell Anemia.
8. Parasitic Diseases.
9. Regulating Intestinal Flora.
10. Hypotensive Effect.

D. THEORIES OF LAETRILE'S ACTION

II. THE "NEW DRUG" ISSUE

A. GENERAL RECOGNITION OF EFFECTIVENESS

1. Objective Evidence of Effectiveness.
   (a) What are the Required Studies?
   (b) The Need for Controlled Studies.
   (c) The "Evidence" of Laetrile's Effectiveness.
      (i) Case Reports.
      (ii) Animal Testing of Laetrile.
2. Testimony of Experts.
   (a) Experts Opposed to Laetrile.
   (b) Supporters of Laetrile.

B. GENERAL RECOGNITION OF SAFETY

1. Lack of Adequate Testing.
2. Testimony of Experts.

III. THE "GRANDFATHER" ISSUE

A. THE 1938 GRANDFATHER CLAUSE

B. THE 1962 GRANDFATHER CLAUSE

1. Composition.
2. Investigational Use.
3. Conditions of Use in Labeling.
4. Lack of General Recognition of Safety in 1962.
   (a) The Prerequisites.
      (i) Lack of General Knowledge of Use.
      (ii) Lack of General Knowledge of Formulation.
      (iii) Lack of General Knowledge of Conditions of Use Suggested.
      (iv) Lack of Safety Data in Scientific Litecature.
      (v) Lack of Showing of Safety by Adequate Testing.
   (b) Statements by Experts.
   (c) Lack of General Recognition of Effectiveness in 1962.

IV. THE POPULARITY OF LAETRILE

A. LAETRILE AND OTHER UNPROVEN REMEDIES

1. The History of Cancer Quackery in the United States.
2. Similarities Between Laetrile Promotion and That of Other Recent "Unproven" Cancer Remedies.
   (a) Mantle of Science.
   (b) Attacks on the "Establishment."
   (c) Claimed Parallel with Scientific Pioneers.
   (d) Reliance on Testimonials.
   (e) Lack of Scientific Publication.
   (f) Nonexpert Supporters.
   (g) Simplistic Theories of Causation and Reliance on Diet.
   (h) A Painless Cure.
   (i) Only Proponents can Effectively Use the Drug.

B. WHY DO PEOPLE USE LAETRILE?

1. The Emotional Reaction to Discovery of Cancer.
2. The Role of Loved Ones.
3. Methods of Promotion of Laetrile.
4. The Sampson Survey.

C. THE LAETRILE TESTIMONIALS

V. OTHER ISSUES REGARDING LAETRILE

A. USE OF LAETRILE OUTSIDE THE UNITED STATES

B. CLAIMS THAT LAETRILE IS A VITAMIN OR FOOD

1. A Vitamin or Food May Be a Drug As Well.
2. Is Laetrile a Vitamin?
   (a) Proponents' Claims.
   (b) Vitamin Experts' Position.
3. Dangers of Ingestion of "Vitamin B-17."

C. FREEDOM OF CHOICE

1. Balancing Freedoms.
2. The Choice Is Not Free.

D. ALLEGATIONS OF BIAS

E. LIMITING USE TO TERMINAL PATIENTS

1. Who Is Terminal.
2. Effects on Other Patients.

F. USE CONCURRENTLY WITH OTHER THERAPY

VI. CONCLUSIONS

I. LAETRILE

A. DEFINITION OF CANCER

Laetrile has been, over the years, recommended for use in the treatment of cancer. An understanding of the issues concerning the drug requires that the term "cancer" be defined. Cancer has been stated to include "* * * all malignant neoplasms regardless of the tissue of origin including malignant lymphoma, Hodgkins disease, and leukemia" (R 173, Att., "Laws and Regulations Relating to the Diagnosis and Treatment of Cancer," State of California, Division 2, Chapter 7, Section 1705). For an almost identical definition by the American Cancer Society, Inc., see R 173, Att., "American Cancer Society, Inc., Medical Affairs Department, (State) Cancer Remedy Act." A neoplasm is a new and abnormal growth such as a tumor. Malignant neoplasms are "neoplasms that are characterized by unregulated, uncontrolled, and unrestrained growth and proliferation" (R 190 at ¶ 14; R 194 at 3; R 195 at ¶ 11). It has been said that the "distinguishing feature of cancer is its ability to invade, erode and to metastasize to more or less distant parts" (R 183, Att. 7 at 15). Metastasis, in relation to cancer, means the transfer or spread of the cancer from one site to another, usually through the blood stream or the lymphatic system. In this process, cells may travel throughout the body; when they finally lodge they begin to grow as a new cancer.

There are more than 100 different entities involved in the disease known as "cancer." These many forms of clinical cancer differ materially in terms of the factors which cause them as well as in terms of populations they affect, their prognosis, and the ease with which they may be treated (Tr. at 144; cf. R 190 at ¶ 14; R 186 at ¶ 7-9). The cause of cancer is not a question addressed in this proceeding. It should be noted, however, that the record includes indications that various cancers are associated with chronic irritation (e.g., a high frequency of cancer of the groin in textile workers whose jobs required straddling a metal shaft) (R 318 at 37), with cancer-causing chemical substances called carcinogens (e.g., a high frequency of lung cancer in chimney sweepers and coal miners probably caused by inhaling dust particles) (id.), with irradiation (id. at 38), with virus (Tr. at 223; R 318 at 38), and with hereditary effects (R 318 at 38).

Two novel theories, neither of which has gained acceptance by the scientific community, have been at various times espoused by Laetrile's proponents to explain how cancer is caused. The first of these theories is said to have been first developed by Professor John Beard of Scotland. In 1902, Professor Beard announced his "findings" that the cancer cell and the "trophoblast" cell were one and the same (R 318 at 60). Trophoblast cells are present during pregnancy and they prepare a niche in the uterine wall where the fertilized egg can nestle (R 318 at 56). According to Beard, they share several characteristics with cancer cells: Both are invasive, erosive, corrosive and can be carried through the blood stream to other parts of the body (R 318 at 57). Beard believed that trophoblast cells could be expected to develop at various places in the body from precursor cells distributed throughout the body during the embryonic stage. If the pancreas gland were functioning properly it

would, in his theory, produce enzymes which destroy these trophoblast cells. If such enzymes were not produced, cancer would occur (R 318 at 58–59).

The proponents of Laetrile have more recently taken the position that cancer is a metabolic deficiency or dietary disease (cf. R 302, Ex. H at 76–77). It is claimed that cancer is a "* * * systemic, chronic, metabolic deficiency disease" (Tr. at 348) or "* * * a chronic or metabolic disease that is not caused by some mysterious virus" (Tr. at 234). The "nutritional deficiency" theory is refuted by at least one expert (Tr. at 223).

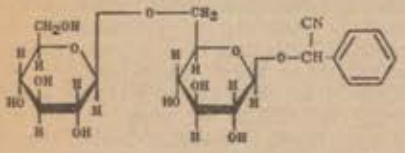
B. COMPOSITION AND IDENTITY OF "LAETRILE"

Several terms, such as "Laetrile," "laetrile(s)," "amygdalin," "nitriloside(s)," "vitamin B–17," and "Sarcarcinase" have in many instances been used interchangeably by both proponents and opponents of Laetrile. There are, however, distinctions among these terms, which must be understood in order to deal with the issues in this proceeding. The Commissioner will discuss in detail what the record indicates about the meaning of the terms "amygdalin," "Laetrile," "laetrile" and "Sarcarcinase."

1. Glossary

The following glossary provides a definition or description of the above terms and others that will be used in this opinion:

Amygdalin: A specific chemical entity having the chemical formula:



D-mandelonitrile-beta-D-glucoside-6-beta-D-glucoside (Merck Index, 9th Ed. at 81).

beta-Cyanogenic glucosides; beta-cyanophoric glucosides; beta-cyanogenetic glucosides: Terms used interchangeably in the record. In general, they are used in the record to include compounds which can break down to yield cyanide and glucose. The terms are used to refer to amygdalin, a glucoside present in kernals or seeds of practically all fruits (see, e.g., R 302, Ex. H at 75; R 173, Att., California Administrative Code, Section 10400.1 at 16; Tr. at 272). *beta*-Cyanogenic glucosides belong to the large class of chemicals known as *beta*-cyanogenic glycosides. (See definition of glucosides and glycosides below.)

beta-Glucosidase: An enzyme present in plants that participates in the metabolism of glucosides. The enzyme has been identified in apricot and peach kernels and catalyzes the breakdown of amygdalin to free two molecules of glucose and a molecule of mandelonitrile. The enzyme is found only in trace amounts in animal tissues (R 173, Att., "The Vitamin Fraud in Cancer Quackery" (hereinafter "Vitamin Fraud") at 345).

beta-Glucuronidase: An enzyme present in animal tissues that participates in the metabolism of glucuronic acid derivatives (also called glucuronosides). The enzyme reportedly catalyzes the breakdown of "Laetrile" (1-mandelonitrile-*beta*-glucuronic acid) to free glucuronic acid and mandelonitrile.

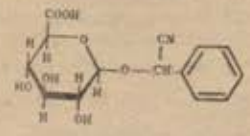
Enzymes: Chemical compounds (all of them proteins) produced by living organisms that serve as catalysts in metabolic reactions. The suffix "-ase" is given to most enzymes.

Glucoside: A term applied to any glycoside having glucose as its sugar constituent.

Glucuronide; glucuronoside: Terms used in the record to refer to chemical derivatives of glucuronic acid. As an example, Laetrile is identified as 1-mandelonitrile-*beta*-glucuronic acid" in the Merck Index 9th Ed., at 702 and as "laevo-mandelonitrile-*beta*-glucuronoside" in the book *Control for Cancer* (R 318 at 73).

Glycosides: A broad term which encompasses glucosides. Not all glycosides are glucosides (cf. The Condensed Chemical Dictionary, 7th Ed. at 455).

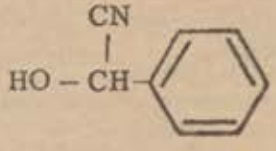
Laetrile: A specific chemical entity having the chemical formula:



1-mandelonitrile-beta-glucuronic acid (Merck Index, 9th Ed. at 702). The name "Laetrile" was purportedly assigned to this compound by Ernst T. Krebs, Jr. (R 318 at 73).

laetrile: A term used interchangeably with "Laetrile," "amygdalin," "nitriloside," and "vitamin B–17" (R 302, Ex. A; R 183, Att. 10c). The term is also used to include a number of compounds, in which case it may appear as "laetriles."

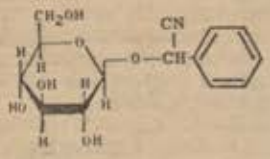
Mandelonitrile: A specific chemical entity having the chemical formula:



(Merck Index, 9th Ed. at 743).

Nitriloside: A term proposed by Ernst T. Krebs, Jr., for all cyanophorioglycosides of dietary significance (R 302, Ex. H. at 75).

Prunasin: A specific chemical entity having the chemical formula:



Mandelonitrile Glucoside (Merck Index, 9th Ed. at 743).

Sarcarcinase: The name given to an enzyme preparation developed by Dr. E. T. Krebs, Sr., and described by him in a 1933 patent application as a mixture of the following enzymes—amygdalase, prunase, oxynitrilase, catalase, peroxydase, and a proteolytic enzyme. He also suggested the presence of isomaltase and a lipase and perhaps other enzymes (R 424).

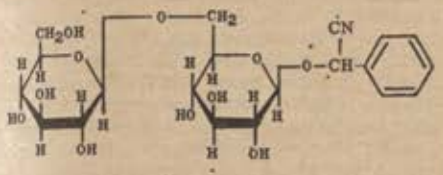
Vitamin B–17: Described as a group of compounds which include water-soluble, essentially nontoxic, sugary compounds found in over "800 plants" (R 302, Ex. H at 75) used interchangeably with "nitriloside," "Laetrile," "amygdalin," "beta-cyanogenic glucosides" and "cynophoric glucosides" (e.g., R 302, Ex. H at 75; R 302, Ex. A).

2. What is Amygdalin?

Amygdalin was reportedly first isolated from bitter almonds by the French chemists Robiquet and Burton-Charland in 1830 (R 173, Att., "Vitamin Fraud" at 345). The name "amygdalin" was derived from the word "amygdala", Greek for almond (R 302, Ex. L at ¶ 9). Amygdalin is a chemical compound composed of two glucose molecules and one molecule of mandelonitrile. Mandelonitrile is a chemical in which cyanide is combined with benzaldehyde (cf. R 173, Att., "Vitamin Fraud" at 345). The German chemists Liebig and Wohler observed that an enzyme preparation (later called emulsin) from bitter almonds was capable of hydrolyzing amygdalin, i.e., breaking it down into the two glucose molecules, the benzaldehyde molecule and a hydrogen cyanide molecule (id.). It was later shown that this hydrolysis occurs through the action of two enzymes (*beta*-D-glucosidase and *beta*-oxynitrilase) which are present in emulsin (id.). The *beta*-D-glucosidase hydrolyzes the *beta*-D-glucoside bond and thus frees the two glucose molecules from the mandelonitrile. *beta*-Oxynitrilase is the catalyst for the breakdown of mandelonitrile into benzaldehyde and hydrogen cyanide (id.).

Amygdalin may be extracted from apricot kernels (id.), and is present in seeds of other members of the rose family (R 416 at ¶ 31A). The Commissioner concludes that amygdalin, a cyanogenic glucoside, is a chemical having the chem-

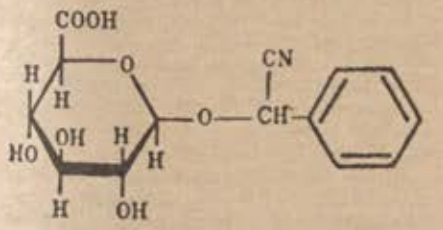
ical name D-mandelonitrile-*beta*-D-glucosido-6-*beta*-D-glucoside (Merck Index, 9th Ed. at 81, compounds 630; R 183, Att. 10b). The chemical structure of amygdalin is:



3. What is Laetril (With a Capital L)?

The term "Laetrile" has been used interchangeably with "amygdalin," "laetrile," "vitamin B–17," "nitrilosides," and "*beta*-cyanogenetic glucosides" (R 173, Att., Laws and Regulations Relating to the Diagnosis and Treatment of Cancer 10400.1 at 16; R 302, Ex. A; Tr. at 405, 272, 465). It appears, however, that the term "Laetrile" (with a capital L) has been used by the drug's proponents to refer to a particular substance. There are essentially two versions of what that substance is:

(a) The term has been used to refer to a specific chemical compound which was prepared in 1952 by Ernst T. Krebs, Jr., who is said to have derived the name "Laetrile" from the compound's chemical name: laevo-mandelonitrile-*beta*-glucuronoside (R 318 at 73; see also R 262; R 183, Att. 16 at 1 and 2). This chemical is related to, but is distinctly different from, amygdalin. It is claimed that the laveo-mandelonitrile-*beta*-glucuronoside was derived by Ernst T. Krebs, Jr., while working with the apricot extract his father had prepared and studied some 20 years earlier (R 318 at 70–73). The chemical structure of this material is depicted in several places (R 318 at 154, 157, 162) and is in agreement with the chemical name. The chemical structure of this version of Laetrile is:



(b) In a 1965 affidavit, however, Dr. Krebs, Sr., stated that the name "Laetrile" was devised in 1949 by his son, Ernst T. Krebs, Jr., for a form of amygdalin which Dr. Krebs, Sr., was producing at that time (R 183, Att. 13). As can be seen from the diagrams set out in this opinion, the chemical structure of amygdalin is different from that of Laetrile as described by Mr. Krebs, Jr.

In the second version of the identity of Laetrile, the source of the name is stated as follows: "Because this apricot preparation was 'Laevorotatory' (left-handed) to polarized light, and because Amygdalin was chemically a 'mandelonitrile,' Krebs, Jr., united the first and the last syllables to invent a name for the new cancericidal drug—LAETRILE" (R 183, Att. 7 at 24).

The confusion about the meaning of the term "Laetrile" is long-standing and may in part be the result of a desire on the part of promoters to continue to use drugs containing amygdalin while justifying the use of the drugs by theories associated with the Laetrile of Krebs, Jr. For example, in a February 17, 1953 letter to Dr. Ian Macdonald, the Chairman of the Cancer Commission of the California Medical Association, Ernst T. Krebs, Jr., advised that he was forwarding "* * * samples of the biosynthetically degraded amygdalin in which one dextrose was removed by prunasin and the resulting compound, in the presence of platinum black, was oxidized to the corresponding glucuronoside" (R 183, Att. 14). (Note: the compound thus obtained should have been 1-mandelonitrile-*beta*-glucuronoside or "Laetrile" as described by E. T. Krebs, Jr., R 318 at 73.) The Cancer Commission of the California Medical Association, in its 1953 report, stated: "Chemical analyses done independently for the Commission have identified in the product distributed as Laetrile only the presence of a natural laetrile termed amygdalin" (R 378, Att. 15 at 326).

The question of the identity of the material distributed as "Laetrile" arose again in the early 1960's when the Cancer Advisory Council of the State of California was gathering information on Laetrile in order to enforce the 1959 California law dealing with cancer quackery. In 1963 the Council reported that the California State Department of Public Health had examined different varieties of Laetrile and found that the products were markedly different in composition but did contain varying percentages of amygdalin (R 183, Att. 16, App. 7 and 8). A Canadian Medical Association report published in 1965 found that the United States and Canadian versions of the drug were different—a larger percentage of the Canadian version than of the United States version was found to be made up of amygdalin (R 189; see also R 378, Att., "Supplementary Report by the Cancer Advisory Council" at 1–2).

The record reveals a number of references by Laetrile proponents which use the terms "Laetrile" and "amygdalin" interchangeably (see, e.g., Tr. at 238 and 246, and the book Control for Cancer (R 318)). Even some labels for the drug use the terms synonymously: one identifies the product as "Laetrile (Amygdalin) 400 mg capsules" (R 183, Att. 10a; see also R 183, Att. 10d). The National Cancer Institute, in its October 1975 "Background Statement on Laetrile" notes the fact that supporters of the drug have used the names "Laetrile" and "amygdalin" interchangeably. The report then correctly identifies amygdalin as mandelonitrile - *beta* - gentiobioside (this chemical name for amygdalin is listed in the Merck Index, 9th Ed. at 81, compound No. 630) and states that the compound actually tested in 1957, 1960, 1969, 1973, and 1975 by the National Cancer Institute was amygdalin (R 173, Att., "NCI Testing of Laetrile (Amygdalin)").

Yet it is not possible simply to conclude that the many references to Laetrile as a specific substance are a hoax on the part of Mr. Krebs, Jr., and that Laetrile as used is simply amygdalin. A number of reports by Dr. Manuel Navarro of the Philippines stated that the Laetrile of Ernst T. Krebs, Jr., was in use (R 318 at 155, 161)), as did a report by Dr. John A. Morrone of New Jersey (R 318 at 205).

Additional confusion is added to the record by an article "Nitrilosides (Laetriles) Their Rationale and Clinical Utilization in Human Cancer (December 1962)," by Ernst T. Krebs, Jr., and Dr. N. R. Bouziane, in which the authors report on their use of "non-toxic nitrilosides (Laetrile), to which the trophoblast is susceptible, on terminal cancer cases for two years in Canada * * *" (R 318 at 187). While the article refers to "cyanophoric glucosides and cyanophoric glucuronosides" (id. at 189), the authors do not identify the "Laetrile" they had been using and about which they were reporting. The authors cite a chemical compound in their discussion (id. at 190) that is not amygdalin nor is it "Laetrile" as described and named by Ernst T. Krebs, Jr. (id. at 73).

While the prevailing confusion over the true identity of material called "Laetrile" would be a severe drawback to anyone seeking to show through testing that Laetrile was safe and effective, this lack of uniformity has been adopted by Laetrile proponents as a means of discounting data showing the drug to be ineffective and thus unsafe. An example is found in the statement by Ernst T. Krebs, Jr., that "The * * * single negative report on Laetrile, which is based upon the observations of unidentified investigators in unidentified institutions administering a purported Laetrile not obtained from the only source of the material, is to be found in California Medicine, 78:320 (1953)" (emphasis added) (R 318 at 251). It should be recalled that at least some of the material supplied to the California Cancer Commission was sent by Ernest T. Krebs, Jr., himself (R 183, Att. 14). In May of 1971, Mr. McNaughton of the pro-Laetrile McNaughton Foundation, in a meeting with FDA's Ad Hoc Committee of Oncology Experts, stated that data obtained prior to 1968 are frequently not valid because of the variability of Laetrile formulations (R 173, Att. "Report of the Ad Hoc Committee of Oncology Consultants" at 1). See also statement of Robert Bradford, President of the Committee for Freedom of Choice in Cancer Therapy, Inc.: "As an aside, an important aspect of animal tests, and indeed, of human tests has been from time to time the availability of amygdalin which did not meet the specified identification criteria, that is, for its use. Tests with defective materials, as Sloan-Kettering found out, will not be efficacious. Defective material likewise will not be effective in humans" (Bradford, Tr. at 350).

In its 1971 report to FDA, the Ad Hoc Committee of Oncology Consultants

agreed that uncertainty about the identity of the drug tested makes the test results obtained questionable. The Committee stated that because of the variability in composition of early preparations, doubt was cast on the bulk of the 1970 McNaughton Foundation Notice of Claimed Investigational Exemption for a New Drug (IND) for Laetrile, which was based almost exclusively on such early material (R 173, "Report of the Ad Hoc Committee of Oncology Consultants" at 1). The Committee further suggested that any protocol for study contain a full description of the drug (formulation, stability etc.) (id. at 4).

There is, quite simply, no one answer to the question "What is Laetrile?". In the glossary to this opinion, the chemical composition of Laetrile is considered to be that described by Ernest T. Krebs, Jr. Yet if some other substance is being used to treat cancer patients, testing of that "Laetrile" would be of no relevance.

Because different persons have used the terms "Laetrile" and "amygdalin" to mean different substances, uniformity of definition will not be possible in discussing the evidence in the record. For this reason, the Commissioner will not, in quoting or citing parts of the administrative record, attempt to define or to determine the identity of the material under discussion but will simply use the term as it appears in that portion of the record. Attempts to identify the material referred to will be made only when necessary for a rational resolution of an issue, e.g., a reference to Sarcarcinase as amygdalin or as Laetrile will not be accepted blindly.

4. What is laetrile (With a Small l)?

As noted in the glossary, the term "laetrile" (with a small l) has been used interchangeably with or synonymously for: nitriloside, Laetrile, vitamin B–17, and amygdalin (e.g., R 302, Ex. A; R. 183, Att. 10c; R 378, Att. 6). The term has, however, also been used to describe a class or group of compounds. For example, amygdalin and prunasin are described as "two common Laetriles" (R 173, Att., "Vitamin Fraud" at 345). It has been stated that: "The term LAETRILE is used to designate the laevorotatory containing glucosides in general and the corresponding glucuronoside in particular. The former are found in plants whereas the latter are synthetic" (italics in original) (R 318 at 155). (See also, R 318, at 240 ¶ 9 which defines natural laetriles as *beta*-cyanogenetic glucosides and glucuronosides.) The Commissioner concludes that the term "laetrile" is an imprecise term and that it does not imply a specific chemical compound. The term is, rather, a broad or generic term for a group of compounds of unknown number.

5. What is Sarcarcinase?

Dr. Ernst T. Krebs, Sr., claims to have developed a product called "Sarcarcinase" in 1926 (R. 183, Att. 13). "Sarcarcinase" is stated to be a registered trademark in the United States and 10 other countries (with registrations dating from March 1933 to January 1934) (see R. 260; R 259). The process for preparing the product is stated to be patented in 15 countries including the United States (see R. 260). It is also reported that Sarcarcinase was used in Japan in 1934 and in Czechoslovakia in 1935 (R. 259). Other references in the same timespan refer to an "enzyme preparation" or "enzyme injection" used within the United States as well as several foreign countries (id.).

Ernst T. Krebs, Jr., stated at oral argument that as early as 1932 his father "* * * observed the use of amygdalin, or laetrile; made it available across the country and abroad under the term 'Sarcarcinase' to physicians, to researchers" (Tr. at 238). He also stated, "* * * the first amygdalin was used—1932—it was labeled as 'Sarcarcinase'" (Tr. at 246). Sarcarcinase was not, however, amygdalin nor did it contain amygdalin in any quantity. Rather, in the words of Dr. Krebs, Sr.'s 1933 patent application, Sarcarcinase was "an enzyme for treatment of malignant growths." The patent application actually describes the product as "an enzyme complex" containing "amygdalase, prunase, oxynitrilase, catalase, peroxydase and proteolytic enzyme" plus a suggestion of "isomaltase and a lipase with possibly others" (Patent application attached to R 424 and to R 259).

Amygdalin is not an enzyme. As will be discussed in more detail below, enzymes are chemicals which catalyze the breakdown of other chemicals and which are often named by attaching the ending "-ase" to the chemical which they attack. Thus, "amygdalase," stated by Dr. Krebs, Sr., to be part of his enzyme complex, may have been meant to describe an enzyme which would break down amygdalin.

It has been argued that Sarcarcinase contained some quantity of amygdalin (R 183, Att. 13, and Att. 7 at 23). An expert chemist has stated, however, that much or all of the small amounts of amygdalin in the apricot kernels used in making Sarcarcinase would be destroyed by enzyme action when the kernels are ground up and that only a small fraction of any that remained would survive the rest of the process (R 424). It should be noted that, even if there were any amygdalin in Sarcarcinase, that would not make that drug equivalent to a drug made up of amygdalin either totally or in greater proportions either in a scientific sense or in a legal sense.

There is some indication that Dr. Krebs, Sr., had abandoned Sarcarcinase even at the time when the patent applications were being obtained. One submission by a Laetrile proponent states that Dr. Krebs, Sr., "* * * resigned himself to the fact that there was no sense continuing this particular research to identify the toxic element or elements in the apricot extract he prepared (sometime after 1926) until he acquired the additional knowledge necessary to understand the mysteries that were occurring in his test tubes. He put his extract aside and returned his books" (R 318 at 42). Krebs himself states that in 1936 he developed a new product, whose "active principle" was amygdalin of 66 percent purity (R 183, Att. 13). (The inactive ingredients of this preparation are not identified.) It is not clear whether it is Sarcarcinase or this new product about which Krebs, Sr., speaks when he states that his "apricot extract" was "so toxic that he and colleagues who were experimenting with him were reluctant to continue its use, except in dire circumstances" (R 183, Att. 7 at 23). It was apparently these toxicity problems that led Krebs, Jr., to seek to improve his father's work (id.). Since "Laetrile" was not developed until 1952 by Krebs, Jr., any statement that "Laetrile" was sold as Sarcarcinase in the 1930's is patently erroneous.

C. CLAIMS FOR LAETRILE

Laetrile (or amygdalin) has been recommended over the years primarily for use in the treatment and, more recently, "control" of cancer. The claims appear to vary in relation to the sophistication of the intended audience. Thus in the 1962 new drug application (NDA) for Laetrile submitted by Ernst T. Krebs, Jr., to FDA, the drug was claimed to be a palliative (i.e., a drug that mitigates the symptoms of a disease without curing it) to be used with other recognized therapies (R 201, Ex. B at 102). By contrast, in a pamphlet in use in 1965, apparently addressed in part to prospective patients, it is stated that "Laetrile does not palliate, it acts chemically to kill the cancer cell selectively * * *," and use of other cancer therapies concurrently is discouraged (R 201, Ex. C, # III). The following claims have been made for Laetrile (amygdalin):

1. Treatment (Cure or Mitigation) of Cancer

The pamphlet discussed above and others obtained from Dr. Krebs, Sr., by FDA investigators at the same time recommended Laetrile for treatment of cancer (see, generally, R 201, Ex. C). Dr. Krebs, Sr., in a pamphlet entitled "The Treatment of Breast Cancer with Laetrile by Iontophoresis" promotes the drug for treatment of a number of cancers (R 183, Att. 7 at 26–27 and 30).

A label for 400 mg capsules of "Laetrile (Amygdalin)" claims that the "nontoxic cyanide glucoside is used for specific treatment of cancer by physicians or under directions of a physician" (R 173, Att. 102). Amygdalin has been promoted (as an ingredient of "Bitter Food Tablets") for the cure, mitigation, and treatment of cancer in man (R 173, Att., *United States* v. *Spectro Foods*, Civ. No. 76–101 (D.N.J., Jan. 28, 1976) Findings 16 through 23).

As noted above, some claims are limited to palliation. (See, e.g., R 216 at 348; R 318 at 175; Tr. at 238.) Recently, Laetrile has been touted as a "control" for cancer. Proponents of Laetrile making this claim assert that no "cure" for cancer exists (see Tr. at 303). Control for Cancer is also the title of a paperback book on Laetrile (R 318). It is not entirely clear

from the record whether "control" means palliation. Laetrile therapy is said to be responsible for increased appetite and weight gain and an increased "sense of well-being" among treated cancer patients (R 318 at 158 and 165).

2. Analgesic (Pain Killer)

An information booklet for physicians about amygdalin makes the claim that the product is a nontoxic analgesic that is highly effective in relieving the pain of terminal cancer (R 183, Att. 10b). The booklet claims that the oral route is the most convenient route of administration for both patient and physician.

NOTE.—The Commissioner points out that both proponents and opponents have warned against oral use of amygdalin or Laetrile.

See R 318 at 167: "* * * it (Laetrile) should never be given by mouth because the HCl (of the stomach) is capable of hydrolyzing the Laetrile"; see also R 318 at 158. Compare R 173, Att., Interview with Robert C. Eyerly, American Cancer Society: "Taken orally, it (Amygdalin) is decomposed in the intestinal tract by *beta*-glucosidase into highly lethal hydrogen cyanide." "Orally it (Laetrile) is extremely toxic due to the release of hydrogen cyanide on contact with the hydrochloric acid of the gastric juice (R 318 at 205).

A label for "The Original Laetrile" claims that the product "relieves pain due to malignancy" (R 183, Att. 9). For another claim that Laetrile reduces cancer-connected pain, see Tr. at 44. It has also been asserted that the hydrogen cyanide and benzaldehyde liberated by hydrolysis of Laetrile are potent analgesics (R 318 at 164).

3. Prevention of Cancer

With the advent of their theory that cancer is a deficiency disease and that that deficiency can be overcome by their product, either characterized as a provitamin for vitamin B-12 (R 201, Ex. C, No. IV), or as new vitamin B-17 (see R 183, Att. 10c), proponents of Laetrile have promoted it as a preventative for cancer (see the above references and R 198, Ex. 2 (transcript of the film World Without Cancer); cf. Tr. at 465). (See also R 173, Att., *United States* v. *Spectro Foods*, supra, Findings 16 through 23.) While proving that Laetrile (or amygdalin) did not prevent cancer would be extremely difficult, the record does contain evidence that at least one person taking it as a preventative did contract cancer (Tr. at 120).

4. Facilitation of Other Cancer Therapy

While, as noted above, some labeling recommends against use of other cancer therapies with Laetrile, it has been stated that "* * * if you combine toxic chemotherapy with Laetrile, you can give very high doses of toxic chemotherapy with no side effects, physical and no effects on the blood. That is, you don't get neucophenia (leukopenia?) and you don't get chromosttophenia (chromocytompenia?)" (Tr. at 480).

5. Hemoglobin Index

One set of labeling for "Laetrile (Amygdalin)," which appears at two points in the record, recommends the product "for raising hemoglobin index and red count * * *" (R 183, Att. 9; R 201, Ex. C. No. I).

6. Reduction of Odor Associated with Malignancy

It is also claimed that topical application of Laetrile relieves fetor (odor) resulting from the secondary infection of ulcerated carcinoma and that parenteral administration takes care of fetor associated with internal cancers. This action is ascribed to the "antiseptic" properties of HCN and benzaldehyde, which is converted by the cells to benzoic acid (R 318 at 158 and 165).

7. Sickle Cell Anemia

It is theorized that nitriloside (Laetrile) might be of value in the treatment of sickle cell anemia because of the release of cyanide and the subsequent formation of thiocyanates (R 217, article by R. G. Houston). (See also Tr. at 465.) This claim is reportedly refuted by experts in sickle cell hemoglobin (R 416 at 23).

8. Parasitic Diseases

The Houston article also references a report by Navarro and others of the clinical control of schistosomiasis (a snail-borne infection) with nitriloside (Laetrile) (R 217, Houston article at 58). The possibility of using Laetrile to treat parasitic diseases such as schistosomiasis or malaria is discussed in the book Control for Cancer but there are no reports of actual use in the book (R 318 at 111-12).

9. Regulating Intestinal Flora

It has also been suggested that amygdalin has some utility in regulating intestinal flora (Tr. at 476).

10. Hypotensive Effect

It has also been claimed that use of Laetrile causes a hypotensive effect (i.e., it reduces blood pressure), at least in cancer patients (R 318 at 165; cf. Tr. at 465).

In addition to these claims by Laetrile proponents (developers, distributors, and promoters), numerous comments from interested citizens contained references to or claims for its therapeutic effects as a cancer cure or as a preventative. There are also references to relief, attributed to Laetrile, from other ailments unrelated to cancer, e.g., arthritis (R 391).

D. THEORIES OF LAETRILE'S ACTION

A thorough understanding of the manner in which a compound achieves its therapeutic or beneficial effects is highly desirable. A cancer drug which had been shown to be safe and effective would not, however, be denied marketing approval simply because its action could not be explained. Experience has shown that a good theory to explain or predict the action of a chemical in the body does not assure success; neither does a weak theory, or even what turns out to be a totally incorrect theory, mean certain failure.

Some cancer patients may be turning to Laetrile in the mistaken belief that its use is supported by a respectable —even if not widely accepted—scientific theory. (Unproven remedies throughout the years have benefited from the use of the type of "scientific" theories associated with Laetrile (see, generally, R 413).) The Commissioner finds from the record that the theories advanced for Laetrile's supposed action are based on false or questionable assumptions. An understanding of these theories, furthermore, points up important differences between the "Laetrile" whose use is "justified" by the theories of Krebs, Jr., and the amygdalin-containing products actually being used.

Since a large part of the Laetrile theory of action deals with enzymes, the Commissioner believes that a few brief introductory comments about enzymes would be useful. Enzymes are protein molecules manufactured in the cells of the body which help the cells perform chemical reactions involving other compounds. As an example, trypsin, a common enzyme, aids in the metabolism of proteins in food by breaking these large molecules into smaller, easier-to-handle pieces. Enzymes generally are very specific in the types of chemicals they will attack. Frequently, the name of an enzyme is derived from the compounds that enzyme will break down. The ending "-ase" is often used to indicate an enzyme.

The chemical "*beta*-glucosidase" appears frequently in the Laetrile record. The name of this chemical indicates that it is an enzyme (-ase) and, furthermore, the name indicates that it attacks glucose-containing compounds (glucosides) from which it will liberate glucose molecules. As an example, *beta*-glucosidase liberates two molecules of glucose from amygdalin. If the chemical compound does not contain glucose molecules, *beta*-glucosidase will not attack it. In a similar vein, *beta*-glucuronidase will attack chemical compounds that contain glucuronic acid. (These chemical compounds are called "glucuronides" or "glucuronosides" or "glucuronic acid derivatives.")

The original theory of Ernst T. Krebs, Jr., for Laetrile's action involved two enzymes, rhodanese and *beta*-glucosidase (R 318 at 72). Krebs claimed that normal cells produced these two enzymes, while cancer cells were deficient in rhodanese. In cancerous areas, the theory continues, the *beta*-glucosidase accumulates in great quantities (R 318 at 72).

According to the theory, when Laetrile comes into contact with the cancerous areas it is hydrolyzed by the enzyme *beta*-glucosidase to liberate cyanide and benzaldehyde. In normal cells, the enzyme rhodanese converts the liberated cyanide to the less toxic thiocyanate. Cancer cells, lacking rhodanese, are said to be killed by the liberated cyanide

when it reacts with cellular components. Rhodanese from normal cells cannot protect cancer cells because, it is claimed, cancer cells produce chorionic gonadotropic hormone that effectively blocks the action of rhodanese (R 318 at 153). In later versions of the theory, the benzaldehyde is also considered to be responsible for killing the cancer cells, either alone or in concert with the cyanide. According to this theory, benzaldehyde is normally converted by a cell to benzoic acid by oxidation. Cancer cells are said to oxidize the benezaldehyde at a slower rate than normal cells, making it toxic to cancer cells and nontoxic to normal cells. (See Krebs, Jr., "The Nitrilosides (Vitamin B–17)—Their Nature, Occurrence and Metabolic Significance (Antineoplastic Vitamin B–17)" (R 183, Att. 10c at 80).)[3]

In fact, it has been reported that only traces of *beta*-glucosidases have been found in animal tissues and even less in experimental tumors than in such organs as liver and spleen (R 173, Att., "Vitamin Fraud" at 345). Apparently for this reason, Krebs, Jr., at one time modified his theory. In the modified version it is *beta*-glucuronidase rather than *beta*-glucosidase which is abundant in cancerous areas. This change is reflected in a 1955 pamphlet co-authored by Dr. Krebs, Sr., and Dr. Arthur T. Harris, in which it is stated: "As soon as the Laetrile *beta*-glucuronidase, which bathed the cancer cell, because of its affinity for sugar split the glucoside (or sugar radical) from the Laetrile molecule" (R 183, Att. 7 at 24). (See also R 318 at 151–53.)

The change in theory is important. *beta*-Glucuronidase hydrodyzes (breaks down) *beta*-glucuronosides (or "*beta*-glucuronic acids" or "*beta*-glucuronides") but does not hydrolyze *beta*-glucosides (R 318, Att. 16 at 24). Thus, *beta*-glucuronidase will hydrolyze "Laetrile" of the formulation devised by Krebs, Jr. (i.e., laevo-mandelonitrile-*beta*-glucuronoside), but it will not hydrolyze amygdalin (D-mandelonitrile-*beta*- D-glucosido-6-*beta*-D- glucoside) or other "nitrolosides" found in nature. What this means is that amygdalin, which has been sold as "Laetrile," would not be hydrolyzed by the body to liberate cyanide (R 183, Att. 16 at 41).

Recognition of this fact apparently led Krebs, Jr., to formulate his version of Laetrile in the first place. He is reported to have stated in a manuscript that "the natural laetriles have been abandoned for the more specific synthetic laetrile tailored as specific glucuronsidic substrates for the tumor *beta*-glucuronidase" (R 183, Att. 16 at 14).

The specificity of *beta*-glucuronidase for glucuronides (or glucuronosides) and its lack of activity against glucsides (such as amygdalin) is rigorously addressed in the record:

> Numerous glucuronides are hydrolyzed by beta-glucronidase. * * * Mentyl-alpha-D-glucuronide and alpha-and beta-methyl-D-glucosides are not split by the enzyme.
>
> Further checking of this important point is consistent with the idea that the enzyme in question (beta-glucuronidase) not hydrolyze the beta-glucosides, which are the only Laetriles actually utilized by the Krebs' for human treatment (R 183, Att. 16 at 24).

(It should be remembered that the Cancer Commission of the California Medical Association had determined that the material labeled "Laetrile" was in fact amygdalin—a glucoside and not a glucuronoside (R 183, Att. 15 at 326).)

> The conclusion seems justified that the presence of the terminal carboxyl group on position 6 appears to be the important factor in determining a specificity which is markedly different from that of B. Glucosidase * * * (R 183, Att. 16 at 25).

(The Commissioner points out that amygdalin has two glucose molecules but does not have a carboxyl group. Laetrile, as reportedly prepared, described, and named by Ernst T. Krebs, Jr., in the late 1940's or early 1950's (R 318 at 73) does have a carboxyl group on position 6 (the glucuronic acid portion of the molecule).)

Dr. Krebs, Sr., in his 1955 pamphlet on Laetrile appears to recognize that "animal *beta*-glucuronidase" and *beta*-glucosidase are different substances. (He characterizes the latter as a "prepared enzyme.") He does claim that the two enzymes react with Laetrile in the same manner (R 183, Att. 7 at 24).

There is some indication that Ernst Krebs, Jr., in later years abandoned his attempt to develop a Laetrile that could be broken down by *beta*-glucuronidase and began treating *beta*-glucuronidase and *beta*-glucosidase as equivalent. In a 1962 letter, Krebs, Jr., seems to refer to the former as an example of the latter: "beta glucosidases (e.g., beta glucuronidase)" (R 183, Att. 16, App. 12 at 2) and seeks, in describing an experiment with water fleas he had designed, to extrapolate results obtained with *beta*-glucosidase to results with *beta*-glucuronidase he feels is found in malignant lesions (id. at 4). (See also Krebs' 1970 article "The Nitrilosides (Vitamin B–17)—Their Nature, Occurrence and Metabolic Significance (Antineoplastic Vitamin B–17)" in which he again equates *beta*-glucosidase with *beta*-glucuronidase (R 183, Att. 10c at 82).)

Three other problems with this theory are quickly identifiable: (1) there is evidence that *beta*-glucuronidase is not particularly abundant in malignant tissues. The record shows that "* * * *beta*-glucuronidase is found in all tissues of the animal body and in particularly high concentrations in spleen, liver, and endocrine organs, as well as in plasma and in tumors arising from estrogen-influenced tissues. Per gram of tissue, the spleen and liver have a higher concentration of *beta*-glucuronidase than do most tumors," (R 183, Att. 16 at 15 and App. 14). It is further stated, "Such a statement as '* * * the malignant cell * * * is virtually an island surrounded by a sea of *beta*-glucuronidase' is sheer nonsense" (R 183, Att. 16 at 15 and App. 14).

(2) There is no evidence that cancer cells are deficient in the enzyme rhodanese. In reviewing the record, the Commissioner has not found any support for the bald assertion by the Krebs and other Laetrile proponents that cancer cells are deficient in the production of a hydrogen cyanide-inactivating enzyme called rhodanese. If there is any scientific support for that assertion, it is indeed strange that it has never been cited by the Krebs' or otherwise brought to the attention of the scientific community. The record shows, in fact, that: "There is no evidence of pronounced differential between the rhodanese content of comparable normal and cancerous tissue" (R 378, Att. 9 at 346).

(3) The complete breakdown of Laetrile into cyanide may require an enzyme not found in animal tissues. Hydrolysis of Laetrile by *beta*-glucuronidase (and hydrolysis of amygdalin by *beta*-glucosidase) only represents the first step in breaking down the molecules to release hydrogen cyanide and benzaldehyde (which are supposed to kill the cancer cell). The first reaction in each case would yield mandelonitrile plus (for Laetrile) glucuronic acid or (for amygdalin) glucose. Mandelonitrile must then be hydrolyzed or broken down to yield hydrogen cyanide and benzaldehyde (R 416 at ¶ 8).

Enzymes present in apricot kernels (specifically oxynitrilase) will hydrolyze mandelonitrile to cyanide and benzaldehyde, but this enzyme is not reported to exist in animal tissues (R 399 at ¶ 7B). Nor does the record show that any other enzyme capable of breaking down the mandelonitrile exists in animal tissues (or in malignant lesions). Thus, if Laetrile were injected into the blood stream and did go to the malignant lesion, even if it were broken down into mandelonitrile and gulcuonic acid, it might never be further broken down to yield hydrogen cyanide and the supposed action of that substance in killing the cancer cell would never take place.

At one time, Ernst T. Krebs, Jr., apparently attempted to deal with some of these problems by separating out the elements of the apricot extract his father had prepared. The fact that both *beta*-glucosidase and oxynitrilase are present in apricot pits and thus in the extract provides the potential for the whole breakdown process to occur in the apricot extract itself at the time when it is prepared. Krebs, Jr., sought to prevent this from happening (and perhaps sought to reduce toxicity) by separating amygdalin from "emulsin" by purifying the apricot extract. Emulsin contains, among

[3] In his 1933 patent application for Sarcarcinase, Dr. Ernst T. Krebs, Sr., discussed his own theory of cancer, apparently now abandoned by Laetrile proponents. He perceived a malignant protein ("* * * a so-called abnormal glucosido-protein * * *") in cancer cells and explained why his enzyme extract, prepared from apricot kernels, should be effective against those cells (R 424). He believed that the enzyme would break up the abnormal gluco-protein and thus be an effective treatment against cancer (R 318 at 40–41). While it is claimed that some positive effects were observed in cancers in mice, the extract proved to be toxic and Dr. Krebs, Sr., discontinued working on the extract (id. at 42).

other things, *beta*-glucosidase and *beta*-oxynitrilase (R 173, Att., "Vitamin Fraud" at 345).

Ernst T. Krebs, Jr., reportedly separated amygdalin from emulsin in 1952 and "* * * advised their administration separately in order to avoid the premature trigger-off of HCN (hydrogen cyanide) from the chemical breakdown in the somatic (or normal) tissue * * *" (R 183, Att. 7 at 23). It is further stated that by injecting the cyanogenetic glucoside (amygdalin) followed 15 minutes later by the enzyme *beta*-glucosidase a "high degree of safety" as well as cancerolytic effect was obtained (id. at 23–24).

If the *beta*-glucosidase preparation preparation reached the same area of the body that the amygdalin had reached, its presence would lead to the breakdown of amygdalin to release mandelonitrile (see R 416 at ¶ 18; R 183, Att. 7 at 31). While Ernst T. Krebs, Jr., apparently recommended that the second injection be of emulsin (R 183, Att. 7 at 23), Dr. Krebs, Sr., states that his second injection would consist only of the enzyme *beta*-glucosidase (id. at 24). If the second injection did contain emulsin, the presence of the oxynitrilase in that complex might in fact lead, assuming the emulsin caught up with the amygdalin in the body, to breakdown of the mandelonitrile to release hydrogen cyanide (and benzaldehyde). However, there is little reason to believe that this release of cyanide would occur only in or near tumor cells. (In the same article in which Ernst T. Krebs, Sr., explained the process of injecting the *beta*-glucosidase, he stated his understanding that it was the *beta*-glucuronidase "which bathed the cancer cell" that acted to break down the amygdalin (id. at 25).) It should be noted that, since the time of the 1955 pamphlet, no evidence has appeared, at least in this record, that two injections, one containing *beta*-glucosidase, are being used in Laetrile therapy.

In light of the above, one must be concerned that products are being used that contain not only amygdalin but emulsin. As the Krebs themselves recognized, unless emulsin is separated from amygdalin (both of which exist in the apricot extract), there may occur the premature trigger-off of HCN (hydrogen cyanide) from the chemical breakdown in the somatic (or normal) tissue (R 183, Att. 7 at 23). It is this type of cyanide poisoning which has occurred from ingestion of Laetrile and from eating apricot kernels. (See R 378, California Morbidity, Nov. 14, 1975, No. 45.)

It is thus clear that the theory propounded by the promoters of Laetrile is based on faulty and unproven assumptions. The invention of Laetrile as described by Krebs, Jr., and his suggestion that an injection of amygdalin be followed by an injection of emulsin were two different ways to deal with the fact that enzyme *beta*-glucosidase does not exist in human tissues. What is perhaps most important about the proffered theoretical justification for Laetrile's action is that, even if they were accepted, they would not justify the administration of amygdalin alone.

II. The "New Drug" Issue

The Commissioner will now address the first of the two issues remanded to the agency: Whether Laetrile is a "new drug" within the meaning of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 301 et seq. (hereinafter the act). Based upon a careful review of the administrative record, as detailed below, the Commissioner finds that Laetrile is not generally recognized by qualified experts as a safe and effective cancer drug. Accordingly, the Commissioner concludes as a matter of law that Laetrile is a new drug and thus subject to the premarket approval requirements of the act.

The term "new drug" is defined by section 201(p)(1) of the act (21 U.S.C. 321 (p)(1)) as follows:

> Any drug * * * the composition of which is such that such drug is not generally recognized, among experts qualified by scientific training and experience to evaluate the safety and effectiveness of drugs, as safe and effective for use under the conditions prescribed, recommended, or suggested in the labeling thereof * * *.

Although the act defines "new drug", it does not contain a definition of "generally recognized as safe and effective."

In 1973, the Supreme Court, in a series of four cases (*Weinberger* v. *Hynson, Westcott & Dunning, Inc.*, 412 U.S. 609 (1973); *Ciba Corp.* v. *Weinberger*, 412 U.S. 640 (1973); *Weinberger* v. *Bentex Pharmaceuticals, Inc.*, 412 U.S. 645 (1973); *USV Pharmaceutical Corp.* v. *Weinberger*, 412 U.S. 655 (1973)) involving the procedures adopted and utilized by FDA to regulate new drugs pursuant to the Drug Amendments of 1962 (76 Stat. 780), established the legal principles that are applicable and controlling here. In Hynson, the Court discussed "general recognition" as it pertains to the effectiveness of a drug as follows:

> The thrust of § 201(p) is both qualitative and quantitative. The Act, however, nowhere defines what constitutes "general recognition" among experts. * * * We agree with FDA, however, that the statutory scheme and overriding purpose of the 1962 amendments compel the conclusion that the hurdle of "general recognition" of effectiveness requires at least "substantial evidence" of effectiveness for approval of an NDA. In the absence of any evidence of adequate and well-controlled investigation supporting the efficacy of (a drug), a fortiori (that drug) would be a "new drug" subject to the provisions of the Act. 412 U.S. at 629–30.
>
> * * * * *
>
> We accordingly have concluded that a drug can be "generally recognized" by experts as effective for intended use within the meaning of the Act only when that expert consensus is founded upon "substantial evidence" as defined in § 505(d). 412 U.S. at 632.

The term "substantial evidence" is defined in the last sentence of section 505 (d), 21 U.S.C. 355(d), as:

> evidence consisting of adequate and well-controlled investigations, including clinical investigations, by experts qualified by scientific training and experience to evaluate the effectiveness of the drug involved, on the basis of which it could fairly and responsibly be concluded by such experts that the drug will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling or proposed labeling thereof.

In Bentex, based upon its discussion of the term "general recognition" in Hynson, the Court concluded:

> Whether a particular drug is a "new drug" depends in part on the expert knowledge and experience of scientists based on controlled clinical experimentation and backed by substantial support in scientific literature. 412 U.S. at 652.

It accordingly held that "the reach of scientific inquiry under both section 505 (d) and under section 201(p) is precisely the same" (id.).[3]

The requirements that a drug have not only controlled clinical investigations but also publication of the studies concerning it in the scientific literature are designed to assure that the community of qualified experts in general is aware of the data concerning the drug. Thus, one could not obtain general recognition just by doing the required studies without publishing them in the scientific literature, making them available to other scientists. (Studies submitted to scientific publications must undergo peer review before they are published. A study published in a scientific journal is thus more likely to form a basis for expert recognition than is one published by the lay press.) A practical effect of the statutory system, as the Supreme Court acknowledged in Hynson, supra, is that drugs will have accumulated for themselves sufficient scientific evidence to justify approval of an NDA "long before they are in a position to drop out of active regulation by ceasing to be a 'new drug'" (412 U.S. at 631).

Under the Supreme Court's authoritative interpretation of the act, therefore, general recognition of the safety and effectiveness of Laetrile depends upon two criteria: (1) Controlled clinical investigations conducted by qualified experts establishing the safety and effectiveness of the drug and published in the scientific literature, and (2) expert consensus, based upon that evidence, that the drug is safe and effective. Both requirements must be met in order for Laetrile to escape the need for premarket approval under the act; however, a finding of a failure to meet either set of requirements is sufficient to classify the drug as a new drug.

With respect to the first criterion, the safety of Laetrile must be established by adequate tests by all methods reasonably

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[3] Section 505(d) of the act (21 U.S.C. 355 (d) sets forth the standards applicable to obtain marketing approval of a new drug. With respect to reports of investigations which are required to be submitted concerning the safety of a drug, the act provides that such reports must include "adequate tests by all methods reasonably applicable to show whether or not such drug is safe for use under the conditions prescribed, recommended, or suggested in the proposed labeling thereof".

applicable (see 21 U.S.C. 355(d); 21 CFR 314.111(a)(1)). In addition, the effectiveness of Laetrile must be established by "substantial evidence," which the statute (21 U.S.C. 355(d)) defines as evidence consisting of adequate and well-controlled clinical investigations. (Clinical investigations are studies involving human beings as test subjects.) The requirements for an adequate and well-controlled clinical investigation are set forth in 21 CFR 314.111(a)(5) (see discussion below). Both types of testing must be available to the community of experts in the evaluation of drug safety and effectiveness by means of publication in the scientific literature.

For satisfaction of the second criterion, a showing must be made of recognition among the qualified experts which is "general." It has been held that a genuine difference of opinion among experts on the question of general recognition is sufficient to show that such recognition of a drug's safety does not exist (see *United States* v. *An Article of Drug, Etc.*, 294 F. Supp. 1307, 1311 (N.D. Ga. 1968) aff'd 415 F. 2d 390 (5th Cir. 1969); *United States* v. *354 Bulk Cartons, Etc.*, 178 F. Supp. 847, 853 (D.N.J. 1959); *Merritt Corp.* v. *Folsom*, 165 F. Supp. 418, 421 (D.D.C. 1958)). This interpretation of "general recognition" has been criticized as requiring "unanimous" recognition (see *United States* v. *7 Cartons, More or Less, Etc.*, 293 F. Supp. 660, 662–63 (S.D. Ill. 1968) aff'd 424 F. 2d 1364 (7th Cir. 1970). For purposes of completeness, the Commissioner in his opinion will consider "general recognition" to require, as the 7 Cartons Court suggested, recognition "extensively, though not universally; most frequently, but not without exception" (id.).

A. GENERAL RECOGNITION OF EFFECTIVENESS

1. Objective Evidence of Effectiveness

The Courts thus have determined that, as a matter of law, no "general recognition" of a drug's effectiveness can exist absent adequate and well-controlled clinical investigations and substantial support in the scientific literature. There are no clinical investigations of Laetrile's effectiveness, published or otherwise, which are even arguably adequate and well-controlled. (See, e.g., R 185 at ¶ 19; R 186 at ¶12; R 390 at ¶ 19). For this reason, Laetrile cannot escape "new drug" status as "generally recognized" as safe and effective. It is thus a new drug without an approved new drug application whose sale or distribution, where interstate commerce is involved, is illegal.

There is, however, an apparent public lack of understanding of what the required studies consist of and why they are required. The Commissioner will thus include in this opinion a discussion of what adequate and well-controlled studies are and why they are needed. He will then discuss the deficient "evidence" of effectiveness submitted by Laetrile's proponents.

(a). What Are the Required Studies. "(A)dequate and well-controlled clinical investigations," as those terms are used in the act (21 U.S.C. 355(d)) are defined in detail by regulation (21 CFR 314.111(a)(5)(ii)). These regulations, discussed with approval by the Supreme Court in *Weinberger* v. *Hynson, Westcott & Dunning, Inc., supra*, 412 U.S. at 617–19, were upheld in *Upjohn* v. *Finch*, 422 F.2d 944 (6th Cir. 1970) and *Pharmaceutical Manufacturers Ass'n* v. *Richardson*, 318 F. Supp. 301 (D. Del. 1970). Simply stated, such investigations are designed to determine whether an improvement noted after administration of a drug is in response to the drug or whether it is caused by some other factor. To do this, patients as nearly identical in their disease state as possible are divided into groups and treated, insofar as possible, exactly the same in all respects except one: One group receives the test drug; the other receives a placebo (a substance that looks just like the test drug but is not a drug). Since a patient might feel better through knowledge of receiving the test drug, and since the investigator might subconsciously record better results because of the knowledge that he or she were administering the test drug, the experiment is "double-blind": Neither the patient nor the investigator knows until after the experiment which patient is getting the test drug and which the placebo. If, at the end of the investigation, the patients receiving the drug did better than those not receiving it, one can be fairly certain that it was the drug and not some other factor that caused the improvement.

(b) *The Need for Controlled Studies.* In 1962, the Congress of the United States, after extensive hearings,[4] concluded that testimonial evidence of a drug's effectiveness—even including testimonials and illustrative "case histories" by physicians—was simply not reliable. It passed the law requiring that effectiveness be shown by "adequate and well-controlled clinical investigations" which is discussed elsewhere in this opinion.

The Supreme Court examined this issue closely in 1973 and determined that Congress' decision and FDA's enforcement of that decision were supported by the evidence elicited at the congressional hearings:

> (The FDA's) strict and demanding standards, *barring anecdotal evidence indicating that doctors "believe" in the efficacy of a drug*, are amply justified by the legislative history. The hearings underlying the 1962 Act show a marked concern that impressions or beliefs of physicians, no matter how fervently held, are treacherous. (Emphasis added.)

Weinberger v. *Hynson, Westdott & Dunning, Inc., supra*, 412 U.S. at 619. It noted:

> the conclusion of Congress, based upon hearings, that clinical impressions of practicing physicians and poorly controlled experiments do not constitute an adequate basis for establishing efficacy.

(id., 412 U.S. at 630).

Since both the Congress and the Supreme Court have spoken on this question, no further discussion by the Commissioner of the need for adequate and well-controlled studies,[5] rather than reliance on testimonial evidence, to show a drug's effectiveness is legally necessary. However, there is a continued public belief in testimonial or anecdotal evidence, fostered even by the lawyer of one of Laetrile's supporters. (See oral argument of Kenneth Coe, in which he contends that the safety and effectiveness of Laetrile has been shown by "anecdotes of people who have been diagnosd as terminal with cancer, anecdotes of people who have been cured of cancer, anecdotes of people who are walking around today, that are here today—well" (Tr. at 453). For this reason, the Commissioner will discuss the evidence in the record illustrating the need for scientific studies to show a drug's effectivness.

In his affidavit (R 175, Ex. A at ¶ 3), Dr. William Beaver, an expert in drug testing, notes that critics of well-controlled studies "often point out the undisputed fact that great strides have been made in therapy in the past without the benefit of this experimental device, but simply on the basis of the uncontrolled observations of astute clinicians * * *. (However), these critics often fail to mention the thousands of drugs which, on the basis of 'clinical experience,' were once accorded an 'indispensable place' in therapy, and which are now known to be useless." Dr. Beaver states (id. at ¶ 4): "The function of the controlled clinical trial is not the 'discovery' of a new drug or therapy. Discoveries are made in the animal laboratory, by chance observation, or at the bedside by an astute clinician. The function of the formal controlled clinical trial is to separate the relative handful of discoveries which prove to be true advances in therapy from a legion of false leads and unverifiable clinical impressions, and to delineate in a scientific way the extent of and the limitations which attend the effectiveness of drugs." See also affidavit of Bryant L. Jones (R 431 at ¶ 8): "Most medical mistakes of past centuries were a direct result of beliefs that were predicated on conviction rather than evidence. Most medical advances in modern times can be traced directly to the scientists insistence on valid scientific evidence to support use of today's drugs."

Because of the insidious nature of cancer, it is all the more important that the effectiveness of a drug purported to be useful in the treatment of cancer be demonstrated by well-controlled clinical studies and not solely by testimonials or anecdotes. Cancers in humans vary greatly in their behavior, i.e., their rate

[4] See, e.g., Hearings on S. 1552 before the Subcommittee on Antitrust and Monopoly of the Senate Committee on the Judiciary, 87th Cong., 1st Sess., pt. 1, at 195, 282, 411–12. For a detailed discussion of the Congressional decision in 1962 to require adequate testing of drugs' effectiveness, see *Pharmaceutical Manufacturers Ass'n* v. *Richardson, supra*, 318 F. Supp. at 306 et seq.

[5] It should be noted that other types of testing are required to show a drug's safety, some of which must be completed before clinical investigations to show effectiveness can begin. (See 21 U.S.C. 355(d).)

of growth, pattern of spread, effects on the normal organs of the person, and the types of clinical symptoms or signs they produce. There is wide variability in the pattern of spread and the outcome for an individual. The effects of cancer on an individual have an element of randomness, that is, an element of chance. Physicians are therefore simply unable to predict the outcome of any cancer at any stage of development with great accuracy. Patients with terrible and widely spread cancer will occasionally have miraculous or unexpected remissions of the disease. Untrained clinical investigators who administer any remedy to a large enough group of patients with cancer will ultimately observe a miraculous outcome. This apparently miraculous outcome may well mislead the untrained investigator into belief that the remedy was responsible for the result (R 390 at ¶ 14–15).

It has been noted above that, in an adequate and well-controlled study, neither the patient nor the investigator is told that the test drug is being administered because, if they knew, they might report results based merely on high expectations. This problem of assigning improvement to a drug when the improvement was simply a result of high expectations is known as the problem of the "placebo effect." The placebo effect is particularly common in cancer patients. A study of the placebo effect among 288 cancer patients undergoing controlled trials of oral analgesics showed that 112 patients received 50 percent or greater relief from placebo (i.e., non-drug formulations (R 186 at ¶ 13).

In his affidavit (R 185 at ¶ 20f) Dr. Daniel S. Martin states: "Humans are very susceptible, particularly when ill and desperate with hope, to the power of positive suggestion—namely, when given a 'drug' by an authority figure (e.g., a physician) with the firm statement and promise they will now begin to feel better, to have pain relief, to eat better, and to get well, these hopeful patients frequently do just what they have been told to expect." This, Dr. Martin states "is termed the placebo effect." Dr. Martin also explains that "Cancer is a chronic disease which some patients can live with for years before dying of the disease. During this slow death there are periods of 'ups' as well as 'downs,' and it is not surprising to have a Laetrile patient ascribe the 'up' to Laetrile, when it was merely coincidental timing" (id.). Similarly, Dr. Carl M. Leventhal states (R 184 at ¶ 7): "(P)sychogenic responses, popularly known as the placebo effect, are well documented and have been shown to occur from 30 to 70 percent of patients who are treated for pain."

The need for controlled testing as opposed to testimonial or ancedotal evidence of effectiveness is well-recognized by experts in the evluation and use of drugs. As Dr. Bayard H. Morrison states: "The problem is the anecdote doesn't permit you to know what happened yesterday. It doesn't permit you to know what is really going on today and certainly it doesn't give you any insight at all in what will happen to a given patient tomorrow, next week, or next year. To really know what a drug, any treatment, does to a patient you have to be able to evaluate him in the context of a large group whose disease you can follow carefully over a considerable period of time" (Tr. at 150).

(c) *The "Evidence" of Laetrile's Effectiveness.* (i) *Case Reports.*—The proponents of Laetrile (or amygdalin) have not submitted anything to the record that could be characterized as an adequate and well-controlled clinical study of Laetrile. In the regulation which defines adequate and well-controlled clinical investigations, it is clearly stated that: "Isolated case reports, random experience, and reports lacking the details which permit scientific evaluation will not be considered," even as corroborative evidence for adequate and well-controlled studies (21 CFR 314.111(a)(5)(ii)(c)). Yet that kind of report is the only "evidence" of Laetrile's effectiveness which has been submitted.

Because of the possible public belief in this kind of report, the Commissioner will discuss those submitted to this record. In addition, evaluations, submitted to the record, of earlier "case histories" or testimonials relating to use of Laetrile will be discussed.

(*a*) Reports Submitted to This Record

(*1*) Dr. Binzel

Phillip E. Binzel, Jr., M.D., Scientific Advisor to the Committee for Freedom of Choice, and in private practice as a family physician since 1955, appeared at the hearing to make an oral presentation (Tr. at 360–364) and to submit written testimony (Tr. Ex. 13). Dr. Binzel's submission at the hearing (id.) was a report of a study he conducted on more than 200 cancer patients to whom he administered a nutritional program, including Laetrile. Dr. Binzel stated that he had excluded from his report the following patients: "1: Those who were alive but who had been under treatment for less than 4 months. 2: Those who had died within the first 3 months of treatment. These are the patients whose disease was already too far advanced for any form of treatment to be beneficial * * *. 3: Those on whom there is not sufficiently adequate follow-up information to know for certain what their present condition is" (id.).

After the above exclusions, there remained 107 patients in Dr. Binzel's study who had been treated between 4 months and 2½ years and who, according to Dr. Binzel, "are spread pretty equally throughout those time periods" (id.). He reported that 57 patients had primary carcinoma, and 50 patients had proven metastatic carcinoma at the time they started "nutritional therapy" (id.).

Dr. Binzel's exclusion from his study of patients for whom adequate followup information could not be obtained can be expected to exclude those patients who were dissatisfied with Laetrile treatment and left his care. That exclusion, together with the exclusion from consideration of patients who died within 3 months of the first treatnient, would be expected to bias the study in favor of effectiveness.

Dr. Binzel states that he "did not attempt to differentiate between those patients who have had surgery and/or cobalt and/or chemotherapy and those who had none of these 'conventional' treatment" (Tr. Ex. 13, "Nutrition and the Cancer Patient" at 2). This, as Dr. Binzel notes, presents a "very valid question." Without knowing whether the patients in whom he saw improvement had had other, recognized effective, treatments, his conclusions cannot be evaluated (cf. 21 CFR 314.11(a)(5)(ii)(*a*)(*2*)(*iii*)).

Dr. Binzel's three-page "study," which was submitted without supporting documentation, simply lacks the details necessary to permit scientific evaluation and would not, for that reason, be considered by experts in drug evaluation even as corroborative of adequate and well-controlled studies if such studies existed (21 CFR 314.11(a)(5)(ii)(c)).

(*2*) Dr. Richardson

Edward Griffin, at the oral argument in this proceeding, submitted page proofs of a book entitled Laetrile Case Histories, The Richardson Cancer Clinic Experience by John A. Richardson and Patricia Griffin (Tr. Ex. 1.) Griffin stated: "Previously the opponents of Laetrile have said that there is no evidence that Laetrile works. There has been evidence of course, known to those of us who have been close to the subject. But admittedly, there has not been a great deal of medically documented evidence open to the public. And I believe that with the publication of this book at least we will be able to put an end once and for all to this claim of there not being any evidence" (Tr. at 15–16). Dr. Richardson does not claim to have conducted a research program and his case histories in no way even approximate an adequate and well-controlled clinical investigation.

Dr. Richardson's license for the practice of medicine has been revoked by the State of California (R 183 at 13) because he was found to have discouraged patients from seeking conventional therapy and to have practiced a type of treatment of cancer patients characterized as "an extreme departure from the standard practice of medicine" (R 179, Ex. B at 5). The California State Board of Medical Quality Assurance stated that these two findings established "gross negligence" on the part of Dr. Richardson (id. at 10). Dr. Richardson did not choose to appear in the administrative proceeding in which his license was ordered revoked (id. at 1–2).

A number of obvious questions are raised by Dr. Richardson's book: (1) There is no indication in this book—nor is there in the other reports in this section—of the chemical composition of the "Laetrile" which was used. Since there are variations in the composition of the drugs called by the name "Laetrile," this fact leaves the reader with no certainty

as to what substance is claimed to be effective.

(2) The technique for selecting patients for reporting is hardly scientific. The book states: "Out of (a group of approximately 4,000 cancer patients), we selected a cross-section of about 500 for our study. We were able to establish contact and a working relationship with only about 250 of these. The cases with the weakest medical histories were discarded, as were those which were overly repetitious. The remainder (62) are contained in the study; but by no means do they represent our entire files" (Tr. Ex. 1 at 118–19).

It is absolutely incredible that anyone would expect to show the effectiveness of a drug by describing 62 out of over 4,000 patients with a selection process of the type Richardson describes. The Commissioner has no means of knowing what happened to the other 3,938 or more patients. No details are given to show how the 500 patients representing a "cross-section" of the 4,000 were chosen. The failure "to establish contact and a working relationship" with half of the patients that were chosen illustrates a serious lack of followup. Logic suggests that those patients who were not benefited by Laetrile would be less likely to be willing to develop a "working relationship" with Dr. Richardson's office. Clearly patients who had died would not be available for such a relationship. The discarding of weak medical histories has never been an accepted practice in the study of any drug. What constitutes the weakness of a medical history is not explained.

(3) There is some question whether what Richardson claimed to be positive effects were in fact positive. The authors admit that one of the weaknesses of the study is the shortage of cases involving 5-year survival or longer (Tr. Ex. 1 at 120).

Indeed, the case histories section of the book (Tr. Ex. 1 at 126–276) list for each of the 13 different groupings of cancer the expected death rate for those cancers in terms of percentage survival over a set number of years, usually 5 years. Many of the patients simply had not survived long enough at the time of the book's writing to constitute successes.

For example, six cases of female breast cancer are reported (Tr. Ex. 1 at 126–137). According to Dr. Richardson, these women have received metabolic therapy, including Laetrile, for periods varying from 13 to 32 months with an average of less than 21 months. Since Dr. Richardson states (Tr. Ex. 1 at 126): "Two out of every 3 patients with cancer of the breast who do not use Leatrile but choose instead to submit to orthodox therapies will be dead within five years," the fact that he has six patients who have survived 13 to 32 months with a mean of less than 21 months does not provide any evidence of the effectiveness of Dr. Richardson's treatment.

Dr. Richardson recognizes that some of the patients whom he has selected may not have had cancer. See, e.g., Tr. Ex. 1 at 148, patient B1381 where Dr. Richardson, in discussing the chest x-rays of a patient, states that the period of May 73 to January 77 represented: "A three-and-one-half-year remission of *probable* cancer of the lung." (Emphasis added). For several other patients, Dr. Richardson does not quote from the pathology report but merely reports that such a report was positive for cancer (see, e.g., patient P131B (Tr. Ex. 1 at 167)).

(4) Dr. Richardson relies in many instances upon what patients have told him about their medical histories, either orally or in writing. Some patient reports upon which he relies are hardly credible. (See, e.g., patient C106MA (Tr. Ex. 1 at 146): "The patient states the local doctors strongly recommended removal of both lungs and the permanent hospitalization of the patient, who then would be forever dependent on machines to do her breathing.")

(5) Some patient reports are so sketchy as to provide no basis for any conclusion. See, e.g., patient B144J (Tr. Ex. 1 at 202–203: There is no information regarding how the diagnosis of cancer was made. There is no indication that Dr. Richardson ever characterized the size of the tumor or whether he relied on the patient's description. There is no indication whether the patient had received any Laetrile since January 1970. There is no indication that there has been any contact with the patient since February 1976.

(6) As noted above, for each of the 13 groups of cancer which Dr. Richardson has used in his book he cites the anticipated fatality rates for patients receiving only orthodox treatment. As discussed elsewhere in this opinion, cancers are very different in their behavior, i.e., their rate of growth, their pattern of spread, their effects on the normal organs of the person and the types of clinical symptoms or signs that they produce (R 390 at ¶ 14). Experts in the testing of cancer drugs stress that the effects of cancer on a person have an element of randomness and that the ability to predict the outcome of any cancer at any stage of development varies (id.). In light of the regularity with which cancer patients' diseases vary from their expected courses, it would have been surprising if Dr. Richardson were unable to report that 62 out of 4,000 (c. 1½ percent) of patients he saw had remissions for periods of up to, but often much shorter than, 5 years.

Thus, the Richardson book is not only not the kind of adequate and well-controlled clinical investigation necessary to show the effectiveness of a drug, it is not even on its face a particularly credible recounting of medical case histories.

(3) Dr. McDonald

Lawrence Patton McDonald, M.D., a urologist, and a member of the United States House of Representatives, submitted a statement in which he reported the following observations after treating almost 200 cancer patients (R 509 at 3):

"(1) Most patients had proven cancer and had had surgery and radiation and/or chemotherapy. Most cases would have been hopeless by routine medical standards.

"(2) Perhaps 30–35% received minimal to no benefit from the program.

"(3) Approximately 40–45% received notable benefits from the program such as improved appetite, improved interest in life, weight gain, lessening or cessation of pain. This category ultimately died but were individually pleased with their improvements.

"(4) About 20% were in the category of marked improvement. In some cases this has been miraculous with these same patients doing very well today."

Dr. McDonald provided no details whatsoever other than those quoted above. Dr. McDonald's report was not, nor does it appear to have been submitted as, an adequate and well-controlled clinical investigation.

(4) Dr. Soto

Although Dr. Mario H. Soto appeared and testified (Tr. at 478–481) at the oral argument and was given an opportunity (Tr. at 481) to submit for the record data from his treatment of cancer patients with Laetrile, no data have been received from him.

(b) Case Reports Evaluated Previously

Much of the evaluation of case reports has been done in California, where Laetrile originated and was, along with a number of other "unproven" remedies, responsible for the 1959 passage of a State law aimed at cancer quackery. In 1952, the Cancer Commission of the California Medical Association collected information on 44 patients treated with Laetrile, all of whom either had active disease or were dead of their disease, with 1 exception. In some instances, the members of the Cancer Commission had the opportunity of seeing the patients thus treated. The conclusions of the Cancer Commission were that, of those alive with disease at the time of the study, no patient had been found with objective evidence of control of cancer under treatment with Laetrile. Nine patients who died from cancer after treatment with Laetrile were autopsied. Histological studies done for the Commission by five different pathologists showed no evidence of any chemotherapeutic effect (R 378, Att. 15 at 320–326; R 183, Att. 16 at 2–19 and App. 2–3).

In June 1962, the Cancer Advisory Council of the State of California Department of Public Health examined a total of 35 case histories of cancer patients treated with Laetrile. The Council unanimously judged these cases inadequate for any critical evaluation of Laetrile. "Many of the cases had received orthodox treatment; objective evidence of benefit was absent or insufficient, most of the documentation (dealt) with subjective improvement; some contained no pathological proof of malignancy; many were 1961 cases without followup; the duration of treatment was frequently unknown because the data reported the period of hospitalization only and often discharge dates were not shown" (R 183, Att. 16 at 30–31).

Thirty-six clinical records translated into English from the French were evaluated by the Cancer Advisory Council in December 1962. The Council reached the following conclusions:

1. The records failed to indicate that the patients treated with Laetrile secured either palliation or regression of their cancerous affliction as a result of the therapy.

2. In several instances, there was absolutely no evidence presented as to the response of the patient to the therapy.

3. In other instances, objective evidence documenting the statement of benefits, was not provided.

4. In one group of 17 of these cases, sufficient followup was absent. The longest period of followup was 14 months, 12 days and 23 days of hospitalization. The next longest was 381 days and the last was 127.

5. Results which were reported as "improved" were without meaning since no criteria, subjective or objective, were provided.

6. The evidence presented lends no credence to the alleged efficacy of Laetrile and Vitamin B_{17} in the treatment, durative or palliative, of advanced cancer (R 183), Att. 16 at 34–35).

In preparing its 1963 report, the Cancer Advisory Council also reviewed about 16 pounds of documentary material delivered by Laetrile proponents. The material contained a total of 63 case histories, 15 of which were submitted by two doctors in the United States (Dr. Ray Evers, Allusia, Ala., and Dr. John R. Morrone, Jersey City, N.J.).

The opinion [of the Cancer Advisory Council] on review of these cases is that they give no credence to the claimed curative effects of Laetrile in human cancer nor in those animal cancers where it had been investigated. The evidence of palliative response, both subjective and objective, is tenuous and poorly documented. Except in the cases in which death intervened and one or two others in which there was questionable diagnosis of cancer, no followup has been recorded, with the result that the final outcome of the cases is not recorded (R 183, Att. 16 at 35–36).

In January 1963, the McNaughton Foundation and the North End Medical Center, both in Montreal, Canada, submitted to the Cancer Advisory Council of the California State Department of Public Health a total of 14 clinical records on patients treated with Laetrile. These were not complete records but were abstracts furnished by various hospitals in Canada to the McNaughton Foundation. The Cancer Advisory Council appointed a committee of three physicians highly qualified and actively engaged in the treatment of cancer to review and evaluate these records. Each physician made an independent evaluation.

The committee reported: "These 14 records provided by the McNaughton Foundation were examined and fail to indicate that the patient treated with Laetrile secured either palliation or regression of their cancerous affliction as a consequence of the therapy. In several instances, there is absolutely no evidence presented as to the response of the patient to the therapy and in other instances objective evidence which documents claims of benefit is not provided. It is concluded from careful review of these records that they are inadequate as reports of therapeutic use of Laetrile, and they do not indicate that therapeutic benefit resulted from treatment with Laetrile, and do not indicate that this agent is of value in the treatment, cure, or palliation of cancer. In only one instance is there a statement by the examining physician indicating that a definite beneficial effect from Laetrile *might* have occurred" (emphasis in original) (R 378, Att. 14 at 26).

In 1971–72, the FDA, together with the National Cancer Institute, investigated and evaluated 12 clinical histories submitted by Dr. Ernesto Contreras of Mexico covering his experience with Laetrile in the treatment of cancer (see R 184, Ex. 3). FDA was able to obtain documentation covering the full course of the disease in 7 of the 12 case reports. All seven patients whose records were reviewed had received treatment other than Laetrile, including surgery, chemotherapy, or radiotherapy, or more than one of these approaches, either before, after, or concurrently with Laetrile therapy (R 184, Ex. 3; R 198 at 9–10).

Most of the alleged improvements stated, in the 7 case reports which could be evaluated, to be associated with Laetrile treatment have been found to be associated with one or more of the following events in the patient's disease (see R 183, Att. 16 at 10–11):

a. *Subjective improvement* was interpreted as being evidence of the agent's affecting the neoplasm, rather than being due to the general effect on the host, whether by metabolic or psychologic reasons.

b. Phases in the *natural history* of malignant neoplasm not infrequently observed in patients who are receiving no treatment whatever were interpreted as being due to the therapy employed (emphasis in original). * * * (For example,) occasional patients with widespread peritoneal carcinomatosis will exhibit regression of their disease following simple exploratory procedures.

c. Patients reported as showing regression of cancer with Laetrile were either receiving concurrent treatment by other methods, or had in their recent past been treated by some (orthodox therapy) and were exhibiting a degree of control of their disease *entirely attributable to the previous treatment* (Emphasis in original). * * *

d. A few of the patients treated did not have proof of the presence of cancer in the form of histological diagnoses, the evidence being more or less inferential, as radiographic observation of lesions in the lung, or a surgeon's diagnosis of a lesion as cancerous on observations of gross pathology at operation, without confirmation with biopsy.

e. Very few of the clinical records to which the Cancer Commission had access contained any sort of satisfactory evidence as to objective, accurate evaluation of the progress of the primary neoplasm or its metastases while under treatment.

(ii) *Animal Testing of Laetrile.*—As indicated elsewhere in this opinion, general recognition of Laetrile's effectiveness among experts in the evaluation of drug effectiveness could only be based upon adequate and well-controlled clinical (i.e., human) investigations. Thus, even if Laetrile had been shown to be effective in animal test systems, and the Commissioner concludes it has not, that fact would not remove Laetrile from the category of "new drug."

Nevertheless, in the interest of providing the public with all the information available in the record concerning this drug, the Commissioner will discuss the animal tests done with amygdalin about which there is controversy. Amygdalin has been extensively tested in animal systems. From the tests done, Dr. Dean Burk, president of the Dean Burk Foundation, Inc., has selected three tests done in the United States as showing a positive effect (R 302). In each case the laboratories which ran the tests found them to be negative. Dr. Burk also cites two foreign reports, one of which was not published (id.). His contentions, and the evidence relating to each in the record, will be discussed point by point and other animal testing done with the drug will be noted.

(a) Tests Claimed to Show a Positive Effect

(1) Sloan-Kettering

Dr. Burk includes the following in his list of animal studies showing a positive effect for amygdalin:

Sloan-Kettering Cancer Center (New York), with CD_2F_1 mice bearing spontaneous mammary carcinomas: Inhibition of formation of lung metastases, inhibition of growth of primary tumors, and greater health and appearance of animal hosts, upon treatment with 1–2 gm crystalline amygdalin/kg body weight/day (Report of K. Sugiura, June 13, 1973) (R 302, Ex. A at 15).

Regarding the studies conducted at Sloan-Kettering, C. Chester Stock, Ph. D., Vice President and Associate Director for Administrative and Academic Affairs, Sloan-Kettering Institute for Cancer Research, stated in his affidavit (R 195) that:

We have tested amygdalin at high doses, 1000 mg/k/day, in over a dozen transplantable tumor systems and one induced tumor system without seeing any action against the tumors. The chemotherapeutic agents effective in clinical cancer have had or would have had their activities detected in one or more of those systems.

In spite of demonstrated utility of transplanted experimental animal tumor systems, some individuals believe that use of spontaneous animal tumors is more appropriate for seeking drugs for use in man. It was considered that this would be true of the advocates of the use of Laetrile who believe it needs to be used for relatively long periods of time.

Consequently, Dr. K. Sugiura in my laboratory looked for the effects of amygdalin on the growth of spontaneous mammary tumors in CD_2F_1 mice and also on metastatic spread to lungs of the hosts. Early observations of Sugiura featured an apparent inhibition of the appearance of metastases in the lungs of mice given daily (except Sunday) doses of 2000 mg/k of amygdalin in his 3 initial experiments. The treated mice showed lung metastases in 20% while 80% of the controls had metastases. The mice had been injected until death or until the primary tumors were over 2.5 cm in diameter. The data from these experiments were leaked to the press unfortunately before they could be checked adequately. Subsequent experiments, in some of which Dr. Sugiura participated, some conducted with Dr. Daniel Martin of the Catho-

lic Medical Center of Brooklyn and Queens and some which were independent by other investigators in our Institute, showed that the initial results were not consistently observable. In some experiments there were more metastatic mice in the treated than in the control mice. In the latest experiment in which Dr. Sugiura read the lungs of the mice without knowing what treatment they had received, there was essentially no difference found between the treated and control groups (R 195 at ¶ 10).

In his affidavit (R 185), Daniel S. Martin, M.D., states that: "My laboratory's tests with Laetrile demonstrated Laetrile to be without effect (on spontaneous tumors in experimental animals). Further, these negative tests on these animal tumors were confirmed by three other investigators at Memorial Sloan-Kettering Cancer Center in New York. One of the latter investigators (Dr. K. Sugiura) reported his initial experiments to demonstrate Laetrile to have anti-cancer activity, but his subsequent results were negative. A degree of variability in results is common in biological research, and the final opinion is based on whatever the majority of the findings are. In this instance, the totality of the data clearly and unequivocally reveals Laetrile to be without anti-cancer activity" (R 185 at ¶ 21 (c-d)).

(2) Southern Research Institute

Dr. Burk's citations continue:

Southern Research Institute (Birmingham, Alabama) for the National Cancer Institute, in a majority of 280 BDF, mice bearing Lewis lung cancers, treated with up to 400 mg crystalline amygdalin per kg body weight, with respect to increased life span (Report, December 3, 1974) (R 302, Ex. A at 15).

The results of two studies conducted by Southern Research Institute for the National Cancer Institute were published in the scientific literature in 1975. One of the studies involved an experiment "in which four transplantable rodent tumors (L1210 lymphoid leukemia, P388 lymphocytic leukemia, B16 melanoma, and Walker 256 carcinosarcoma) were used to investigate the antitumor activity of amygdalin MF * * * alone and in combination with *beta*-glucosidase" (R 184, Ex. 3b at 939). No antitumor activity was observed in any of the four tumor systems tested with amygdalin alone or in combination with *beta*-glucosidase (*id.*; see also R 173, Att., Memorandum, March 12, 1973).

The second study, in which amygdalin MF (i.e., amygdalin provided by the McNaughton Foundation) was evaluated alone or in combination with *beta*-glucosidase against three transplantable rodent tumors (Ridgeway osteogenic sarcoma, Lewis lung carcinoma, and P388 leukemia), showed that amygdalin alone or in combination with *beta*-glucosidase did not demonstrate antitumor activity against any of these three tumor systems (R 184, Ex. 3C at 952-53).

At the oral argument, Bayard H. Morrison, M.D., Assistant Director at the National Cancer Institute stated that the Institute:

has sponsored—other organizations have conducted—tests of Laetrile at various dosage levels in a variety of animal tumor systems, probably exceeding 15 or more, probably closer to 20.

This indeed really is about the most extensive that NCI and other laboratories in the aggregate have tested of essentially a nonactive substance. For in all of these tests which include tumors ranging from carcinomas, sarcomas, lymphomas, any kind of tumor which parallels to a large degree the human type of tumor, the results have been essentially negative. There have been occasional, marginal evidences of activity which have not been reproducible.

So, in balance, Laetrile has failed the test of demonstrating activity in the preclinical animal tumor systems that we know now predict for activity in human cancer.

And I should add that of the 30 or 40 drugs that are now regularly available and known to have effect in certain forms of human cancer, all of these drugs have demonstrated activity, significant activity, in one or more of these animal tumor systems (Tr. at 146A-47).

The proponents of Laetrile question the statistical controls and experimental design employed in the studies conducted by Southern Research Institute (see R 302, Ex. E). They suggest the utilization of methods of statistical analysis developed for use in judging results obtained with physical, rather than biological, systems. One of the research scientists at the National Cancer Institute responsible for the studies conducted by Southern Research Institute points out that "[t]he variation in all biological systems is far greater than that involving physical phenomena" (R 438 at 1). He suggests that it is, for that reason, not possible to use the internal statistical analyses suggested by the proponents of Laetrile (id.).

(3) Scind Laboratories

Dr. Burk's third reference is:

Scind Laboratories, University of San Francisco, 400 rats bearing Walker 256 carcinoma (200 treated with amygdalin, 200 controls), with 80 percent increase in life span at optimum dosages (500 mg amygdalin/kg body weight) (October 10, 1968). *Cf.* FDA-IND application No. 6734, pp. 247-8, 00080-00093 (R 302, Ex. A at 15).

The Scind Laboratory data were submitted to FDA in support of the McNaughton Foundation's IND for amygdalin in 1970. An ad hoc committee of cancer experts evaluated these data during its review of the IND. In its report, the Committee stated: "We are particularly cognizant of the lack of adequate evidence of *in vivo* antineoplastic characteristics. The Scind Laboratory data in the initial submission of IND 6734, April 6, 1970, concerning two experiments with a Walker 256 system are considered unacceptable because of inadequate documentation of status of animals, percentage of tumor take, rate of growth, and accounting for acute deaths[,] and the other substantial lack is a statistical analysis. Scind Laboratory, in a letter dated October 18, 1968, filed with [an] October 31, 1970, amendment, states 'Laetrile, when administered without Beta glucosidase has *little or no effect* upon transplanted rodent tumor systems tested.' (emphasis theirs [i.e., Scind Laboratory's])" (R 184, Ex. 2 at 1).

(4) Pasteur Institute

Dr. Burk's fourth reference is:

Pasteur Institute (Paris), with human cancer strain maintained in mice treated at optimal dosage of 500 mg Amygdalin Marsan/kg body weight/day; increased life span and delayed tumor growth up to 100 percent (Dec. 6, 1971 report by M. Metianu) (R 302, Ex. A at 15).

In a sworn affidavit (R 422), a medical officer in the Bureau of Drugs, who is trained in medicine and experienced in scientific research and who is fluent in both French and German, commented on the cited studies conducted at the Pasteur Institute in Paris and the Institute von Ardenne in Dresden (see discussion below).

The medical officer, through the American Embassy in Paris, learned that the report entitled, "Anti-Tumor Toxicity and Activity" was written on the letterhead of the Institute Pasteur and was an internal report of the Institute that has never been published in any scientific journal. In the affidavit, the medical officer states that the fact that the report "represents preliminary work only and has not been published in any scientific journal since it was prepared six years ago raises my suspicions that the preliminary results obtained could not be reproduced" (R 422 at ¶ 6).

(5) Institut von Ardenne

The fifth reference cited by Dr. Burk is:

Institut von Ardenne (Dresden, Germany), H strain mice bearing Ehrlich ascites carcinoma treated with bitter almond amygdalin ad libitum in addition to the regular chow diet: increased life span and decreased rate of cancer growth, treatment beginning 15 days before cancer inoculation (Arch. Geschwulstforsch 42, 135-7, 1973) (R 302, Ex. A at 15).

After reviewing the article published in the Arch. Geschwulstforsch, the Bureau of Drugs medical officer made the following comments:

The author's terms (in the summary section) "feeding with bitter almonds," "prolongation of survival" (due to feeding with bitter almonds), and "inhibition of tumor growth" are not adequately defined in the subsequent text or by the content of the text and thus are uninterpretable.

The description of the methodology is deficient for a number of reasons. It fails to provide information whether the mice were kept singly or caged in groups. It fails to provide information on the techniques for demonstrating whether and how much of the bitter almonds had been eaten by each experimental mouse. It fails to inform on the origin, quality, and composition of the bitter almonds with respect to the latter alleged role of "amygdaline" and HCN. Due to these failings it is not possible to draw conclusions from any differences of events between experimental and control animals—if such differences could be demonstrated at all. The author also fails to give the age of the mice and the body weight of each individual mouse of each group and at each weighing date. The use of sole mean values in this paper is potentially misleading. (The scientific evaluation of data requires implementation of variabilities of the individual measurements.)

The author makes statements on "tumor growth" which are based on implications, indirect deductions, and on arbitrary assumptions.

The term "tumor growth" is potentially misleading for the Ehrlich ascites cancer which consists of a cancer cell suspension in the peritoneal fluid. The study fails to use precise methods of measuring the number of cancer cells present in each mouse.

* * * * *

In my opinion, this article fails to provide any evidence that bitter almonds are effective in inhibiting the growth of tumors (R 422 at ¶ 7).

(b) Other Tests

As noted above, the two tests done by the Southern Research Institute and the Sloan-Kettering studies now completed have demonstrated conclusively, in the view of most experts, that amygdalin, either alone or in conjunction with the enzyme *beta*-glucosidase, exhibits no antitumor effect. These results are in accord with the negative findings of three earlier animal studies commissioned by the National Cancer Institute. Those tests are summarized in the record as follows:

1957: Amygdalin was tested with three transplanted mouse tumor systems used at the time by the NCI Cancer Chemotherapy National Service Center (CCNSC) to screen compounds for anti-cancer activity. Amygdalin produced no significant inhibition or growth of the carcinoma 775 or sarcoma 180 tumors, and produced no significant increase in the lifespan of mice with leukemia L1210 tumors.

1960: Material from a different source was tested against the same three mouse tumors. The compound failed to show antitumor activity.

1969: Amygdalin was tested alone and in combination with beta-glucosidase against leukemia L1210 in mice. Amygdalin was inactive against the tumor, alone and in combination with the enzyme. Toxic side effects increased when the drug and enzyme were given together (R 173, Att., "NCI Testing of Laetrile (Amygdalin)"):

A study, entitled "Failure of Amygdalin to Arrest B16 Melanoma and BW5147 AKR Leukemia," Hill et al., Cancer Research, 36:2102–07, June 1976, appears as Exhibit 3 to R 170. The December 9, 1976 report of yet another animal test of amygdalin is Exhibit 3D to R 184. The drug was found not to be active against human breast and colon tumor xenografts in athymic mice.

The failure of Laetrile (or amygdalin) to show any effect in animal systems is important because those systems have shown an ability to predict effectiveness in humans. See the statement of Dr. James F. Holland (R 396): "No drug has been proved active in human cancer which does not show anti-cancer activity in experimental animals. Human cells are not so different from other mammalian cancer cells that an active drug does not act on at least one other mammalian system * * *. Laetrile is completely inactive against animal cancers. It has been repeatedly tested in reputable laboratories against a broad spectrum of rodent neoplasms. Inasmuch as no drug has been found active against cancer which isn't active in the screening tumors, there is no basis to consider Laetrile a candidate chemotherapeutic compound against human cancer * * *. No scientifically accepted data whatever have been presented indicating evidence of benefit from Laetrile."

See also the statement of Dr. Bayard H. Morrison, Assistant Director of the National Cancer Institute: [O]f the 30 or 40 drugs that are (now) regularly available and known to have effect in certain forms of human cancer all of these drugs have demonstrated activity, significant activity, in one or more of these animal tumor systems." (Tr. at 147).

One comment theorized that the reason why animal tests do not show Laetrile to have any anticancer activity is because the laboratory animals are bred to have defective immune rejection systems (R 235 at 7). This theory assumes that Laetrile is hydrolyzed by an enzyme that is in greater concentration at the cancer site than at other locations in the body. The comment explains that: "If, because of a defective immune system, laboratory animals produce no hydrolyzing enzyme at the cancer, (sic) site, that fact alone would explain why Laetrile doesn't work on laboratory animals. It can't work on any organism that has a defective immune system." (See R 235 at 7–8). No evidence has been submitted to support the comment's theory.

The Commissioner concludes that the animal studies conducted to date fail to show that Laetrile (or amygdalin) has anticancer activity in laboratory animals. As has been noted previously, even if these tests showed that the drug had anticancer activity in laboratory animals, such findings would not be relevant to the question whether it is generally recognized by qualified experts as a safe and effective anticancer drug, since general recognition must be based upon testing in human beings. The lack of positive effect in test animals is of some importance, since a clear showing of success in animals might suggest the propriety of clinical testing in humans. The failure of amygdalin to produce an anticancer effect in animals is added reason for skepticism concerning the claims that it is effective in humans.

2. Testimony of Experts

(a) Experts Opposed to Laetrile. The evidence that experts in the evaluation of drug safety and effectiveness do not "generally" recognize Laetrile as effective for any therapeutic use is overwhelming. (It should be remembered that for recognition to be general it must be shown that most qualified experts recognize the drug's safety and effectiveness. The fact that a few persons claiming expertise believe the drug safe and effective is thus not sufficient.) The record contains statements that Laetrile is not considered as an effective cancer therapy from several organizations with members who are experts in cancer drug evaluation—e.g., the American Cancer Society, the American Medical Association, the Committee on Neoplastic Diseases of the American Academy of Pediatrics—and from a large number of the Nation's most eminent and well-qualified experts in the area of cancer drug evaluation. It is difficult to conceive of a clearer showing of a lack of "general" recognition of a drug's effectiveness than the expression of the views of these many experts.

The Commissioner will describe the qualifications of some of these experts and either quote from or summarize the views which they have expressed. Each of the submissions referred to contains a great deal of information concerning Laetrile and the consensus of expert opinion about it, and the following excerpts are meant only to be illustrative of the views each expert expressed:

Arthur I. Holleb, M.D., Senior Vice President for Medical Affairs, American Cancer Society, Inc., submitted an affidavit (R173). His curriculum vitae lists his membership in and leadership of several professional societies, which include the James Ewing Society and the American Radium Society. He also serves on the Cancer Commissions of the American College of Surgeons and the American College of Radiology and is editor-in-chief of CA, a cancer journal published by the American Cancer Society.

Dr. Holleb stated (R 173 at ¶3) that he had reviewed three basic documents attached as exhibits to his affidavit and supporting documents for these basic documents and that the information contained therein was true and correct. Submitted as an attachment to Dr. Holleb's affidavit is a "Statement Concerning Laetrile" by Frank J. Rauscher, Jr., Ph. D., Former Director, National Cancer Program, National Cancer Institute. Dr. Rauscher states, "There is no evidence that Laetrile works. Over the last decade, or more, NCI has repeatedly conducted tests of Laetrile in a variety of animal tumor systems. Most have been completely negative. The others have shown only marginal levels of activity which could not be reproduced. The animal systems used are those which have detected the active properties of the scores of drugs which, unlike Laetrile, have proven to be of demonstrable value in patients with many forms of cancer. The therapeutic benefits as well as the attending side effects of these materials have been clearly and amply documented in clinical literature based on carefully conceived, meticulously conducted and monitored clinical trials. The same cannot be said for Laetrile where clinical reports are largely anecdotal and unsubstantiated. Thus, there is no laboratory or clinical evidence of the effectiveness of Laetrile" (id. at 2).

See also testimony of R. Lee Clark, M.D., President, American Cancer Society, in which he states: "The American Cancer Society views Laetrile as having no proven value in the treatment of human cancers. The Society has made a continuing review of all the literature and other information available and finds no evidence that treatment with Laetrile results in objective benefits to

patients with cancer. Since 1956, the National Cancer Institute, in conjunction with the cancer research centers of America, has reviewed over 300,000 drugs, chemicals, antibiotics, and other agents including Laetrile to evaluate them in regard to their usefulness in cancer treatment. From this research, more than forty specific agents have been found to have an effect against cancer in animal and in man. Although several trials have been made with Laetrile, it has never been proved effective in cancer in any way whatsoever" (R 307 at 1).

Frederick N. Silverman, M.D., Chairman, Committee on Neoplastic Diseases, American Academy of Pediatrics, submitted testimony (R 233 and 317) which included the following comments from his committee: "Laetrile has never been shown to exhibit any efficacy in the treatment of neoplastic disease in children. It cannot be regarded as safe if it is used in lieu of drugs currently employed either as accepted treatment or in carefully designed investigative treatment protocols."

William R. Barclay, M.D., testified (Tr. 269–281) for the American Medical Association (AMA). The AMA supports the "FDA's contention that laetrile is a new drug and is neither generally recognized by experts as safe and effective for its purported use nor should (it) be distributed in interstate commerce until such time as its safety and efficacy for the treatment of cancer have been established through controlled preclinical and clinical studies" (Tr. at 272).

Dr. Barclay discussed (Tr. at 274) a May 1965 report in the Canadian Medical Association Journal which "concluded that laetrile could not be considered as a palliative in cancer therapy on the basis of the biological rationale advanced by the manufacturer." He further states that: "the American Cancer Society has long pointed out through its continuous reviews of the scientific literature that laetrile is not a proven or generally recognized treatment for cancer. The American Medical Association likewise views laetrile as ineffective in the treatment of cancer" (Tr. at 275–276). At its 1976 Clinical Convention, the AMA adopted the following resolution pertaining to the profession's view of Laetrile: "*Resolved:* That the American Medical Association continue to inform the public of the danger of delay in the diagnosis and treatment of malignancies by methods not generally recognized by the medical profession as beneficial and effective; and be it *Further resolved*, That the American Medical Association inform the public that the safety and efficacy of amygdalin for the treatment or palliation of malignancies is unproven and that the use of amygdalin in such cases exploits the victims of malignancies and their families by preying upon the emotions of the hopelessly ill, in some cases for the profit of the unscrupulous." Dr. Barclay (Tr. at 276) states: "We believe that experts qualified by scientific training and experience to evaluate the safety and effectiveness of drugs are virtually unanimous in their recognition of the ineffectiveness of laetrile for the treatment of cancer." The AMA testimony concludes (Tr. 280): "It is clear that laetrile is not generally recognized by experts qualified to evaluate the safety and effectiveness of drugs as safe and effective."

W. Sherwood Lawrence, M.D., a Medical Officer of the State of California Department of Health, Public Health Division, Food and Drug Section, serves as the Executive Secretary of the State of California Cancer Advisory Council. He is the custodian of the records of the Council and is knowledgeable of the work of the Council and the study that the Council has conducted (R 183 at 1). Dr. Lawrence states (R 183 at 17): "The evaluation by the Council of all the clinical data available here and in Canada has failed to establish any evidence of clinical efficacy. The proponents have never published competent well-designed controlled clinical studies demonstrating the slightest efficacy of Laetrile in the cure, amelioration or control of cancer. Laetrile (amygdalin) is not generally recognized by qualified experts as either safe or effective in cancer therapy."

Jonathan E. Rhoads, M.D., is National Chairman of the National Cancer Advisory Board, a surgeon, former President of the American Cancer Society and a member of a number of organizations focusing on research, including the American Association for Cancer Research and the American Institute on Nutrition. He made a presentation at the oral argument (Tr. at 109–115), on behalf of himself, as a citizen, and the American Cancer Society. Dr. Rhoads stated (Tr. at 114): "The position of the American Cancer Society is that Laetrile can be toxic in some doses and some modes of administration. But that more importantly, it is unsafe because its effectiveness has not been demonstrated scientifically so that reliance on it may lead patients to forego better treatment. Laetrile certainly has not been proven effective as a cancer treatment or cure and is not generally recognized by qualified experts as safe and effective for cancer."

Jesse L. Steinfeld, M.D., is Dean of the School of Medicine, Medical College of Virginia, Richmond, Va.; he was formerly Deputy Director of the National Cancer Institute; United States Surgeon General; Deputy Assistant Secretary for Health and Scientific Affairs, Department of Health, Education, and Welfare; and Chairman of the Department of Oncology and Director of the Comprehensive Cancer Center at the Mayo Clinic. His professional experience includes over 20 years of involvement in cancer research, particularly with respect to the metabolic effects in cancer patients that occur as cancers grow and metastasize (R 194). Dr. Steinfeld was recognized as an expert in the evaluation of the safety and effectiveness of cancer drugs by the Court in *Durovic* v. *Richardson*, 479 F. 2d 242, 248 (7th Cir.), cert. denied 414 U.S. 944 (1973). He states that neither amygdalin nor any other cyanogenic glycoside is generally recognized by himself or by experts generally, to be safe and effective for any medical purpose (id. at 5). Dr. Steinfeld also states: "I have reviewed the clinical records of a number of patients who have received laetrile as treatment for cancer, while I was in California. In that review, there was no evidence to support the view that laetrile was of value to cancer patients. I have reviewed the volumes of material submitted to the FDA in 1970, requesting an Investigational New Drug Application (IND) for laetrile. The application was not approved because of serious flaws or deficiences in both the animal and human trials" (id. at 8).

Richard H. Lange, M.D., is Chief, Section of Nuclear Medicine, Ellis Hospital, Schenectady, N.Y. He submitted verified testimony (R 385) in which he cited his experience in the field of internal medicine, nuclear medicine, and his particular interests in the problem of cancer. Dr. Lange states: "When one reviews the extensive information presently available from leading experts on cancer, there is no evidence to suggest that Laetrile is in any way an effective cancer drug. * * * The theory that Laetrile is effective because it destroys cancer cells by producing a release of cyanide has never had any scientific support, nor has the newer claim in the prior approach that cancer is caused by a vitamin B–17 deficiency and that Laetrile is vitamin B–17. No scientific group has recognized Laetrile as a vitamin. * * * Evidence of an antitumor effect in animals must be suggested or proven before a drug can be used in human clinical trials. Without such proof of effectiveness, the concept of scientific investigation would be altered; the gates would be open to all sorts of quacks and utter confusion would result. Placebo effects and personal testimonials must be separated from competent objective scientific investigation which is free from bias, personal prejudice or emotional involvement" (R 385 at 1–2).

Michael B. Shimkin, M.D., is Professor of Community Medicine and Oncology, School of Medicine, University of California, San Diego, and has had 40 years of experience in cancer research, teaching, and clinical treatment of patients. He has authored or co-authored over 280 publications on clinical and laboratory cancer research (R 192). Dr. Shimkin states: "My knowledge about amygdalin ('Laetrile') spans some 30 years. At no time, nor now, has there been evidence that this material is useful in the prevention or treatment of cancer in man or in experimental animals. I know of no expert of cancer in chemotherapy who has evidence of usefulness of amygdalin in the treatment of cancer, nor of any recognized journals or textbooks in medicine that indicate such usefulness. I know of no laboratory or clinical studies of amygdalin that demonstrate scientifically any significant, repeatable benefit in animals or in man" (id. at ¶ 12).

Bernard C. Korbitz, M.D., is Chief of the Chemotherapy Section, Department of Oncology at the Radiologic Center,

Inc., Nebraska Medical Hospital, Omaha, Nebr. He has been involved in various aspects of cancer research and cancer therapy since approximately 1954. His professional training and experience includes the authorship or co-authorship of approximately 40 articles relating to cancer hematology and internal medicine (R 181). Dr. Korbitz states: "To date, there has been no bona fide or substantiated evidence that Laetrile has any significant anti-tumor effect in any of the rodent animal systems evaluated. I have reviewed reports by Dr. Navarro in the Philippine Medical Journal who purported to have produced good results in cancer patients using larger doses. In reviewing his studies there is no objective evidence to support these claims that Laetrile is effective in any dose range against cancer" (id. at 3). Dr. Korbitz also states, "There is no objective evidence of any sort from pre-clinical or sketchy clinical reports to indicate that Laetrile has any benefit in the treatment of cancer patients" (id. at 4).

Susan J. Mellette, M.D., is Associate Professor of Medical Oncology, Medical College of Virginia and has had over 20 years experience in a private practice essentially limited to patients with metastatic malignant diseases. In 1975 she was President of the American Association for Cancer Education, an organization of medical and dental school faculty interested in cancer teaching in professional schools (R 420). Dr. Mellette states, "My views on the substance Laetrile are based on reports of the ineffectiveness of amygdalin which have been published in the standard scientific literature and also on two books and other printed materials put out by proponents of Laetrile which I have read. In the latter, I have found only unsubstantiated testimonials and hearsay in the patient reports and so-called scientific arguments which reach unwarranted conclusions without appropriate experimental methodology" (R 420 at 1).

Daniel S. Martin, M.D., has been involved in general cancer research since 1946. Since 1950, he has worked in cancer chemotherapy, and since 1958 in cancer immunology as well. His professional bibliography includes over 100 publications, the vast majority of which resulted from research in cancer immunology and chemotherapy (R 185). Dr. Martin states, "The proponents of Laetrile claim that their clinical studies in cancer patients demonstrated that Laetrile often reduced the size of a malignant tumor and caused some tumors to completely regress. *Evidence*—none; i.e., no *objective* evidence to support such a claim. No 'hard' patient data, no tumor measurements of the progress of the disease state, no biochemical data, no survival data, etc. The pro-Laetrilists do not present any competent scientific evidence that Laetrile is effective for the treatment of cancer. Only testimonials—'anecdotal' evidence—are presented that the Laetrile-cancer patients and their doctors 'believe' in its efficacy. Belief, however, is not adequate for reliance of drug efficacy. Only strict scientific standards should be employed; namely, adequately documented scientific, well-controlled, evidence of objective antineoplastic effects in humans. The fact that a great many cancer patients have received Laetrile and attest to its benefits is not evidence. Mere clinical experience *per se* is not a substitute for lack of appropriate objective documentation of clinical efficacy" (emphasis in original) (id. at ¶ 20e).

Harold James Wallace, Jr., M.D., is Director of Cancer Control and Rehabilitation at Roswell Park Memorial Institute, Buffalo, N.Y. He has had extensive training in the clinical pharmacology of cancer drugs and has participated directly in the clinical testing of a number of new anti-cancer drugs. He has, over the past 20 years, conducted and published the results of controlled clinical trials of drugs, radiation therapy, and other treatments of cancer (R 199). He is a cured cancer patient (Tr. at 170). Dr. Wallace states: "There is no evidence in either animal models or in the large numbers of patients who have received amygdalin that it is effective in any way in preventing cancer, causing a regression or remission of cancer, or improving the life expectancy of the cancer patient. Neither has there been any evidence that it decreases the symptoms of pain, weakness, or depression from cancer in any direct way. It is not analgesic or antiemetic in character. The anecdotal evidence claimed by amygdalin proponents has not been presented to me or to any scientific forum for critical review and these claims have not been substantiated by documentation in medical records available for review" (R 199 at ¶14).

John T. P. Cudmore, M.D., is a Board-certified surgeon whose professional experience includes the practice at oncology for the past 20 years. Dr. Cudmore stated that his work requires him to be acquainted with the literature related to drugs used in the treatment of cancer published in professional journals, and that he regularly attends meetings of experts at which drugs used in the treatment of cancer are discussed and evaluated (R 178). Dr. Cudmore states (id. at ¶ 10): "In my practice of oncology in San Diego since 1956, I have examined numerous patients after their treatments with amygdalin or Laetrile in nearby Tijuana, Mexico. I have never seen any evidence of cure or palliation with Laetrile. I can conclude from my personal experience that Laetrile or amygdalin is ineffective in the treatment and prevention of cancer." In support of these statements, Dr. Cudmore discusses in his affidavit the case histories of nine patients who have received Laetrile, all of whom in his opinion received no benefits therefrom. Dr. Cudmore states (id. at ¶ 8): "The composition of amygdalin is such that I do not recognize it, nor is it generally recognized by experts qualified through scientific training and experience to evaluate the safety and effectiveness of drugs, as safe and effective for the use in treatment or prevention of cancer."

Sidney Weinhouse, Professor of Biochemistry at Temple University School of Medicine, is a researcher in the field of cancer for the past 30 years, editor of the journal, Cancer Research, and a member of the Board of Directors of the American Cancer Society (R 384). He made the following statement regarding Laetrile: "Although widely touted for its curative effects on cancer for many years, there is no shred of evidence from any reputable cancer researcher that this substance has any therapeutic value. I know of no reputable scientist who has published evidence for the effectiveness of Laetrile" (id. et 1).

Bryant L. Jones, M.D., is a Medical Director in the Commissioned Corps of the United States Public Health Service (R 431). Since 1960, first in the pharmaceutical research industry and then in government, he has worked with the design and evaluation of clinical investigations, the purpose of which were to determine the safety and effectiveness of drugs (id. at ¶ 2). Dr. Jones states, "I am presently responsible for the review and evaluation of protocols and reports concerning the use of drugs subject to New Drug Applications (NDA's) and Notices of Claimed Investigational Exemption for New Drugs (IND's). I review such protocols and reports for the purpose of determining whether or not they provide scientifically acceptable standards of safety and effectiveness. I would estimate that I have reviewed several thousands such reports, most of which were and are directly related to and involve drugs intended for use in the field of oncology, which is the management of cancer" (id. at ¶ 3). Dr. Jones states, "I have made a careful review of the statements which are part of the record in this proceeding identified as:

1. Comments: C0001 through C0247.
2. Testimony: TS 01 through 14.
3. Letters: Let No. 1 through 49.
4. Oral arguments: OR 01 through 11.

(When submissions were received by the Hearing Clerk, they were assigned both a number-letter code (used here by Dr. Jones) and an R number, utilized for purposes of citation in this opinion.) I have evaluated each statement and report which purports to show that Laetrile, amygdalin, or any of the cyanogenetic glycosides are safe or effective in the treatment of cancer, as a palliative, as an analgesic, or for any medical purpose. None of the statements or reports are adequate, well-controlled scientific studies. The reports I have examined fail to measure up to the principles applicable to adequate, well-controlled scientific studies in every particular. The studies not only fail to measure up to minimum standards applicable to adequate, well-controlled scientific studies, but also fail to present any scientifically acceptable, objectively documented clinical evidence of safety and effectiveness for amygdalin, Laetrile, or any cyanogenic glycoside" (id. at ¶ 6).

George J. Hill, II., M.D., is Professor and Chairman of the Department of Surgery and Associate Dean for Clinical Affairs of the Marshall University School

of Medicine, Huntington, West Virginia (R 170). His professional duties involve the medical management of cancer and require that he be familiar with drugs that are generally recognized as safe and effective in treating cancer. He keeps abreast of the consensus of informed opinion by reading medical literature concerning cancer and its management, by attending meetings of experts where methods of treatment that are recognized as safe and effective are described and discussed, and through teaching, conducting research, and exchanging views with his colleagues who are experts in the field (id. at ¶ 12). He has himself conducted studies on amygdalin, the reports of which have been published and are attached as Exhibits 2 and 3 to his affidavit. He states, "In the course of my investigation of amygdalin's potential as an antitumor agent, an extensive review of both popular and scientific literature relating to it and Laetrile was conducted. Most reports in the scientific literature supporting Laetrile have appeared in foreign medical journals. Only one preliminary report purporting to support use of Laetrile was found in an American journal. The favorable reports concerning clinical use of Laetrile or amygdalin were testimonials based on individual case reports. There were no adequate, well-controlled clinical studies which demonstrated or purported to demonstrate that amygdalin or Laetrile were safe and effective for use in the medical management of cancer. Neither were there any favorable clinical reports in which an attempt was made to measure any objective parameters for adequate periods of followup to determine any possible drug-induced effect. The literature also contains reports concerning a limited number of carefully monitored clinical cases in which use of amygdalin failed to result in any objective benefit in the management of cancer" (id. at ¶ 9–10). Dr. Hill also states, "The composition of amygdalin is such that I do not recognize it, nor is it generally recognized among experts qualified through scientific training and experience to evaluate the safety and effectiveness of drugs, as safe and effective for use in cancer management, or for any other known medical use. I know of no medical school where use of amygdalin for treatment or prevention of cancer is taught. I know of no medical expert qualified through scientific training and experience in the control of cancer who advocates use of amygdalin" (id. at ¶ 13).

Vincent T. DeVita, Jr., M.D., is Professor of Medicine at the George Washington University School of Medicine, Washington, DC, and is a diplomate of the American Board of Internal Medicine, with subspeciality certification in Hematology and Medical Oncology (R 169). Dr. DeVita has been Director of the Division of Cancer Treatment, National Cancer Institute, since 1974. His job requires that he regularly attend meetings of experts at which drugs used in the treatment of cancer are discussed and evaluated and that he be acquainted with the literature published in professional journals relating to drugs used in the treatment of cancer (R 169 at ¶ 1–16). Dr. DeVita states (id. at ¶ 18–19), "The composition of amygdalin is such that I do not recognize it, nor is it generally recognized by experts qualified through scientific training and experience to evaluate the safety and effectiveness of drugs, as safe and effective for use in the treatment or prevention of cancer. I know of no adequate, well-controlled clinical study which shows it to be safe and effective for use in the treatment or prevention of cancer in humans. I know of no medical school where use of amygdalin is taught, and of no recognized medical text which prescribes, recommends, or suggests its use. Neither do I know of any expert in cancer chemotherapy who is of the opinion that it is useful in the treatment or prevention of cancer, or that there is evidence that it is useful in the medical management of cancer."

R. L. Meckelnburg, M.D., is Director, Department of Nuclear Medicine, Wilmington Medical Center, Wilmington, Delaware, and a physician concerned with the care and treatment of cancer patients by means of chemotherapy (R 154). He described his limited experience with treating patients with Laetrile in the years 1963–1967. Although Dr. Meckelnburg states (and the Commissioner agrees) that the study was not a clinically controlled series, he reports that "the results of these treatments were uniformly unsuccessful." Dr. Meckelnburg noted, "The individuals who were most interested in promoting the use of Laetrile failed to administer the drug in a manner consistent with good clinical investigative methodologies, particularly the use of the double blind control and crossover models of study." He concluded, "The promulgation of the drug as a preventive for cancer in the light of today's knowledge is totally absurd" (id.).

Robert C. Eyerly, M.D., is a physician and surgeon on the staff of the Geisinger Clinic in Danville, Pennsylvania, and a diplomate of the American Board of Surgery (R. 167). He currently serves as Chairman of th Committee on Unproven Methods of Cancer Management, American Cancer Society. This Committee's chief concern is, "With methods that are promoted as having established value in diagnosis, prevention, treatment, or control of cancer, despite a lack of competent scientific evidence to support claims made for them. The Committee reviews material assembled by its staff, mostly from published sources, to find out what kind of claims are made, and they evaluate scientific literature to see if it contains evidence to support such claims" (id. at ¶ 5–7). Dr. Eyerly states, "The composition of amygdalin is such that I do not recognize it, nor is it generally recognized by experts qualified through scientific training and experience to evaluate the safety and effectiveness of drugs as safe and effective for administration to humans for the treatment or prevention of cancer, or for any other purpose" (id. at ¶ 10).

Several experts qualified by scientific training and experience in the field of cancer research and cancer treatment submitted similar statements attesting that they knew of no cyanogenic glycoside that is generally recognized as safe and effective for the treatment, prevention, or cure of cancer, for the relief of pain associated with cancer, or for any medical purpose. They also stated that the composition of these cyanogenic glycosides, in general, and of amygdalin, in particular, is such that they do not recognize them, and the cyanogenic glycosides are not generally recognized among experts qualified through scientific training and experience to evaluate drugs, as safe and effective for the treatment of cancer, for prophylaxis against cancer, for relief of pain associated with cancer, or for any medical use. These experts further stated that the scientific literature contains no reports of adequate, well-controlled, scientific studies or other evidence upon which recognition of safety and effectiveness may be predicated. They did not know of any recognized medical text in which the use of amygdalin or any other cyanogenic glycoside is recommended for the treatment of cancer. They did not know of any medical school where use of these substances for such purpose is taught. They did not know of any expert in cancer chemotherapy who is of the view that there is evidence that these substances have any useful effect in treating cancer. They did not know of any report in the scientific literature describing an adequate, well-controlled study which demonstrates that amygdalin or any other cyanogenic glycoside is safe and effective (Dr. Daniel S. Martin, R 185; Dr. Joseph F. Ross, R 190; Dr. Charles G. Moertel, R 186; Dr. Jesse L. Steinfeld, R 194; Dr. C. Chester Stock, R 195; Dr. Harold James Wallace, R 199; Dr. Peter H. Wiernik, R 200; Dr. Emil J. Freireich, R 390; Dr. David T. Carr, R 176). The qualifications of the individuals not previously discussed are set forth in the following paragraphs:

Joseph F. Ross, M.D., is Professor of Medicine at the University of California School of Medicine at Los Angeles, California, and Director of the United States Public Health Service-funded Research Training Program in Hematology and Hematologic Oncology at UCLA. He submitted an affidavit (R 190) in which he described his educational background and experience in teaching medical students and physicians. He is actively involved in the medical care of cancer patients. Dr. Ross listed his membership in several societies and councils which deal with cancer treatment and his membership on the editorial boards of several scientific publications.

Charles G. Moertel, M.D., is Chairman of the Department of Oncology at the Mayo Clinic, Director of the Mayo Comprehensive Cancer Center, and Professor of Medicine at the Mayo Medical School, Rochester, Minnesota. He described his educational background and experience

which have included serving as Editor of Cancer Yearbook, Associate Editor of Cancer Medicine, serving on the editorial board of Cancer, serving on a number of cancer committees, being involved in clinical research in pharmacology concerning cancer chemotherapy and clinical oncology, and publishing as author or co-author over 200 articles, abstracts, and editorials in recognized medical and scientific journals (R 186).

C. Chester Stock, Ph.D., is Vice President and Associate Director for Administrative and Academic Affairs of the Sloan-Kettering Institute for Cancer Research, New York, New York, and Professor Emeritus in Biochemistry at Cornell University. He described his educational background and experience as including serving as a member of several boards and societies concerned with cancer research and serving as Chief of the Division of Experimental Chemotherapy at Sloan-Kettering, where for many years he has had a major responsibility in the development of new drugs for the treatment of cancer (R 195).

Peter H. Wiernik, M.D., is Professor of Medicine, University of Maryland School of Medicine and Chief, Clinical Oncology Branch, National Cancer Institute, Baltimore Cancer Research Center. His educational background and experiences include duties as a reviewer for 9 medical-scientific journals, co-editor of 2 journals and the author or co-author of over 140 articles, editorials, and abstracts which have appeared in medical-scientific literature most of which deal directly with cancer (R 200).

Emil J. Freireich, M.D., is Head of the Department of Developmental Therapeutics and Professor of Medicine, and Chief, Division of Oncology at the University of Texas Medical School at Houston, Texas. His educational background and experience includes membership in several societies and committees concerned directly with cancer treatment. In addition, Dr. Freireich serves as a member of editorial boards of medical and scientific journals concerned with cancer research and, as such, reviews and evaluates scientific papers relating to the causes, treatments and control of cancer. He has published in internationally recognized journals over 250 articles, the majority of which have been concerned with cancer (R 390).

David T. Carr, M.D., is Professor of Medicine at the Mayo Medical School, Associate Director for Cancer Control and Community Relations of the Mayo Comprehensive Cancer Center, and a member of several professional societies and committees concerned with the treatment of cancer. His professional education and experience include the responsibility for a program of public education about cancer. His special interests are internal medicine and medical oncology, and he is regularly engaged in the medical management of cancer (R 176 (see also Tr. at 180–89)).

Several other experts submitted testimony in which they stated that, in their experience, Laetrile was not effective in the treatment of cancer. Their qualifications are set out in the following paragraphs:

James F. Holland, M.D., Professor and Chairman, Department of Neoplastic Diseases; Chief, Division of Medical Oncology; and Director, the Cancer Center, Mount Sinai School of Medicine, is a physician who has worked exclusively in cancer medication for over 26 years, specializing in cancer chemotherapy. He states, in his verified testimony, that he is thoroughly familiar with the action of drugs on cancer (R 396).

Carl M. Leventhal, M.D., is Deputy Director of the Bureau of Drugs, Food and Drug Administration. He holds the rank of Medical Director in the Commissioned Corps of the Public Health Service and is Assistant Professor of Neurology and Pathology at Georgetown University. As Deputy Director of the Bureau of Drugs, he participates in meetings in which the status of Laetrile is discussed and evaluated (R 184).

William A. Nolen, M.D., is Chief of Surgery at the Meeker County Hospital, Litchfield, Minnesota. He has served on the board of editors of the Minnesota State Medical Journal and has written a number of articles, editorials, and books on subjects of public health interest, including a book entitled Healing: A Doctor in Search of a Miracle, in which he describes his personal experience with a patient who lost her life because she chose Laetrile for treatment of an early cancer, thereby delaying conventional medical treatment (R 188).

Thomas H. Jukes, Ph.D., is Professor of Medical Physics and Research Biochemist at the University of California, Berkeley, California. He is a member of several professional societies, serves on the editorial boards of several scientific publications, has written three books and over 250 articles in scientific journals and has conducted research in the vitamin and cancer fields (R 416 (see also R 41)).

Robert S. K. Young, M.D., Ph.D., is a physician and has a doctorate in pharmacology. He serves as adjunct Assistant Professor of Pharamacology at Georgetown University School of Medicine and Dentistry and is group leader for the Oncologic Drug Class, Bureau of Drugs, Food and Drug Administration (R 201 (see also R 430)).

(b) *Supporters of Laetrile.*—In contrast to the great amount of evidence that experts in drug evaluation do not generally recognize Laetrile (or amygdalin) as effective, the evidence in the record to the contrary is meager. The Commissioner will outline qualifications of those persons who claim any modicum of training or experience in the area of drug evaluation whose support for the use of Laetrile appears in the record. The submissions of the following three physicians are discussed under II.A.1.c. above, "The 'Evidence' of Laetrile's Effectiveness":

John A. Richardson, M.D., stated in testimony (Tr. at 462–463) that he had been in general practice for 25 years and since 1971 had been engaged in nutritional using Laetrile, amygdalin, or vitamin B–17 and that he had treated, over the past 6 years, between 4,000 and 5,000 cancer patients. Dr. Richardson made no claim to special training or board certification in the area of oncology or of training or experience in the evaluation of the safety and effectiveness of drugs. Dr. Richardson's license to practice medicine has been revoked (R 183 at 13).

Philip E. Binzel, Jr., M.D., stated that he has been a family physician since 1955 and currently serves as scientific advisor to the Committee for Freedom of Choice (Tr. Ex. 13). He stated that he has treated over 400 patients in the last 3 years with a "metabolic therapy" for cancer (Tr. at 360–361). No special training in oncology or in the evaluation of drug safety or effectivenes is claimed.

Lawrence (Larry) Patton McDonald, M.D., who stated that he has been a urologist since 1963, is a former member of the State of Georgia Medical Education Board, and is currently a member of the U.S. House of Representatives. He stated that he was a member of several societies and associations, including the American Society of Clinical Urologists, the Southeastern Section of the American Urological Association, and the American Association of Physicians and Surgeons (R 509). No showing has been made that Dr. McDonald has a specific expertise in cancer treatment or in the evaluation of the safety and effectiveness of drugs.

Dr. Edward M. Arana, who spoke at the oral argument in this proceeding, identified himself only as a practicing dentist in Carmel, California (Tr. 472–A).

Ernst T. Krebs, Jr., spoke at oral argument in this proceeding (Tr. at 228–248). While he is referred to as Doctor, he did not complete his medical training and is a doctor only by virtue of an honorary degree. No special training in the area of cancer therapy or in the evaluation of safety and effectiveness of drugs has been shown for Mr. Krebs, Jr.

Paul Hart, M.D., spoke at oral argument. He described himself as having been employed at a pathology laboratory that dealt with the effects of radiation from atomic bombing in Japan and that was associated with Deaconess Hospital in Boston (Tr. at 457–58), and as being a diplomate of the National Board of Medical Examiners (Tr. at 457). He stated that he has an interest in "the Carl O. Simonton, M.D., psychotherapeutic approach to cancer therapy * * *" (Tr. at 458). While he indicated a personal respect for various Laetrile proponents, he did not give an opinion as to whether or not Laetrile is generally recognized by experts qualified to evaluate the safety and effectiveness of drugs as safe and effective for use in cancer therapy.

Dr. Mario Soto spoke at oral argument. He described himself as being former head of the chemotherapy departments of two different Mexican hospitals. He stated that he is an independent investigator for the National Cancer Institute and a conventional oncologist and chemotherapist. He is medical direc-

tor of a Laetrile clinic in Tijuana, Mexico (Tr. at 478–479).

Dean Burk, Ph. D., who spoke at oral argument and provided a written submission (R 302), is a biochemist and is president of the Dean Burk Foundation, Inc. He stated at oral argument that he had spent 50 years in research on cancer and vitamins, 35 of which were with the National Cancer Institute (Tr. at 402). His position is that Laetrile is not a drug but a vitamin.

An affidavit of Chauncey D. Leake, Ph. D., prepared for another proceeding, was submitted to this record (R 302, Ex. K). The affidavit indicates that he is Senior Lecturer in Pharmacology at the University of California School of Medicine, San Francisco. His curriculum vitae showed that he has a history of teaching, participation in organizations dealing with medicine and pharmacology, editing of journals, and authorship of books and articles.

An affidavit of Charles Gurchot, also apparently prepared for another proceeding, was submitted as Exhibit L to R 302. His degree is in chemistry and physiology. Now semi-retired, he has taught pharmacology, biochemistry and chemistry at several schools of medicine and is a member of a number of scientific societies.

James Cason, Ph. D., submitted a statement in which he states that he has been a chemistry professor for some 35 years, has published over 100 research papers in scholarly journals and has served on the editorial boards of Organic Syntheses, and the Journal of Organic Chemistry (R 217). He is currently a professor of chemistry at the University of California, Berkely (id.). While he states his opinion that a diet high in nitrilosides leads to a low incidence of cancer, he gives no opinion as to whether or not Laetrile (or Amygdalin) is generally recognized by qualified experts to be a safe and effective cancer drug.

The statute requires that "general recognition" be among experts qualified by scientific training and experience to evaluate the safety and effectiveness of drugs (21 U.S.C. 321 (p) (1)). Few of the proponents of Laetrile who have made submissions to this record possess the necessary training and experience to qualify them as such experts. The Commissioner has, however, for purposes of completeness, considered as coming within the category of "experts" for this purpose, persons, including those listed above, who have exhibited even a small modicum of scientific experience or experience in the area in which they have offered submissions. The weight to be given the testimony of such persons, of course, must correspond to their expertise, cf. *United States* v. *1,048,000 Capsules, More or Less, Etc.*, 347 F. Supp. 768, 771 (S.D. Tex. 1972), aff'd 494 F.2d 1158 (5th Cir. 1974).

The Commissioner concludes that, the lack of adequate and well-controlled clinical investigations published in the scientific literature aside, the record clearly demonstrates that the overwhelming majority of experts in the evaluation of the safety and effectiveness of drugs do not recognize Laetrile as effective. Even the proponents of Laetrile, while they may argue that the majority is wrong, could hardly be heard to argue this point. Laetrile is thus a new drug within the meaning of the act.

B. GENERAL RECOGNITION OF SAFETY

As noted above, for a drug to be exempt from new drug status under 21 U.S.C. 321(p)(1) it must be recognized by "experts qualified by scientific training and experience to evaluate the safety and effectiveness of drugs" to be both safe and effective under the conditions of its intended use. While lack of such recognition of Laetrile's effectiveness has already been shown, the Commissioner will discuss in addition the evidence on the question of general recognition of the drug's safety. He finds that such recognition does not exist.

1. Lack of Adequate Testing

As has been discussed above, for a drug to be generally recognized as safe it must have accumulated at least the amount of evidence of safety that would be required for approval of a new drug application and that evidence must be generally available to the community of experts through publication in the scientific literature. In order for a new drug application for a drug to be approved, there must exist as to that drug "adequate tests by all methods reasonably applicable" that show the drug's safety (21 U.S.C. 355(d); cf. 21 CFR 314.111 (a)(1)).

An attempt to show that Laetrile had been proven by adequate testing to be safe for use in man was made in 1970 when the McNaughton Foundation submitted to FDA a notice of claimed investigational exemption for a new drug (IND) for Laetrile. The FDA terminated that exemption because of a lack of evidence of safety. Subsequent to the termination, the IND was referred to an Ad Hoc Committee of Oncology Consultants. The report of this committee is submitted with R 184 as Exhibit 2. This report states, "The Committee concurs with the action of the Commissioner in termination of IND 6734." Addressing the toxicity question, the Committee concluded (id. at 2), "Although it is often stated in the IND that amygdalin is non-toxic, data to demonstrate this lack of toxicity are absent, particularly with respect to the oral route."

The animal studies done to show Laetrile's safety did not justify use of the dosage suggested in the IND. "[T]he sponsor wishes to begin oral studies in patients at 2.95 mg/kg (oral); this is to be compared with a documented safe oral dose in dogs of 7.5 mg/kg daily for 6 months * * *. On the basis of documented data, if substantiated, then a proper starting dose that might be considered in man, would be 1/10 of 7.5 mg/kg or 0.75 mg/kg (oral). The proposed starting dose of 2.95 mg/kg is 1/100 of the oral acute LD_{50} in mice. It is considered to be dangerous to base the starting dose for a chronic (6 + weeks) study in man on a single dose study in mice. It is also dangerous to initiate human studies while the nature of the toxicity has not been elucidated in large animal species. No documented data are presented in the IND to permit a higher starting dose" (id. at 3–4).

Dr. W. Sherwood Lawrence, Executive Secretary for the State of California Cancer Advisory Council states (R 183 at 17), "An extensive review of the world's scientific literature has been made by the Council. The evidence available for the determination of the recognition of safety of the compound is characterized by the lack of a body of scientifically sound information such that experts qualified by experience and training to make such determinations are unable to do so. In the absence of such a determination by qualified experts Laetrile (amygdalin) cannot be considered to be generally recognized as safe."

There is thus an absence of scientifically sound data upon which experts qualified by training and experience to evaluate the safety and effectiveness of drugs could base an opinion that Laetrile is safe for use in man. In the absence of such data the Commissioner must conclude that the safety of use of Laetrile in man has never been, and is not now, "generally recognized" by experts qualified by scientific training and experience to evaluate the safety and effectiveness of drugs.

2. Testimony of Experts

The Commissioner's conclusion of lack of general recognition among experts of Laetrile's safety is supported by testimony of such experts in the administrative record. (The qualifications of the experts whose statements are quoted have been discussed above.)

As one expert notes, while the toxicity of injected Laetrile has not been studied, there is evidence that amygdalin when ingested (eaten) is harmful to humans, evidence that has led to cautions on the part of Laetrile promoters themselves: In discussing the use of Laetriles, Dr. W. Sherwood Lawrence states (R 183 at 16), "There has never been a formal evaluation of the safety of these compounds to determine their safety. Although the proponents claim Laetriles are non-toxic, there are bonafide reports of clinical toxicity on oral intake (California Morbidity Reports, Ankara); and even fatality (Bitter Almond Poisoning, Zmedizinfrul). Furthermore the proponents themselves are aware of this toxicity as evidence by the proposed labeling submitted in an application for an exemption for an Investigational New Drug which warned: 'CAUTION: Laetrile is not to be taken orally. It is extremely toxic by this route of administration * * *.' There are no studies adequately showing the distribution, activity and metabolic fate of the parenterally administered compound. Chronic effects are not studied and reported in depth. There is cause for the concern as other similar beta-cyanogenetic compounds cause serious toxic effects when ingested on a chronic basis, e.g., Tropical Atataxic Neuropathy in Nigeria (Attachment 20).

Effects of industrial poisoning from chronic low concentration exposure are well-known." (See also, for, discussion of toxicity of Laetrile, section V.B.3. below, "Dangers of Ingestion of 'Vitamin B-17' ".)

Dr. Robert C. Eyerly reports, "One of the unproven remedies for cancer management which the committee (on Unproven Methods of Cancer Management) investigated is the drug Laetrile. Other names for Laetrile include amygdalin and prunasin. These compounds are classified as cyanogenic glycosides. Cyanogenic glycosides, including amygdalin, are generally regarded as toxic substances, rather than as foods, because when they break down they liberate hydrogen cyanide, one of the most toxic substances known" (R 167 at ¶ 8).

Dr. Robert S. K. Young states (R 430 at ¶¶ 4, 5, and 7), "The FDA does not have authenticated or validated data on the toxicity of amygdalin in humans. It does not have scientific studies or the data upon which scientific studies might be constructed, in humans receiving amygdalin which would allow it to define the toxic effects of this drug. There are no such reports in the medical literature. Nevertheless, Dr. Nepier from Germany has reported that amygdalin causes hypotension and hemoglobinurea in humans. There have been reported cases of cyanide poisoning in humans who ate apricot kernels. The symptomatology includes dyspnea, cyanosis, vomiting, prostration, convulsions, stupor, and paralysis. Since these toxic effects are caused by the cyanide, which is a constituent part of amygdalin, amygdalin could cause the same toxic effects. Although it is possible that amygdalin can be given to humans in doses which are non-toxic in man, the drug is unsafe for use in humans. There is no scientific evidence that the drug can cure or is effective as a treatment for any human cancer." Dr. Young also states (id. at ¶¶ 2-3), "There is a difference between a drug's toxicity and a drug's safety. The toxic effects of a drug are those effects which are not beneficial to the person taking the drug, but are deleterious. The safety of a drug is defined by the context of its use and includes consideration of issues such as a disease for which the drug is intended, the alternative remedies which are available and their efficacy and safety, and the possible abuse of the drug by those who do not have the disease for which the drug is intended. Acute toxicity tests of amygdalin have been carried out in animals. It appears that relatively large quantities of amygdalin can be given parenterally. When given by the oral route, however, the toxicity of amygdalin is greatly increased (by a factor of approximately twenty-five times)."

James F. Holland, M.D., indicated that he does not accept the theory of proponents of Laetrile that patients should be allowed to take Laetrile since, even if it is ineffective, it cannot hurt. He states (R 396 at 1), "It can hurt by interfering with patients' acceptance of indicated therapy in the mistaken and false hope of potential benefit from Laetrile. Delayed operation, refused radiotherapy, skipped chemotherapy all risk an increasing cancer morbidity and mortality because of the premise that Laetrile is active. This is a very dangerous side effect, indeed."

In addressing whether or not Laetrile is safe, Dr. Carl M. Leventhal states (R 184 at ¶ 19), "The question of whether Laetrile is now, or ever was, generally recognized as safe goes beyond the absence of any evidence indicating the lack of toxicity of the drug. The safety of a drug for human use depends, in large measure, on the therapeutic effectiveness of the particular drug. When patients forego effective forms of therapy and turn instead to worthless potions and nostrums, their disease may progress while effective therapies are foresaken. In the case of cancer, treatment with an ineffective drug will inevitably and inexorably lead to the patient's death. Seen in this light, an ineffective cancer drug is inherently unsafe and even lethal, because of the patient deaths which will necessarily ensue."

Dr. Harold J. Wallace, Jr., states (Tr. at 174) that: "The safety of the various forms of amygdalin has not been tested by the usual scientific methods of clinical pharmacology. There is evidence that the crude oral form can and has caused toxicity in humans and may cause death. There has been no documentation of the usual parameters that we require of drugs when used in a clinical situation. We don't have blood levels achieved, activation, clearance, metabolism, distribution or excretion of amygdalin compounds in man, as is usualy required in the preclinical and clinical evaluation testing of chemotherapeutic compounds or other drugs."

Dr. Frank Rauscher, a former Director of the National Cancer Institute (NCI), and currently associated with the American Cancer Society, said in his statement concerning Laetrile, while he was Director, NCI: "Assertions of the non-toxic nature of Laetrile have not been demonstrated in vigorous clinical studies. Even if this claim is true, there is no basis whatsoever for recommending the clinical use of any non-toxic agent if it cannot be expected to produce objective clinical benefits" (R 173, Att. "Statement Concerning Laetrile" at 2-3).

Dr. Thomas H. Jukes states (R 41 at 1): "Laetrile is not generally recognized by experts as safe. In the presence of the enzyme beta-glucosidase, Laetrile is hydrolized to glucose and mandelonitrile. Mandelonitrile readily decomposes with the liberation of hydrocyanic acid, which is extremely poisonous at low levels. The enzyme beta-glucosidase is widely distributed in materials of plant origin. The potential danger that laetrile may be decomposed with liberation of hydrocyanic acid makes it unsafe."

Dr. George J. Hill, II, after noting that ineffective remedies for cancer can lead to delay in treatment and "needless and untimely death," states: "In the absence of scientific evidence of effectiveness, no drug intended for use in treating cancer can be regarded as safe" (R 170 at ¶ 11).

Dr. Joseph F. Ross noted that that delay in cancer therapy because of use of Laetrile "results in loss of life, tragic suffering, and shortened life span" (R 190 at 8) and that use of the drug is "hazardous to the health of cancer patients" (id. at 7). He states: "Additionally, the use of 'Laetrile,' Vitamin B-17, 'Aprikern' and other such amygdalin containing materials when ingested presents a definite health hazard. The action of gastrointestinal fluids and enzymes releases the C=N (cyanide) radical from the compound and this may produce acute cyanide poisoning" (id. at 8).

Several additional experts submitted affidavits in which they state that neither amygdalin nor any other cyanogenic glycoside has ever been generally recognized as safe (Dr. Charles G. Moertel, R 186 at ¶ 12; Dr. Jesse L. Steinfeld, R 194 at 5-6; Dr. Peter G. Wiernik, R 200 at ¶ 16; Dr. Emil J. Freireich, R 390 at ¶ 19; and others).

III. The "Grandfather" Issue

Because Laetrile is not generally recognized by qualified experts as safe and effective (see discussion above), it is subject to the Act as a "new drug" unless it is exempted from the statute's provisions under either of the two "grandfather clauses." These two exceptions, described in more detail below, limit the protection provided to the public with respect to certain drugs that fulfill a number of carefully defined conditions. Accordingly, the courts have recognized the narrowness of the exceptions. *United States* v. *Allan Drug Corp.*, 357 F. 2d 713, 718 (10th Cir. 1966) cert. denied 385 U.S. 899 (1966): "Since we are dealing with a Grandfather Clause exception, we must construe it strictly against one who invokes it."; *Durovic* v. *Richardson, supra*, 479 F. 2d at 250 n. 6; *United States* v. *An Article of Drug* * * * *"Bentex Ulcerine"* * * *, 469 F. 2d 875, 878 (5th Cir. 1972), cert. denied 412 U.S. 938 (1973); *United States* v. *1,048,000 Capsules, More or Less, Etc., supra*, 347 F. Supp. at 770.

The Court in Bentex Ulcerine held, 469 F. 2d at 878, that any party seeking to show that a drug comes within the grandfather exemptions "must prove every essential fact necessary for invocation of the exemption." Accordingly, the Commission concludes that Laetrile will not qualify for grandfather clause exemption unless each of the essential facts has been proved by evidence submitted in the record.

In the February 18, 1977 Federal Register notice initiating this proceeding, proponents of Laetrile were informed of their obligation to bring forth evidence that would support their claim that Laetrile qualifies for this exception. The notice set forth the provisions of a regulation (21 CFR 314.200(e)(2)) that detailed the format to which submissions directed to the grandfather clause exceptions should conform (42 FR 10069). Failure to submit formulas, labeling and

evidence of marketing in that format was stated to constitute a waiver of any contention that Laetrile was exempt from new drug provisions of the act. Failure to submit evidence in the format has resulted in such a waiver.

Despite the waiver, the Commissioner, in order to fully address the issue remanded by the courts, has culled the entire record for evidence that might arguably be relevant to the grandfather status of Laetrile. He has considered this evidence in determining whether the essential facts necessary to invoke the grandfather clause exemptions have been proved. Moreover, against the chance that it should later be held that those contending that Laetrile's use is illegal must prove the nonexistence of the essential facts necessary for the invocation of the grandfather clause exceptions, the Commissioner has considered the evidence in the record in light of this possibility.

The essential facts necessary to invoke the two exemptions are discussed, together with the evidence relevant to each, below. The Commissioner's conclusions on these issues may be summarized as follows:

(1) Contentions that Laetrile qualifies for either grandfather clause exception are waived.

(2) Evidence presented does not prove the existence of each essential fact necessary to the invocation of either grandfather clause.

(3) While it is of course not possible to prove a negative with regard to the existence of each of the essential facts involved, the record assembled contains substantial evidence, constituting a clear preponderance of the evidence submitted, that these essential facts do not exist.

A. THE 1938 GRANDFATHER CLAUSE

To qualify for exemption from the definition of a new drug under the 1938 grandfather clause, it must be shown that the drug "at any time prior to the enactment of this chapter [1938] * * * was subject to the Food and Drugs Act of June 30, 1906, as amended, and * * * at such time its labeling contained the same representations concerning the conditions of its use; * * *" 21 U.S.C. 321(p)(1).

Thus, to qualify for this exemption, it must be proved that (1) the identical drug (2) bearing labeling containing the identical representations concerning the conditions of its use (3) was introduced into interstate commerce in the United States (or was manufactured in a Federal territory or the District of Columbia) after June 30, 1906 and prior to the enactment of the act in 1938. The exemption applies only to drugs whose labeling with respect to representations as to conditions of use has undergone no changes whatsoever from the labeling utilized prior to the passage of the 1938 act, and whose composition is completely identical to its composition prior to this passage. If any change in representations for conditions of use in labeling or any change in composition has occurred since the enactment of the 1938 act, such change precludes the applicability of the 1938 exemption. The proof required would necessarily involve the production of quantitative formulas, labeling, and evidence of marketing both for the pre-1938 use and for the present use. While submissions to the administrative record contained a number of references to use of Laetrile or its predecessors before 1938, no proof was submitted to show that what was termed "Laetrile" or "amygdalin" as used before 1938 was the same drug which is now being marketed. Nor is there any indication whatever that the labeling of the various drugs claimed to have been marketed before 1938 contained representations concerning conditions of use which are identical to the representations associated with the presently marketed drug. It should be noted that the term "labeling" is defined in the act to include not only "all labels" but also, "other written, printed, or graphic matter (1) upon any article or any of its containers or wrappers, or (2) accompanying such article," 21 U.S.C. 321(m). This definition has been given a broad interpretation, see, e.g., *Kordel* v. *United States*, 335 U.S. 345, 347–50 (1948); *United States* v. *Urbutcit*, 335 U.S. 355, 357 (1948).

A number of submissions in the record referred to use of substances claimed to be related to Laetrile or amygdalin in ancient times. While each of these statements was hearsay unsupported by any sort of corroborating evidence and thus cannot be considered trustworthy, it is apparent that even if accepted at face value these claims would not justify invocation of the 1938 grandfather clause. Examples of such claims in the record include those found in a McNaughton Foundation article entitled "Information for Physicians: Amygdalin, The Non-Toxic Analgesic" which cites use by the Chinese 3,500 years ago as well as use by the Greeks and the Romans (R 183, Att. 106 at ¶ 1). See also *Hanson* v. *United States*, 417 F. Supp. 30, 36 (D. Minn.) aff'd 540 F.2d 947 (8th Cir. 1976) (copy of opinion attached to R 173), noting that plaintiffs in that court action had introduced hearsay concerning the use of amygdalin by ancient Egyptians, evidence upon which the court did not rely; affidavit of Chauncey Leake, Ph.D.—recommendation of almonds for various purposes (not to cure cancer) by a first century Greek surgeon (R 302, Ex. K); statement by John J. O'Conner, Jr., in support of a Maryland State bill on Laetrile—bitter almond used by Chinese for the treatment of tumors 3,500 years ago; use by Greeks and by Romans (Tr. Ex. 4, Att. at 22).

Other submissions mentioned that amygdalin was prepared by two Frenchmen in 1830 and analyzed by two Germans shortly thereafter. (See R 183, Att. 10b at ¶ 1; R 302, Ex. K; R 168, Att. at 345; R 80, Att.) No claims were made that these 19th century experimenters used amygdalin to treat cancer. There is a claim, however, that a Russian physician used amygdalin for that purpose in 1845. The reference is to a report in the Gazette Medicale De Paris, Tome XIII, Samedi, Le 13 Septembre 1845, by Dr. Inosemtzeff. This article is referred to in a number of submissions. (See, e.g., R 259, Att. at 1.) It was not, however, itself submitted and in thus not part of the record available for analysis by the Commissioner. According to the description in the "Listing of Documents Relative to * * * Laetrile" attached to R 259, a submission by Mr. Wynn Earl Westover, the author of the 1845 article was a professor of surgery at the Imperial University of Moscow, and his article described two cases of cancer apparently successfully controlled for 11 years and 3 years, respectively, by the use of amygdalin (for other references to this article, see R 260, Att. at 1; R 302, Ex. L at ¶ 5).

As is obvious, this "evidence" relating to ancient and 19th century use is irrelevant to the 1938 grandfather clause issue for the following reasons: (1) It does not indicate that the drug was used in the United States after June 30, 1906 and before 1938. (2) It gives no indication that the drug used was the same as Laetrile. Most of the references in fact indicate that the substances used were either some extract of almonds, or, as in the case of the alleged Russian physician, simple amygdalin. (3) no suggestion that any drug was to be used in accordance with the indications now associated with treatment with Laetrile may be found in these references. Again, where the submissions go into detail concerning the historical uses of almonds or amygdalin, it is apparent that different conditions of use are involved.

A number of claims purporting to be relevant to the 1938 grandfather issue dealt with the appearance of almond extract in various Pharmacopeia. (See, e.g., Tr. at 250; R 302, Ex. K and Ex. L, ¶ 9–12 Tr. Ex. 9.) The opinion in *Hanson* v. *United States*, *supra*, indicates that plaintiffs in that case relied upon a listing of amygdalin in the Merck Index of 1896. The references in the Pharmacopeia involve in each case some sort of almond extract. There is no indication that that extract was to be used as an injection to cure, control, or prevent cancer. The references to the Pharmacopeia, as is the case with other general, unsupported references indicating use in cancer patients in previous centuries (see, e.g., R 509 at 2) are for the reasons detailed simply not probative of grandfather status.

Of more direct relevance to possible grandfather status is the information in the record regarding the work done with what was apparently Laetrile's predecessor by Dr. Ernst Krebs, Sr. A great deal of conflicting information regarding the dates of Dr. Krebs' work was submitted to the record. There are numerous instances in the record of statements that Dr. Krebs developed a drug related in some way to modern day Laetrile either in 1920 or shortly thereafter, while a new and allegedly nontoxic form of Laetrile was developed by Ernst T. Kerbs, Jr., in 1952 or in the early 1950's. See e.g., the American Cancer Society Committee on

Unproven Methods of Cancer Management's article on Laetrile (R 167, Ex. 2); A Report on the Treatment of Cancer with Beta-Cyanogenetic Glucosides ("Laetriles") by the Cancer Advisory Council, State of California (1963) at 2 (R 183, Att. 16). The latter report may be the genesis of the 1920 date, though the former indicates that it is reporting the date "According to" Dr. Krebs. At any rate, the 1920 date appears in or is alluded to in a number of submissions (see R 173, Att., "Questions Most Frequently Asked," and Att., "Laetrile: The Making of a Myth," FDA Consumer (Dec. 1976–Jan. 1977) at 6; R 184 at ¶ 6; Tr. at 272; Tr. at 41; R 250 at 2–3; R 170, Ex. 3 at 2104; R 258, Ex. 16; R 386; Tr. Ex. 10; R 183, Ex. 3 at 33). There may have been some basis for the original statement that Dr. Krebs had begun to work or had achieved results on a substance containing amygdalin in 1920 or in the early 1920's, but nothing has been submitted to indicate what that basis is. The apparent manner in which one submission has relied upon another on this question illustrates the undersirability of relying on hearsay accounts to prove a fact of this kind. None of these statements indicate, in any case, that the materials with which Dr. Krebs was experimenting were identical to, and were used under conditions indicated in labeling which were identical to, the composition and indications for present day Laetrile.

Michael L. Culbert, representing the Committee for Freedom of Choice in Cancer Therapy at the oral hearing, stated: "Dr. Krebs, Sr., both publicly and privately and in numerous different ways, has published not only results but some labels of material that goes back to the 1920's when Dr. Stohl in Switzerland and a number of Japanese scientists and Dr. Krebs, Sr., and others were working with the original extract" (Tr. at 41). If Mr. Culbert or his group have in their possession such publications, they have not submitted them.

A document submitted which would seem, questions of credibility aside, to be the most reliable on the question of the dates of Dr. Krebs' work and that of his son is an affidavit signed and sworn to by Dr. Krebs on April 28, 1965. This affidavit, taken by an FDA employee, appears as Exhibit 6 to R 184 and as attachment 13 to R 183. Since this affidavit is under oath and is by the person most likely to know of the dates in question, the Commissioner concludes that where the dates in the affidavit are difierent from those appearing elsewhere, chief reliance should be placed on the affidavit. In the relevant paragraphs, Dr. Krebs says:

* * * * *

2. In 1926, I made an extract from apricot kernels which I called Sarcarcinase. This extract contained Amygdalin and 1-glucosidase. When I injected this product into rats it was toxic and killed some of them.

3. In 1936, I changed the composition of the preparation resulting from the extract of apricot kernels so that the only active principle which remained was Amygdalin.

4. During the period between 1936 and 1960, I perfected the purification process so that the purity of the Amygdalin rose from 66 percent in 1936 to 99.8 percent by 1960.

5. In 1955, I began to lyophilize the Amygdalin and I have been lyophilizing it in its final form ever since when I produce it in my laboratories.

6. In 1949, my son, Ernst T. Krebs, Jr., gave the name Laetrile to the Amygdalin I was producing and I have used the name of Laetrile ever since that time for the final form of the Amygdalin which I produce.

7. As early as 1926 and up through 1962, I first began to ship and have done so continuously thereafter the Sarcarcinase extract (cf 2), then the amygdalin (cf 3), then the purified amygdalin (cf 4), then the purified and lyophilized amygdalin (5), and then since 1949 (cf 6) the latter under the name of Laetrile to persons in other States outside of the State of California and in many other countries. Many of these persons have reported their studies in scientific and medical journals and in private communications over several decades. The above shipments were for investigational use only.

As the dates cited by Dr. Krebs illustrate, the substance with which he experimented in the 1920's and 1930's was not the same substance as that which he was using in 1962. The pre-1938 use is, for that reason alone, not sufficient to qualify Laetrile for exemption from coverage of the act under the 1938 grandfather clause.

In another document upon which the Commissioner would ordinarily place reliance, a December 15, 1962 report by FDA inspectors describing their conversations with Dr. Krebs, Sr. (R 184, Ex. 5), Dr. Krebs is reported to have stated that "he began experimenting some 10 months ago with the extraction of Cyanogentic Glucoside from a mixture containing apricot pits. The purification of this glucoside was effected in the laboratories of Dr. Krebs and used in the treatment of his patients with, according to him, satisfactory results. This material assertedly liquefies malignant growths by the release of cyanide in the area. Injections are made around the area and the case of lung cancer injections are made in the apex of the trapezei." It may be that Dr. Krebs in his statement to the inspectors was speaking of his efforts to purify Amygdalin, referred to in paragraph 4 of his affidavit. On the second page of the inspectors' report, they indicate that "E. T. Krebs, Jr., stated that Dr. Harry Pincus Jacobson, M.D., was the first to use 'Laetrile' on humans and that this was in June 1952. Up to the present time (December 1952) he has used the product on approximately 14 cases."

This last quotation from the inspection report comports with statements elsewhere indicating that in 1952 Mr. Krebs, Jr., developed a new product, related to the products with which his father had been working, which he called Laetrile. While the failure of the affidavit of Dr. Krebs, Sr., to mention this "improvement" by Mr. Krebs, Jr., might lead one to question whether such an improvement had taken place, an article by the senior Krebs and Dr. Arthur Harris, copyright 1955, entitled, "The Treatment of Breast Cancer with Laetrile by Iontophoresis" (R 183, Att. 7) at 23–24, states as follows:

In 1952 the senior author's biochemist son, Ernst T. Krebs, Jr., became interested in the preparation his father had used on cancer for so many years In his laboratory—the John Beard Memorial Foundation—he tore the drug apart and came to the conclusion that it was not only the glucoside but more particularly the cyanogenetic glucoside that had benefited cancer patients. He succeeded in separating the enzyme Emulsin from the cyanogenetic glucoside and advised their administration separately, in order to avoid the premature trigger-off of HCN from the chemical breakdown in the somatic (or normal) tissue, for this gas—HCN—was the active agent in destroying the cancer cell.

Again the senior author tried each purified preparation—the cyanogenetic glucoside and the enzyme Beta-glucosidase—separately. He administered the cyanogenetic glucoside parenterally (by injection) and followed it in fifteen minutes or so with an injection of the enzyme Beta-glucosidase. The cancer victims so treated tolerated both the drug and the enzyme excellently—and were immeasurably improved. Using the chemical and the enzyme separately, therefore, gave a high degree of safety as well as enhancing its cancerolytic effect.

* * * * *

Because this apricot kernel preparation was "Laevorotatory" (left-handed) to polarized light, and because Amygdalin was chemically a "mandelonitrile," Krebs, Jr., united the first and last syllables to invent a name for the new cancericidal drug—LAETRILE.

Krebs Jr. uncovered the vital link that united Laetrile with the Unitarian or Trophoblastic Thesis of Cancer. In the previous chapter we emphasized the known fact that most malignant lesions are focally characterized by high concentrations of the enzyme Beta-glucuronidase—one of the main attributes common to both the trophoblast cell and the cancer cell. The Beta-glucuronidase of the animal kingdom is the equivalent of Emulsin in the vegetable kingdom, and Emulsin is the very enzyme that Krebs, Jr. separated from Amygdalin to make the empirical apricot formula safe for parenteral (injection) administration to humans!

This was an epochal milestone. Krebs, Jr., worked and experimented feverishly now: he was on the brink of cataclysmic discoveries, discoveries which, if substantiated, could mean victory over invincible Cancer!

He found that when he added Emulsin to Laetrile and incubated the mixture, hydrocyanic acid gas (HCN), one of the deadliest of gaseous poisons, was given off. He found that when he added animal Beta-glucuronidase (or prepared enzyme Beta-glucosidase) to Laetrile and incubated the mixture, HCN was again given off. This, he knew then, was the reaction that took place within the body—IN THE CANCER CELL!

The need for Krebs, Jr.'s improvement was related to the lack of safety of his father's original preparation. As this article co-authored by the senior Krebs states, the original "preparation proved so toxic that he and his colleagues who were experimenting with him were reluctant to continue its use, except in dire circumstances" (id. at 23; cf R 167, Ex. 2; R 170, Ex. 3 at 2014; R 386, Att. at 2–3). Again, it is apparent that the improvement in the substance used by the Krebs (father and son) after 1938 made the drug different in composition, and

also in indications for use, from the drug which was used before 1938. The 1952 date appears at several points in the record. (See e.g., R 167, Ex. 2; R 173, Att. "Laetrile: The Making of A Myth" supra; R 173, Att. 3; R 184 at ¶ 6; R 189; Tr. at 272; R 250 at 2–3; Tr. Ex. 10 at 3.)

In the submission of Mr. Wynn Earl Westover (R 259) (see also R 260), in a document entitled "Listing of Documents Relative to the Krebs Enzyme Extracts Later Known as Laetrile," at 13, there is a list of registrations of trademarks and issuances of letters patent allegedly granted for Sarcarcinase during the years 1930 through 1935. These documents have not all been submitted. Apparently submitted as representative of the patents is a patent specification from the Government of Ireland. As the above discussion indicates, the material covered in these patents is different from the material now known as Laetrile. A submission by Eric E. Conn, Professor of Biochemistry at the University of California, Davis (R 424) discusses this patent application and states that if the procedure set out in the patent is followed, "much or all of the amygdalin in the intact kernels may be destroyed by enzymes set in action by the grinding" of the kernels to produce the extract. Most of the amygdalin remaining would be lost in processing. The extract produced "would be a mixture of glycerides, esters, certain pigments and other fat-soluable compounds that might or might not also contain a small amount (less than 5 percent) of the amygdalin remaining in the finely ground kernels." Compare the claims by Robert W. Bradford, President of the Committee for Freedom of Choice in Cancer Therapy, Inc., at the oral argument, that "Laetrile was first offered for sale in a trademark assigned in 1934, that it was sold at that time in three different forms: tablets, capsules, and injectables, (and that it) pharmaceutically was the same substance used today in cancer therapy. There can be no disagreement on this point" (Tr. at 346). Mr. Bradford submitted nothing to support his claim, which is at odds with the factual information submitted in the record and discussed above.

The Westover submission (R 259) also includes copies of a number of letters by various doctors who indicate that they have used the senior Krebs' formulation in the treatment of tumors or cancer. The letters bear dates in the 1930's. Mr. Westover's submission claims that there are a large number of other letters, not submitted, which are of generally the same type. Ernst T. Krebs, Jr., appearing at the oral argument, testified that amygdalin had been used as early as 1932. He indicated that the product then in use was labeled Sarcarcinase. (See Tr. at 232, 238, 246.) Sarcarcinase is the name of the product which was, according to Mr. Westover, granted a United States trademark in 1934. (See also Tr. at 446–48.) Two affidavits, apparently prepared for some court action, by Charles Gurchot, Ph.D., and Chauncey Leake, Ph.D., indicate that the affiants were involved in the treatment of patients with Krebs, Sr.'s product in the 1930's (R 302, Ex. K and L).

The Commissioner has carefully surveyed the entire administrative record brought together for this proceeding. While it appears that Dr. Krebs, Sr., was utilizing some substance, which apparently had the trademark name of Sarcarcinase, before 1938, there is no evidence that that substance is identical in its formulation, or in its indications for use, to present day Laetrile (cf R 416 at ¶ 27(I)(7) (pg. 23)). In fact, as discussed above, the record is clear that the substance with which Dr. Krebs, Sr., experimented in the 1930's is different from the drug now being used by Laetrile proponents. The evidence suggests that the substance used by Dr. Krebs, Sr., in the 1930's was too toxic for general use. This toxicity appears to have been the reason for the work of Mr. Krebs, Jr., which, apparently, culminated in a substantial change in the formulation around 1952.

The Commissioner thus concludes that (1) no proof has been offered which shows that Laetrile was used and labeled before 1938 in a manner identical to its present use and labeling, and that (2) the evidence in the record demonstrates that present day Laetrile was not developed until after 1938. Thus, regardless of where the burden of proof lies in an administrative proceeding of this type, the Commissioner must conclude that Laetrile is not eligible for exemption from the protection to the public provided by the new drug provisions of the act because of use prior to 1938 involving identical labeling as to conditions of use.

B. THE 1962 GRANDFATHER CLAUSE

The provision that has been characterized as the "1962 grandfather clause" is set forth at section 107(c)(4) of Pub. L. 87–781 (note following 21 U.S.C. 321):

(4) In the case of any drug which, on [October 9, 1962] the day immediately preceding the enactment date, (A) was commercially used or sold in the United States, (B) was not a new drug as defined by section 201(p) of the basic Act as then in force, and (C) was not covered by an effective application under section 505 of the Act, the amendments to section 201(p) made by this Act shall not apply to such drug when intended solely for use under conditions prescribed, recommended, or suggested in labeling with respect to such drug on that day.

The "basic Act as then in force" read in relevant part as follows:

Sec. 201. For the purposes of this Act—

* * * * *

(p) The term "new drug" means—

(1) Any drug the composition of which is such that such drug is not generally recognized, among experts qualified by scientific training and experience to evaluate the safety of drugs, as safe for use under the conditions prescribed, recommended, or suggested in the labeling thereof, except that such a drug not so recognized shall not be deemed to be a "new drug" if at any time prior to the enactment of this Act it was subject to the Food and Drugs Act of June 30, 1906, as amended, and if at such time its labeling contained the same representations concerning the conditions of its use; or

(2) Any drug the composition of which is such that such drug, as a result of investigations to determine its safety for use under such conditions, has become so recognized, but which has not, otherwise than in such investigations, been used to a material extent or for a material time under such conditions.

The Commissioner has previously admitted that one of the conditions for 1962 grandfather status does exist—Laetrile (or amygdalin) was not covered by an effective NDA on October 9, 1962. (See 42 FR 10069). The Commissioner concludes on the basis of the information in the administrative record that Laetrile (or amygdalin) fails to meet all of the other requirements for qualifying for the 1962 grandfather clause exemption: (1) No showing has been made that a drug was used or sold on October 9, 1962 which has the same composition as a drug used or sold, or sought to be used or sold, today. (2) The record is clear that any use of drugs called "Laetrile" or "amygdalin" in cancer therapy in 1962 was for investigational use. Investigational use can not provide the basis for exemption from new drug status on October 9, 1962 (see section 201(p)(2) of the act as then in force, set forth above) and of course does not constitute commercial use or sale. (3) No showing has been made that conditions of use recommended in labeling of a drug used or sold on October 9, 1962 are the same as those now recommended in labeling for the same drug. In fact, neither present labeling nor labeling in use on October 9, 1962 has been submitted to the record. Review of labeling available for "Laetrile" before and after October 9, 1962 reveals substantial changes in the prescribed conditions of use. (4) Laetrile (or amygdalin) was not generally recognized, by experts qualified by scientific training and experience to evaluate drug safety, as safe for use in cancer therapy on October 9, 1962.

As has been noted above, the Commissioner has concluded that the proponents of the proposition that Laetrile is exempt from the act because of "grandfather" status must bear the burden of proving that it is exempt. As has also been previously noted, however, the Commissioner has made a determination based on the alternative theory that the Government must prove that at least one of the essential facts leading to exemption does not exist. Proof of a negative is obviously more feasible in some instances than in others. The record leaves no doubt that use of Laetrile (or amygdalin) on October 9, 1962 was for investigational purposes and that use of the drug in cancer therapy was not "generally recognized" by qualified experts to be safe on that date. Since neither the present composition nor the present labeling of the drug appears in the record, it may not be conclusively determined that that composition and the conditions of use suggested in that labeling are not the same as the composition and suggested conditions of use of some drug in 1962. Nonetheless, the Commissioner is able to conclude, based upon substantial evidence which constitutes the prepon-

derance of the evidence in the record, that neither of those essential facts (i.e., identical formulation and identical conditions of use) do exist as to Laetrile (or amygdalin).

1. Composition

Clearly, for the 1962 grandfather clause to apply, the identical drug must have been used or sold in 1962 as is presently used or sold. The fact that a drug with the identical name (or names) was being used is irrelevant. Similarly, the fact that a drug in commercial use on October 9, 1962 has ingredients (such as amygdalin) in common with drugs in use today would not be sufficient under the grandfather clause if any of the ingredients of the drug, or the proportions in which those ingredients appeared in the drug, had changed (see generally 21 CFR 310.3(h)). Even a change in an inactive ingredient will make a drug a "new drug," (see 21 CFR 310.3(h)(1); *United States* v. *Article of Drug "Entrol-C Medicated,"* 513 F.2d 1127, 1130 n. 7 (9th Cir. 1975)).

The discussion earlier in this opinion of the identity of drugs characterized at different times as "amygdalin" or as "Laetrile" illustrates the wide variation in composition of these drugs. There is no evidence in the record of the present formulation of Laetrile or of amygdalin medication. Neither is there evidence of the composition of such a drug on October 9, 1962. The Commissioner thus concludes that there has been no showing that Laetrile or amygdalin as presently constituted was in use on October 9, 1962. The Commissioner also concludes, based upon the evidence of wide variation in the drugs' composition, both before and after 1962 (discussed below), that the 1962 versions and the versions of the drugs currently in use are not identical.

It should be noted that the Commissioner's decision on this point is in accord with a statement by Andrew McNaughton of the pro-Laetrile McNaughton Foundation, discussed earlier, that data on Laetrile obtained prior to 1968 are frequently not reliable because of the variability in composition of early preparations (R 173, Att., "Report of Ad Hoc Committee of Oncology Consultants"). Other evidence on the question of composition of the drugs consists of (1) analyses done of Laetrile products and (2) representations made as to the products' composition. (The discussion of the 1938 grandfather issue sufficiently catalogues and disposes of claims that drugs similar to Laetrile or amygdalin were marketed prior to 1938, and this section will thus discuss evidence postdating 1938.)

Analyses. As discussed previously, the results of analyses of drugs called "Laetrile" have often been at variance with their labeled composition. Analyses by Canadian investigators, reported in 1965, found that two versions of the drug, one manufactured in the United States and one manufactured in Canada, had different compositions. The American version contained 98±2 percent amygdalin plus .5 percent phenol. The Canadian version contained 87±2 percent amygdalin, 5 percent di-isopropylammonium iodide, and 8±2 percent sucrose (R 189, Att., "Laetrile: A Study of its Physiochemical and Biochemical Properties" at 1059).

Analyses done in 1961 and 1962 for the California Cancer Advisory Council of samples of Laetrile from various different sources—samples obtained in 1951 and 1953, samples obtained from Hale Laboratories, and samples obtained from Dr. Krebs, Sr.—also showed a variation in composition among the drugs (R 183, Att. 16 at 27). Similarities to commercial amygdalin were revealed in some tests. (See, e.g., R 183, Att. 16 at 28 and App. 8.) "The old Laetrile (1951 and 1953) was similar but not identical to amygdalin in the (infra-red examination), while the new Laetrile exhibited certain similarities and certain dissimilarities to both the old Laetrile and to amygdalin" (R 183, Att. 16, App. 8 at 1). Some samples were found to contain inorganic iodine; others did not contain that substance. (See, generally, R 183, Att. 16, App. 7 and 8.)

Claims. A new drug application submitted to FDA by Ernst T. Krebs, Jr., on October 3, 1962, lists the composition of Laetrile as:

L-mandelonitrite-diglucoside [amygdalin] 1,000 mg.
N, N-diisopropylammonium iodide 50 mg.
Inactive saccharides, principally sucrose 176–250 mg.

The drug was to be reconstituted with a sterile isotonic solution (R 201, Ex. B at 101–102).

Dr. Krebs, Sr., in his 1965 affidavit, stated that his preparation contained amygdalin as its only active principle and that that amygdalin, by 1960 at least, was lyophilized and 99.8 percent pure. (See R 183, Att. 13.) It is not clear whether other, inactive, ingredients were a part of the drug he prepared.

A 1953 letter from Ernst T. Krebs, Jr., to California medical authorities states that he was forwarding to Dr. Macdonald "samples of biosynthetically degraded amygdalin in which one dextrose was removed by prunasin and the resulting compound, in the presence of platinum black, was oxidized to the corresponding glucuronoside" (R 183, Att. 14).

In 1965, FDA investigators obtained examples of labeling utilized by the senior Krebs' laboratory. The labeling indicates that Laetrile is "cyanide glucoside type amygdalin." Additional labeling, a pamphlet entitled "Laetrile: Directions for the Administration of Laetrile," states that the drug is to be reconstituted with water, a non-isotonic solution (see R 201 at ¶ 10a and Ex. C).

Mr. Krebs, Jr., in a 1970 article in the Journal of Applied Nutrition (R 183, Att. 10c) in which he explained his theory that Laetrile and similar substances make up Vitamin B–17, suggested the drug use of a substance clearly different from all other Laetrile drugs previously in use. While what had been used previously had apparently been a manufactured drug containing either the "Laetrile" of his own formulation or amygdalin in a more or less purified form, in this article he advised that "one gram of defatted apricot seed or kernel carries about 30 milligrams of nitriloside. Six or seven teaspoonsful will supply what our clinical investigators consider an adequate oral dose—one gram. It is best that the (beta)-glucosidase enzyme be completely heat inactivated in such material" (id. at 84). As discussed previously, this advocacy of the use of apricot kernels rather than a manufactured drug represents a change in the formulation of the product which is of particular importance because of the danger of toxicity associated with oral ingestion of apricot kernels.

The Commissioner concludes that drugs called variously Laetrile and amygdalin have no set composition, their makeup varies depending upon the manufacturer and the time of manufacture. It thus appears that any drug in use on October 9, 1962 was different in composition from Laetrile as used, or proposed to be used, today.

2. Investigational Use

The record is clear that use of Laetrile (amygdalin) on October 9, 1962 was for investigational, not commercial, purposes. This fact is borne out by legal documents concerned with each of the two major figures in its development—Dr. Ernst T. Krebs, Sr., and his son, Ernst T. Krebs, Jr.—and by other information in the record. Much of the evidence relating to the 1962 grandfather issue, like that relating to the 1938 grandfather issue, is not of the type which would be considered reliable evidence in a court of law. In many cases the "evidence" consists of hearsay which is not substantiated by any documentation. The record does contain, however, a sworn affidavit of Ernst T. Krebs, Sr. In this affidavit (R 183, Att. 13 at ¶ 7) Dr. Krebs describes his shipment in interstate commerce of various versions of his cancer cure, including amygdalin which he stated to have been sold after 1949 under the name of Laetrile, "up through 1962." Dr. Krebs states, "The above shipments were for investigational use only."

Ernst T. Krebs, Jr., and the John Beard Memorial Foundation were convicted in 1962, upon pleas of guilty, of charges of introducing and delivering for introduction in interstate commerce a new drug without an approved new drug application (R 183, Att. 16, App. 17). The drug involved there was another unproved remedy, called by Mr. Krebs "pangamic acid" or "Vitamin B–15." Sentence of imprisonment on those charges was suspended and the defendants placed on probation for 3 years on the condition that they not manufacture, sell, offer for sale, hold for sale, or deliver or give away any "new drug." Mr. Krebs, Jr., obtained a special order which allowed him to ship 400 vials of Laetrile to the McNaughton Foundation in Canada, "for investigational use" pro-

vided the Canadian Food and Drug Directorate acquiesced in that shipment. In a supplemental order of June 28, 1962, Ernst T. Krebs, Jr., was permitted, under certain detailed conditions, to deliver Laetrile to experts qualified by scientific training and experience to investigate the safety of drugs. The drug was not to be administered to any patient except one with extensive malignancy who was receiving Laetrile under Kreb's direction as of June 15, 1962. Thus, if Laetrile were in commercial use on October 9, 1962, and if the Laetrile involved were supplied by Mr. Krebs, Jr., he was in violation of this court order. Copies of the court papers involved in this criminal prosecution are found at appendix 17 to attachment 16 to R 183.

Use of a drug is investigational, as contrasted with commercial, when that use is for the purpose of determining whether, or demonstrating that, the drug in question is safe and effective. The record contains no evidence to suggest that, contrary to the affidavit of Dr. Krebs, Sr., or to the court order binding Ernst T. Krebs, Jr., Laetrile (or amygdalin) was being used on October 9, 1962 for other than investigational uses.

"In 1953 the Cancer Commission of the California Medical Association investigated the claims made for the use of Laetrile in cancer treatment and condemned its use" (R 168, Att. "Vitamin Fraud"). The activities that led to the Medical Association action were apparently based upon Dr. Krebs' use of Laetrile. As shown by labeling collected during a 1952 FDA inspection, the Laetrile then in use was labeled, "Caution: New Drug limited by Federal Law to investigational use." (See R 184, Ex. 5.)

A submission to the record which contains much information about the use of Laetrile at about the crucial date of October 9, 1962 is the 1963 report of the California State Cancer Advisory Council entitled "Treatment of Cancer with Beta-cyanogenetic Glucosides ('Laetriles')" (R 183, Att. 16). While the Council concluded that use of Laetrile was not warranted in any context, its report does not contradict Krebs' claims that use was investigational at that time.

Other references to the use of Laetrile prior to 1962 do not specify whether or not the use mentioned was investigational, see R 183, Atts. 5, 6; R 307 at 1; R 64; R 174, Ex. 2; Tr. at 81–82.

A pamphlet entitled Information for Physicians, Amygdalin The Non-Toxic Analgesic provides information about what it states to be the experience of various doctors around the world in administering amygdalin to patients. Some of the statements indicate use by doctors before 1962—that use appears to be investigational and was not, with the exception of 10 cases reported by a New Jersey doctor, in the United States (R 183, Att. 10 (b)).

The article by Levi et al., "Laetrile: A study of its Physiochemical and Biochemical Properties," discussed above, refers to Laetrile as "a drug manufactured and distributed until recently for clinical trial in Canada and the United States to determine its value as a palliative in cancer therapy" (R 189, Att. at 1057).

In 1970 the McNaughton Foundation submitted an IND for Laetrile, which was disapproved by FDA (R 184 at ¶ 9). An IND is a notice, filed by persons interested in the development of a drug product, which seeks permission to distribute an unapproved new drug for the purpose of conducting clinical investigations of it in humans. Such clinical investigations must be completed to form the basis for an NDA for the drug. The fact that Laetrile's proponents were still seeking to investigate its use in 1970 is additional evidence that any use of the drug on October 9, 1962 was investigational.

3. Conditions of Use in Labeling

In order to qualify for the 1962 grandfather clause, Laetrile (or amygdalin) would need to "be intended solely for use under conditions prescribed, recommended, or suggested in labeling with respect to such drug on" October 9, 1962 (section 107(c)(4) of Pub. L. 87–781). Conditions of use include, among other things, what the drug is recommended for, how it is to be administered, and in what quantities it is to be administered. Under the statute, any change in those conditions from October 9, 1962 to the present disqualifies the drug from exemption. (See *United States v. Allan Drug Corp. supra.*) Here, no submission contains either labeling now in use or proposed for use, or labeling used on October 9, 1962.

Since no labeling in use on October 9, 1962 has been submitted, the indications found in labeling in use in years prior to that time will be discussed as illustrative of the variation in proposed conditions of use apparent in the record. The Commissioner will then review labeling from dates after October 9, 1962. As the following discussion demonstrates, not only do the proposed conditions for use of Laetrile (amygdalin) vary from before October 9, 1962 to after that date, no two sets of labeling propose the same conditions.

Before October 9, 1962

A new drug application (NDA) submitted to FDA by the John Beard Memorial Foundation and Ernst T. Krebs, Jr., on October 3, 1962 indicates that Laetrile was a lyophilized water-soluble powder for use in the palliation of human cancer. Excerpts from the NDA, attached as Exhibit B to R 201, provide information concerning its intended uses: It was to be administered by injections of 1 gram each, which were to be either every day or every second day and either intravenously or intramuscularly. Intravenous administration was stated to be preferred. The average administration was stated to be every other day for a total of 10 injections. Apparently, a total of 20 grams of Laetrile were expected to be administered. Dosages, frequency, and route of administration are described as varying widely with each individual case. The application indicated that Laetrile often produces a temporary hypotensive reaction shortly after injection, especially in hypertensive patients. Laetrile is not indicated for use to the exclusion of surgery, radiation, or other chemotherapeutic substances where those find any indication.

The proposed labeling in the NDA is, of course, not an example of labeling in commercial use at the time of the NDA's submission. The NDA does, however, state the indications which Mr. Krebs, Jr., thought to be most appropriate for the use of Laetrile at that time. Thus, if Laetrile had been commercially used at that time, it is reasonable to believe that the indications proposed in the NDA would be the ones proposed in any labeling used for such a commercial product.

An article by Dr. Krebs, Sr., and Dr. Arthur T. Harris, entitled "The Treatment of Breast Cancer With Laetrile By Iontophoresis" (copyright 1955 by the John Beard Memorial Foundation) (R 183, Att. 7) proposes three different methods of utilizing Laetrile. At page 30, the three main methods of administering Laetrile and its auxiliary Beta-glucosidase" are described as: (1) Parenteral administration (injection into the muscle), (2) iontophoresis, discussed below, and (3) tamponade.

Perhaps the most bizarre of the proposed methods of administration for Laetrile is "Iontophoresis". This new procedure developed by the senior Krebs for treatment of cancers "especially in the breast" is described as "infinitely more effective and thorough." The procedure is described as follows:

> It is to force by galvanic current the Laetrile through the skin and into as well as between the individual cancer cells. The apparatus we use is a simple galvanic instrument (or, preferably, one of the modern instruments with resistors instead of tubes). The positive pole lead goes to the tumor site—the breast—the negative to the back. The solution of Laetrile is soaked in gauze and covered by a block tin electrode, then positioned firmly over the tumor. The negative pad, well moistened, is positioned on the back, and the current turned on. Slowly the amperage is raised to 10 milliamperes then 15, never more than 20 except in a very thick chest wall. In fifteen to thirty minutes, depending on the size of the growth, the pad has become almost dry: the Laetrile has been driven into—not around—the cancer cells (id. at 26–27).

The action of iontophoresis is described in more detail on pages 30–31. Apparently it is expected that the iontophoresis therapy will liquify the tumor mass, and a physician will thus be able to draw out, with an aspirating needle, the "cancer-juice" before administering the next iontophoresis treatment (id. at 32). Iontophoresis therapy involves administration every 2 to 5 days (id. at 31).

This article, which has been quoted and referred to previously, explains some of the history and theories of Laetrile's use. The article promotes the "Howard Beard Anthrone Test" for the diagnosis of cancer (id. at 34). This test involves analysis of the urine of the patients (see id. at 16–19). The authors recommend against biopsies to determine whether tumors are malignant (id. at 27–28). The

authors state their opposition to surgery prior to "control" of the cancer by Laetrile (id. at 35).

Laetrile (amygdalin) is apparently currently in use as an oral medication. Nothing in the record, other than conclusory statements of the most general kind, indicates that any version of the drug was in use as an oral medication on October 9, 1962. The only statement that such a drug was ever used orally before that date which purports to be based on first-hand knowledge is the statement of Charles Gurchot, Ph.D. (R 302, Ex. L at ¶ 8), that between 1933 and 1934 a Dr. Lewis administered amygdalin orally as well as intramuscularly and intravenously. Dr. Gurchot states that use in California, in which he participated between 1934 and 1945, involved administration intramuscularly and intravenously (id. at ¶ 14). As discussed above in the section on the 1938 grandfather clause, the "amygdalin" Dr. Gurchot states he was involved in using is different from that used at later dates.

After October 9, 1962

Variations in the conditions for use of Laetrile (or amygdalin) proposed in its labeling continued after the critical October 9, 1962 date. In 1965, an FDA inspection of Krebs' Laboratories produced labeling for Laetrile which suggested a new set of conditions for its use (see, generally, R. 201, Ex. C.). The laebls on the packages of the drug stated "For raising hemoglobin index and red count[;] relieves pain due to malignancy." (Similar labels were obtained by California State health officials in 1971 (R 183, Att. 9).)

In a pamphlet published by Krebs' Laboratories, obtained in the 1965 inspection, injections at various sites were indicated for various types of cancer—brachial vein for cancer of lungs; brachial vein and innominate artery for breast cancer; external carotid or one of its branches for cancer of the neck, thyroid, face, and temple area; brachial vein for cancer of liver, gastro-intestinal tract and the spleen; the vault of the vagina, the abdominal aorta, or the internal iliac arteries for cancer of the uterus and ovaries; the scrotal sac for cancer of the prostate and testicle (R 201, Ex. C, II).

Two pamphlets obtained in the 1965 inspection are in fact inconsistent with each other in some instances, though the similarities in printing style indicate that they were printed at about the same time. One states the dose of Laetrile to be administered to be "(g)enerally speaking 10 mgs. per pound of patient's weight, with "occasionally" 15 mgs. per pound and "very rarely" 20 mgs. per pound (id.). The second states that: "The usual daily dose of Laetrile now is 20 mgs. of the glucoside Amygdalin for every pound of the patient's weight, or even twice this, particularly in bone cancer." Three gms. are recommended for a 150-pound person and 4 gms. for a 175-pound patient, i.e., over 20 mgs. per pound (id. at Ex. C, III). (While no labeling indicating such conditions was submitted, it should be noted that Dr. Binzel, at oral argument, talked of injections of from 9 to 15 grams of amygdalin at one time (Tr. at 363). The page proofs of Dr. Richardson's book indicate that he uses intravenous injections of "6–9 gms. or more" of Laetrile during the first month of treatment with intravenous or intramuscular injections of 3 grams thereafter (Tr. Ex. 1 at 124).)

More important, however, are the difference between the conditions recommended in the labeling collected in 1965 and those in that submitted with the 1962 NDA. In the 1962 NDA, Laetrile was to palliate, not to cure; in the 1965 labeling it is stated: "Laetrile does not palliate, it acts chemically to kill the cancer cells selectively without injury to the normal tissues of the body" (R 201, Ex. C). While the 1962 NDA stated that Laetrile was not indicated to the exclusion of other recognized cancer therapies, the labeling collected in 1965 states: "The less drugs and medicines given, during the Laetrile treatment the better. What should be especially avoided is sulphur and sulphur drugs and *other cancer therapies*, * * *" (emphasis added) (id.). "Even more frightening to those who are concerned that utilization of therapies of proven effectiveness will be delayed until too late because of use of Laetrile is the statement in the pamphlet in use in 1965 that: "Being harmless * * * Laetrile should be used first instead of last as generally has been done when everything else has been tried and hope is gone" (id.). An affidavit submitted by Dr. Robert S. K. Young describes the medical importance of the numerous variations between the 1962 labeling and that of 1965 (see ¶ 11 of R 201).

The labeling discussed, which bears the name of Krebs Laboratories and of Dr. Krebs, Sr., appears as Ex. C to R 201. It should be noted that there is no copyright or other date on the labeling that was found in Dr. Krebs' establishment in 1965. One of the phamplets, that which contains some of the statements quoted above, is described as a "pre-1963 pamphlet" in the affidavit of Dr. Sherwood Lawrence (R 183 at 4). It appears as attachment 8 to that affidavit.

A pamphlet published by the McNaughton Foundation suggests intravenous dosages of amygdalin of from 3 to 6 grams a day administered over a 24-hour period (R 183, Ex. 10b at 5). That pamphlet, which cites references dated May 11, 1970 and thus must have been published thereafter, described the use of amygdalin as an analygesic, yet also indicates that the drug inhibits the growth of malignancies (id. at 1).

The record contains labeling for Laetrile (or amygdalin), which was in use after October 9, 1962, which clearly recommends oral administration of the drug. See R 183, Att. 10a—capsules, 400 mg.; R 183 Att. 4c—capsules, 400 and 500 mg.; R 183, Att. 10b—amygdalin tablets which may be broken up and added to drinking water or food (½ to 2 grams per day recommended); R 183, Att. 10d—"Magydalin" capsules with 500 mgs. of "pure crystalline LAETRILE (amygdalin)".

While in 1962 Laetrile was proposed in the NDA as a palliative, the labeling in the record makes clear that it has been touted since that time as a treatment for cancer (see R 183, Att. 10a.; see also R 201, Ex. C, discussed above). Mr. Krebs, Jr., claims Vitamin B–17, which may be or may contain Laetrile, to be "antineoplastic" and to be instrumental in "therapy" for cancer (Journal of Applied Nutrition; Vol. 22, "The Nitrilosides (Vitamin B–17)—Their Nature, Occurrence and Metabolic Significance (Antineoplastic Vitamin B–17)," at 75, 81 (R 183, Att. 10c).

In a transcript dated November 18, 1974, prepared by FDA, of a film entitled "World Without Cancer", produced by the proponents of the use of Laetrile, the claim is made that 15 percent of persons with advanced metastasized cancer will be saved by "vitamin therapy," which from the context includes vitamin B–17 (Laetrile). The film claims that, of those with cancer diagnosed early, at least 80 percent will be saved by vitamin therapy. Of those who are healthy with no clinical evidence of cancer, the film's narrator states that close to 100 percent can expect to be free from cancer as long as they utilize vitamin B–17. The use of the term "vitamin B–17" indicates that the film was made after 1962, since Laetrile was not claimed to be a "vitamin" until after that time (see, generally, exhibit 2 to R 198).

As discussed above, to qualify for exemption from the "new drug" definition of 21 U.S.C. 321 (p) pursuant to the "1962 grandfather clause," the proponents of Laetrile (or amygdalin) would need to show among other things that the drug in question is now "intended solely for use under conditions prescribed, recommended, or suggested in labeling with respect to such drug on" October 9, 1962. No evidence in the record shows either that the drug was used or that any conditions of use were recommended for it on that date. Evidence in the record indicates that conditions of use recommended prior to the critical date not only conflict with each other, but also conflict with recommendations after that date, which themselves conflict with each other. The Commissioner concludes, on the basis of the evidence in the record, that Laetrile as now known is not intended solely for use under conditions recommended in labeling on October 9, 1962.

4. Lack of General Recognition of Safety in 1962

As discussed above, a drug could not escape new drug status under the "1962 grandfather clause" if it were a "new drug" on October 9, 1962. To have been exempted from new drug status on that date, Laetrile (or amygdalin) would have to have been "generally recognized among experts qualified by scientific training and experience to evaluate the safety of drugs, as safe for use under the conditions prescribed, recommended, or suggested in the labeling thereof" (21 U.S.C. 321(p)(1) (1962)), and that general recognition would have to be based upon use other than investigational use

(21 U.S.C. 321 (p) (2) (1962)). The Commissioner has elsewhere discussed the evidence that demonstrates that Laetrile and amygdalin (to the extent that they are different) are not now generally recognized by qualified experts as safe for use under the conditions prescribed, recommended or suggested in their labeling. While the present lack of general recognition of the substances would not necessarily demonstrate that they were not so generally recognized in 1962, that fact does provide evidence of the earlier lack of recognition.

The evidence in the record provides a number of independent grounds upon which the Commissioner concludes that Laetrile (or amygdalin) was not generally recognized by experts in drug safety evaluation as safe on October 9, 1962. That conclusion is supported (1) by the proven lack of a number of prerequisites to such general recognition: lack of knowledge among such experts generally of Laetrile's use, of Laetrile's formulation, and of the proposed conditions of Laetrile's use; lack of data published in the scientific literature supporting Laetrile's safety as a cancer drug; and lack of scientific testing sufficient to show safety; (2) by statements in the record by experts in the evaluation of the drug safety that Laetrile was not generally recognized as safe as a cancer drug by themselves and their peers on October 9, 1962; and (3) by abundant evidence that Laetrile was not generally recognized by appropriately qualified experts to be effective in cancer therapy on October 9, 1962. The Commissioner concludes that the showing in the record on each of these points is itself sufficient to demonstrate that Laetrile (or amygdalin) was a new drug in 1962.

(a) *The Prerequisites.* (i) *Lack of General Knowledge of Use.*—A number of submissions to the administrative record indicated that the use, and the details of the use, of Laetrile or amygdalin were simply not generally known to the community of experts in the safety evaluation of drugs on October 9, 1962. Thus, there could not be any sort of "general" recognition of the substances' safety in 1962. (See, e.g., the oral testimony of Dr. Rhoads, the national chairman of the National Cancer Advisory Board (Tr. at 110–111; Tr. Ex. 5); oral testimony of Dr. Carr, professor in medicine at the Mayo Medical School (Tr. at 181).)

(ii) *Lack of General Knowledge of formulation.*—The variability in, and uncertainty about, the composition of the drug in use at that date (discussed in detail above) means that "general recognition" of the drug's safety by experts in drug safety evaluation would be impossible. The fact was recognized in *Durovic* v. *Richardson, supra*, 479 F. 2d at 251, in which another unproven cancer remedy was ruled not to be exempted from regulation by the 1962 grandfather clause.

(iii) *Lack of General Knowledge of Conditions of Use Suggested.*—Equally important, the variation in and uncertainty about the conditions of use suggested in the labeling of Laetrile (or amygdalin) on October 9, 1962, also discussed in detail above, means that such general recognition could not have existed. The law as of that date is clear that general recognition must be of safety "for use under the conditions prescribed, recommended, or suggested in the labeling" of the drug (21 U.S.C. 321(p)(1) (1962)). If experts throughout the country could not have known of those conditions of use, recognition of safety by them could not have existed.

(iv) *Lack of Safety Data in Scientific Literature.*—The existence of published data available in the scientific literature on the safety of a drug is a prerequisite to general recognition by experts of that drug's safety within the meaning of 21 U.S.C. 321(p). *Weinberger* v. *Bentex Pharmaceuticals, Inc., supra*, 412 U.S. at 652; see *United States* v. *41 Cases, More or Less*, 420 F. 2d 1126, 1130 (5th Cir. 1970); *United States* v. *1,048,000 Capsules, More or Less, supra*, 347 F. Supp. at 771. The record lacks any reference to any such published data available to experts on October 9, 1962.

In fact, the record demonstrates that, while data showing the lack of Laetrile's effectiveness have been published in the scientific literature, data upon which an expert in the evaluation of drug safety could make a judgment that Laetrile was safe for use in cancer therapy do not exist in the scientific literature available to experts generally even today.

(v) *Lack of Showing of Safety by Adequate Testing.*—As noted in the sections of this opinion dealing with the new drug issue, the Supreme Court has held in *Weinberger* v. *Bentex Pharmaceuticals, Inc., supra* that "general recognition," as those terms are used in 21 U.S.C. 321(p), requires the same type of showing of safety and efficacy necessary for approval of an NDA pursuant to 21 U.S.C. 355(d). For approval of an NDA prior to October 9, 1962, the application was required to contain "adequate tests by all methods reasonably applicable to show whether or not such drug is safe" for its intended uses, and those tests were required to in fact show that the drug was safe (21 U.S. 355(d) (1962)). It appears from the record that no such tests existed for Laetrile (or amygdalin) on October 9, 1962. Were there a question about the lack of such studies, that question could be resolved by the fact that, at approximately the time in question, NDA's for Laetrile and for a combination of Laetrile and iodomine were submitted to the FDA. Both applications were declared to be incomplete because of the lack of required data to show safety and effectiveness. (See, generally, the letter from John L. Harvey, FDA Deputy Commissioner, to K. F. Ernst, M.D., April 30, 1963 (R 183, Att. 16, App. 18).)

(b) *Statements by Experts.* Even setting aside the above important prerequisites to general recognition, the evidence in the record that Laetrile was not generally recognized as safe by experts in the evaluation of drug safety on October 9, 1962 is extremely strong.

The plethora of statements of experts in drug evaluation that Laetrile (or amygdalin) is not now generally recognized as safe is discussed elsewhere. Some of the experts focused upon the October 9, 1962 date. (See affidavit of Dr. Emil J. Freireich: "Neither amygdalin nor any other cyanogenic glycoside was generally recognized as safe for any (use in the treatment of cancer or prophylaxis against cancer or relief of pain associated with cancer, or for any medical use) on October 10, 1962" (R 390 at ¶ 19; accord affidavit of Dr. Daniel T. Carr, (R 176 at ¶ 15).) For a similar statement that Laetrile was not generally recognized as safe by appropriately qualified experts in 1962, see affidavit of Dr. Carl M. Leventhal (R 184 at ¶ 13).

Even more compelling evidence on this question can be gleaned from statements of experts in drug safety evaluation made near the October 9, 1962 date. Fortunately, at just about that date the State of California Cancer Advisory Counsel was polling just that type of expert concerning Laetrile (R 183, Att. 16 at 37–38). (Since the Krebs Laboratory was located in California, it would seem that experts in the California area would be most likely to be aware of recognition of Laetrile or amygdalin's safe us as cancer therapy.) The experts polled, representing each of the medical schools in the California university system, were asked about the drug's efficacy rather than their views on the question of the safety of Laetrile's use in cancer therapy. Clayton G. Loosli, M.D., Dean of the University of Southern California School of Medicine, speaking for the members of the school's faculty, indicated that Laetrile, while extensively investigated, was in the unanimous opinion of the faculty without value in the treatment of human cancer. He stated that "further, we consider its use not only not valuable even as a placebo but harmful in that use of Laetrile prevents patients from receiving what otherwise might be an effective modality of treatment" (id., App. 10). J. B. deC. M. Saunders, M.D., Dean of the University of California School of Medicine at San Francisco, speaking for the clinical staff of his medical school, gave their opinion that the use of Laetrile was of no value in the treatment of cancer. He said "(i)t may not only delay or interfere with conventional therapy (surery and radiation) but indeed could seriously jeopardize whatever chances the patient may have for cure. The unscrupulous use of unproven cancer 'remedies' such as Laetrile tragically increases the human suffering already associated with cancer (id.).

The only evidence submitted by proponents of Laetrile that experts qualified to evaluate the safety of drugs generally recognized the drug as safe when used in cancer therapy were two affidavits by Charles Gurchot, Ph.D., and Chauncey D. Leake, Ph.D., (R 302, Exs. K and L). The Gurchot affidavit states in paragraph 14 that amygdalin in liquid and solid form was used prior to 1962 (between 1934 and 1945) by Gurchot, under the supervision of five named medical dostors at the University of California Medical School at San Francisco (R 302, Ex. L). This amygdalin

was, according to his statement, administered "on patients intramuscularly and intravenously" (id.). At the same time, the amygdalin preparation he used, he states, was used by "about a dozen physicians throughout California through the University of California Medical Schools and as recommended by members of the Hospital Staff of the University of California Medical School at San Francisco" (id.). Gurchot states that these physicians were qualified by medical and scientific training and professional experience to evaluate the safety of substances such as amygdalin and that they recognized it as safe (id.). The Gurchot affidavit should be compared, in the first instance, to the 1962 statement, already discussed, of the Dean of the University of California Medical School at San Francisco, which states, "Laetrile is not, *nor has it been*, in clinical use or in experimental trials in this institution * * *" (emphasis added) (R 183, Att. 16, App. 10 at 8).

Even were the Commissioner to credit Dr. Gurchot's statement, he would have to conclude that, whatever had happened in the years 1934–1945, that experience did not form a basis for general recognition by qualified experts of safety in 1962, since even the faculty of the medical school in which Gurchot claimed the experiments had taken place had no knowledge of them. It should also be noted that, as discussed in the section on the 1938 grandfather clause, the "amygdalin" Gurchot could have been using would not have been the same substance in use today. His evidence, in addition, speaks only of investigational, as opposed to commercial, use of the drug—an improper basis for "general recognition" (see discussion above). In light of these facts, and of the other information in the record on this issue, Gurchot's statement in paragraph 16 of his affidavit indicating his belief that the general recognition of safety requirement for exemption from new drug status did exist for amygdalin on or prior to October 10, 1962 must be questioned.

The affidavit of Chauncey D. Leake, Ph.D., indicates that he is familiar with Dr. Gurchot's use of amygdalin in the mid-1930's and 1940's at the University of California Medical School Hospital in San Francisco. He states that at that time, i.e., in the 1930's, "it was generally held by physicians and other scientists familiar with it, that amygdalin was safe when used in the treatment of cancer as well as in its use as an expectorant or cough suppressant" (R 302, Ex. K at ¶ 6). This conclusion does not, however, indicate recognition by anybody in 1962; it does not, as demonstrated elsewhere, deal with the drug presently being used (see affidavit of Dr. Krebs, Sr., (R 183, Att. 13)); it refers only to physicians and scientists "familiar with it", thus not addressing the question of whether recognition was general.

(c) *Lack of General Recognition of Effectiveness in 1962.*—Experts in the evaluation of the safety of a drug do not conclude that a drug is safe, if that drug is intended for the treatment of a life-threatening disease, if it has not been shown to be effective. The record illustrates a broad consensus of cancer researchers and physicians that Laetrile presents a grave danger to patients who might be helped by orthodox therapy. The concern is that such patients may be induced to turn instead to this ineffective drug, their disease may progress while effective therapies are foresaken, and the use of the ineffective cancer drug will inevitably and inexorably lead to the patient's death. (See, e.g., R 396 at 1; R 384; R 170 at ¶ 11; R 183 at 18; R 266, Ex. 3 at 865; R 192 at ¶ 14; R 193 at 1; and R 195 at ¶ 13.) Thus, even if it were shown, as it has not been, that experts in 1962 generally were aware of the drug, its formulation, its conditions of use, and of toxicity data concerning it published in the scientific literature, the alleged nontoxicity of Laetrile (or amygdalin) would not form a sufficient basis for general recognition of safety in 1962.

At the time of the 1962 amendments to the act, it was made clear that, where drugs utilized for life-threatening diseases are involved, evidence of effectiveness is essential to proof of safety. The Senate report on the amendments stated:

> The Food and Drug Administration now requires, in determining whether a "new drug" is safe, a showing as to the drug's effectiveness where the drug is offered for use in the treatment of a life-threatening disease, or where it appears that the "new drug" will occasionally produce serious toxic or even lethal effects so that only its usefulness would justify the risks involved in its use.

(S. Rep. No. 1744, 87 Cong. 2d. Sess., 1962 U.S. Code Cong. Ad. News 2884, 2891.) The report made it clear that the amendments were "in no way intended to affect any *existing authority of the (FDA) to consider and evaluate the effectiveness of a new drug in the context of passing upon its safety*" (emphasis added) (id. at 2892).

As the Court held, when dealing with a similar unproven cancer remedy, in *Durovic* v. *Richardson, supra*, lack of general recognition of the effectiveness of a drug intended for treatment of a life-threatening disease on October 9, 1962 means that general recognition of its safety could not have existed:

> (A) drug offered for use in the treatment of cancer is now, and was before the amendments, a new drug unless it has achieved general recognition among the experts as safe and effective for such use (479 F. 2d at 250).

The evidence in the record overwhelmingly demonstrates that, among experts in the evaluation of the safety and effectiveness of drugs, Laetrile (or amygdalin) is not recognized as effective (see discussion above). It is a fair inference, absent any indication to the contrary, that a drug not recognized as effective now was not so recognized on October 9, 1962.

Again, however, the record supplies evidence of opinions of such experts given at almost exactly the time in question. As noted above, the medical schools in California were asked their opinions of Laetrile's effectiveness. Each of the medical schools contacted stated that Laetrile was never used in their institutions and that they concluded that it was not effective and had not been shown by testing to be effective. (See, in addition to the letters discussed above, letters from Dean David B. Hinshaw, M.D., Dean of Loma Linda University Medical School, Dr. M. H. Simmers, Coordinator, Cancer Training, California College of Medicine, Sherman M. Mellinkoff, Dean, University of California, Los Angeles Medical School.) These letters are printed as appendix 10 to R 183, Att. 16; see also R 183, Att. 16 at 38. The report states that Robert H. Alway, M.D., Dean of Stanford University School of Medicine, also indicated that Laetrile was of no value in cancer treatment and was not part of the treatment program at his medical school (R 183, Att. 16 at 38). The report also states that two other professors involved with cancer therapy and research concurred in this evaluation (id.). The report of the California Cancer Advisory Counsel itself constitutes convincing evidence that at about the time of the crucial date, October 9, 1962, experts did not generally recognize Laetrile as safe for the treatment of cancer, in particular because it was considered to be a worthless treatment for a life-threatening disease. As has been pointed out elsewhere, no adequate and well-controlled clinical investigations, the prerequisite for general recognition by experts of a drug's effectiveness (*Weinberger* v. *Hynson, Wescott and Dunning, Inc., supra*) exist as to Laetrile. Thus, even were the testimony in the record on this question less conclusive than it is, it would be necessary to find that there was no general recognition by experts that Laetrile was safe for use for any purpose on October 9, 1962.

The Commissioner thus concludes that Laetrile (or amygdalin) does not qualify for exemption from the new drug provision of the act by virtue of compliance with the 1962 grandfather clause.

IV. The Popularity of Laetrile

A. Laetrile and Other Unproven Remedies

Laetrile, as far as is known, has nothing in common scientifically with any of the other "unproven" cancer remedies of the past.[6] Yet the method of promotion of the drug and the arguments advanced for its use are markedly similar to those of past cancer frauds.

1. The History of Cancer Quackery in the United States

Through the ages there have been literally thousands of supposed remedies

[6] Dr. Ernst Krebs, Sr., though he thought people should be allowed to use his Laetrile, and a number of other remedies since forgotten by the public, is on record as stating that he could see no rationale for Krebiozen, the last of the highly publicized "unproven" cancer remedies (R 183, Att. 14 at 2).

for cancer, generally so outlandish that it seems incredible that people once believed in them. One historian of health quackery pointed out that the promotion of "unproven" cancer cures has a long history in this country:

> Cancer quackery appeared in America during colonial times, one example being the alleged "Chinese Stones" vended by a purported Frenchman, Francis Torres, who hawked his cures from town to town. During the nineteenth century, an alert physician, Caleb Tichnor, bemoaned the breed of cancer quack, (each of whom offers) his "secret specific" to the panicked citizenry who, "like a drowning person grasping at straws seize upon the frail hope that is offered by the hand of ignorant charlatanry!" "Dr. Johnson's Mild Combination Treatment for Cancer" offered the first serious legal challenge to the 1906 Pure Food and Drug Act, requiring the Congress to enact the Sherley Amendment of 1912. At this same time, Dr. Arthur J. Cramp of the American Medical Association devoted fifty pages in his first Nostrums and Quackery volume to a detailed account of ten major cancer 'cures' deceiving the American people. Compiling a third volume in 1936, Dr. Cramp pointed to twenty-nine purported cancer cures, stating that "hardly a week has passed when the Bureau of Investigation of the American Medical Association has not received one or more letters in which the writers stated that they had discovered, or had in their possession, a 'sure cure' for cancer."
>
> Nor has cancer quackery diminished as the twentieth century has progressed. Indeed, with the decline of contagious diseases, due mainly to the chemotherapeutic revolution, and the consequent rise of cancer into second place as a cause of death, cancer quackery has expanded. The 1971 edition of *Unproven Methods of Cancer Management*, published by the American Cancer Society, described fifty-four promotions offering hope to cancer sufferers but deemed devoid of value by ACS. The 1976 edition of *Unproven Methods of Cancer Management* cites in its appendix seventy-one such methods (R 400 at 1–2; see also R 400, Ex. 2).

Evaluation of approximately 60 of these methods may be found as attachments to R 400, Ex. 2.

Each decade seems to have an unproven cancer remedy that is promoted so effectively that it attracts a large following and becomes a cause celebre. In the 1940's and early 1950's, the Koch Antitoxins were heavily promoted as a specific cure for cancer. The Koch Antitoxins thesis, promoted by William F. Koch, M.D., advanced "the theory that cancer is caused by a microorganism resembling the spirochete of syphilis, which could be destroyed by a differential poison of his invention" (R 183, Att. 3 at 43). "The Koch medications, known collectively as Koch's Synthetic Antitoxins or oxidation catalysts, were individually packaged in 2 ml ampules. Malonide and glyoxylide (were) claimed to be present in a concentration of one part in a trillion parts of water, and parabenzoquinone one part in a million parts of water" (id.). "Glyoxylic acid, of which glyoxylide is the anhydride (the resulting element after water is removed), is a normal constituent of the human body. About two grams are formed daily—at any given time there are about five milligrams in the human body, whether healthy or diseased. It would take a trillion 2 ml ampules of Koch's glyoxylide to equal the amount produced daily by the body, and two and one half billion ampules to equal the amount present in the body at any one time" (id. at 44). Even so, cancer patients paid as much as $300 per injection for this worthless remedy (R 400, Ex. 2, ACS "Koch Antitoxins").

Another unproven cancer remedy whose promotion reached substantial proportions in the 1950's was the medications of Harry Hoxsey. Two liquid mixtures played the central role in the Hoxsey remedy. The "brownish black liquid" contained potassium iodide and "some of all of the following inorganic substances as the individual case may demand: Licorice, red clover, burdock root, stillingia root, berberis root, poke rot, cascara, Aromatic USP 14, prickly ash bark, (and) buckthorn bark (R 400, Ex. 2, ACS "Hoxsey Method"). The "pink liquid" was composed of lactate of pepsin and other ingredients (R 416, Ex. 6 at 368).

Hoxsey and his spokesmen were frank to confess that they did not completely know why his colored mixtures cured cancer. They asserted that they had been kept too busy treating cancer patients and fighting court battles to keep their clinic open "to spare the time, personnel, and facilities for objective study" (id. at 369). Hoxsey's hypothesis "held that a major chemical imbalance in the body caused normal cells to mutate into a cancerous form, and his medicines restored the original chemical environment, checking and killing the cancerous cells" (id. at 369). The proponents of the Hoxsey remedy, like the Laetrile proponents of today, condemned the only treatments then recognized as having value in cancer therapy. The Hoxsey proponents held that "X-ray and radium (had) no place in the treatment of cancer * * *. They further upset basic cell metabolism rather than do anything to correct it" (id. at 369).

Harry Hoxsey promoted his unproven cancer remedy for more than 30 years until 1960, when after years of numerous local, State, and federal court actions, the sale of the Hoxsey medicines was stopped in the United States. At the time of the 1960 permanent injunction banning the sale of Hoxsey remedy at the Taylor Clinic, more than 10,000 patients were receiving the remedy. (See, generally, R 400, Ex. 2, ACS "Hoxsey Method"; R 416, Ex. 6.)

In 1964 a California State government report stated that, at that time, "Possibly no other unproven treatment for cancer has received so much public attention or approbation as Krebiozen. This agent has been the subject of intense scrutiny by scientists and government officials, and loudly discussed by the press and by the general public. The events surrounding the introduction of Krebiozen as a potential cancer cure and the subsequent trials to test its capabilities produced an air of notoriety seldom seen in the medical world" (R 183, Att. 3 at 59).

Unlike Harry Hoxsey's backwoods herb remedy, Krebiozen, the most heavily promoted unproven cancer remedy of the 1960's, had an aura of high scientific prestige. The drug's principal proponent in the United States was Dr. Andrew C. Ivy, then Vice-President in charge of the Chicago Professional Colleges, Distinguished Professor of Physiology and Head of the Department of Clinical Science, University of Illinois (id.) Krebiozen was reportedly produced originally in Argentina by Stevan Durovic, M.D., a Yugoslavian physician, and brought to the United States in 1949 (R 400, Ex. 2, ACS "Krebiozen and Carcalon"). "According to Dr. Durovic, the original 2 grams of powder, from which he said 200,000 doses were prepared, was obtained as an extract of the blood of 2,000 Argentinian horses which had previously been injected with a sterile extract of *Actinomyces bovis*, a microorganism which causes a disease called 'lumpy jaw' in cattle" (id.). "Food and Drug Administration analyses of Krebiozen ampules (showed) that those sold before 1960 (were) different from those sold in 1963, and that neither contain(ed) any of the powder identified in July 1963 by Dr. Stevan Durovic as Krebiozen, and found to be creatine monohydrate, which will not dissolve in mineral oil. * * * analyses of Krebiozen ampules shipped before 1960 showed they contained nothing but mineral oil, while ampules shipped since then contained mineral oil plus minute amounts of amyl alcohol and 1-methylhydantoin, a derivative of creatine which will dissolve in mineral oil" (id.).

In 1963, a committee of 24 cancer experts was appointed by the Director of the National Cancer Institute to review clinical records on 504 patients treated with Krebiozen, and to recommend whether the Institute should sponsor clinical trials of Krebiozen. The committee unanimously concluded that Krebiozen was an ineffective cancer drug and strongly urged that no clinical trial be undertaken (id.).

In November 1964, Drs. Ivy and Durovic and other proponents of Krebiozen were indicted on 49 counts for violations of the Federal Food, Drug, and Cosmetic Act, mail fraud, mislabeling, making false statements to the government, and conspiracy. All of the defendants were acquitted in January 1966, after a 9-month jury trial (id.). Although the acquittal meant that the government did not prove its case beyond a reasonable doubt, it did not have any bearing on the question of whether Krebiozen was a safe and effective cancer drug. As an unapproved new drug, its distribution in interstate commerce remained illegal. In spite of the acquittal, the Krebiozen boom collapsed shortly thereafter.

2. *Similarities Between Laetrile Promotion and That of Other Recent "Unproven" Cancer Remedies*

The promotion of Laetrile in the 1970's is completely in character with the historical pattern of the promotion of other unproven cancer remedies such as the Koch Antitoxins, the Hoxsey method, and Krebiozen. These characteristics include the following:

(1) The proponents "don the mantle of science while at the same time traducing the reputable scientists of their day" (R 400 at 3).

(2) The proponents claim that "prejudice of organized medicine hinders their efforts" and they "challenge established theories and attack prominent scientists with bitter criticism" (R 400, Ex. 2 "Unproven Methods of Cancer Management—1976" at 3) (hereinafter cited as "Unproven Methods").

(3) The proponents "cite examples of physicians and scientists of the past who were forced to fight the rigid dogma of their day" (Id.).

(4) The proponents rely mainly on testimonials and anecdotes as evidence that their remedy is a safe and effective cancer therapeutic agent (see R 400 at 4).

(5) The proponents "do not use regular channels of communication (current, reputable scientific journals) for reporting scientific information" (R 400, Ex. 2 "Unproven Methods" at 2-3). The main channels of communication are the mass media, popular journalism, and word of mouth (see R 400 at 4-5).

(6) The proponents' "chief supporters tend to be prominent statesmen, actors, writers, lawyers, even members of state or national legislatures—persons not trained or experienced in the natural history of cancer, the care of patients with cancer, or in scientific methodology." (See R 400, Ex. 2 "Unproven Methods" at 3.)

(7) The proponents often offer a simplistic theory for causation of the disease frequently involving claims that dietary management can counteract virulent pathologic processes (R 266, Ex. 3 at 865).

(8) The proponents' remedy is "easy and pleasant, compared with the frightening therapies wielded by orthodoxy, the surgical knife, harsh chemical drugs, poisonous radiation" (R 400 at 8).

(9) The proponents claim that the mode of administration of the drug and the method of treatment can only be learned from them (R 400, Ex. 2, "Unproven Methods" at 3).

The record illustrates the remarkable conformity of the Laetrile promotion to this pattern:

(a) *Mantle of Science.*—Throughout history, promoters of unproven cancer remedies have couched the explanation for the remedies in pseudoscientific terms. "Impressive and plausible to the layman, such arcane explanations, to true scientific specialists, came off as nonsensical balderdash" (R 400 at 3). The promoters of Laetrile have presented a series of shifting theories to explain the alleged anticancer activity of Laetrile. These theories have been examined in detail above. (See, generally, R 318.)

(b) *Attacks on the "Establishment."*—The proponents of Laetrile have often accused government agencies and organized medicine of making untruthful and irresponsible statements regarding the experimental evidence of Laetrile's anticancer activity. (See, e.g., R 302, Ex. A at 14-16; R 509 at 3-4.) In other instances, proponents of Laetrile have chastized the orthodox methods of cancer treatment and management, i.e., surgery, radiation, and chemotherapy. (See, e.g., Tr. at 16-27, 297-316, and 417-426).

The most vocal arguments challenging established orthodox treatments have been concerned with the issue of freedom of choice, discussed elsewhere in this opinion. These arguments, many of them from cancer patients or their relatives and friends, hold that the "bureaucracy" has no right to interfere with the physician-patient relationship by withholding from them a treatment in which they believe and which they want. (See, generally, Tr. at 55-56, 255-256, and 454-456.)

(c) *Claimed Parallel with Scientific Pioneers.*—To combat criticism from the established medical societies and government agencies that Laetrile had not been shown to be safe and effective, its proponents compare the originators of the drug and physicians who prescribe Laetrile with earlier scientists who were persecuted and ostracized for their scientific theories: Copernicus, Newton, Freud, Galileo, and Semmelweiss. (See, e.g., R 318 at 61-63; R 198, Ex. 2 at 3-5).

(d) *Reliance on Testimonials.*—As previously discussed, the proponents of Laetrile rely on testimonials and anecdotes as evidence that the drug is safe and effective in the treatment of cancer. In reviewing the administrative record, the Commissioner has not encountered even one study that meets the legal and scientific standards for making a determination that Laetrile is safe and effective. Proponents claim that physicians using Laetrile are too busy treating patients to be able to maintain the records needed to document adequately the case histories they present. (See, e.g., Tr. Ex. 1 at 117.)

(e) *Lack of Scientific Publication.*—Good science demands that evidence that a drug is safe and effective be presented in a manner whereby that evidence can be reviewed and evaluated by other scientists. Usually this evidence is published in scientific journals and presented for discussion at symposia and other meetings. Historically, "the main reliance of unorthodox promoters rests on the anecdotal evidence of testimonials from laymen, and the main channel for reaching an audience is through the mass media. In earlier days newspaper advertising trumpeted the promise of cancer cures, bolstered by the faces and words of grateful testifiers, not infrequently already dead of the disease" (R 400 at 4-5). The proponents of Laetrile have relied heavily on popular journalism, advertisements, radio and television, "health" organizations and word of mouth to spread their claims that Laetrile is a safe and effective anticancer drug. (See, e.g., R 318; R 302, Ex. A and H; R 198, Ex. 2.) A number of experts active in the management of cancer have submitted testimony stating that the scientific literature contains no reports of adequate, well-controlled studies upon which Laetrile can be regarded as generally recognized as safe and effective. (See, e.g., R 185 at 5; R 186 at 4; R 390 at 6.)

(f) *Nonexpert Supports.*—The proponents of Laetrile are well-organized and, through organizations such as the Committee for Freedom of Choice in Cancer Therapy, have conducted active campaigns to move the discussion of the safety and effectiveness of the drug from the scientific to the political arena. These organized efforts have encouraged cancer patients and others to write their local, state, and congressional representatives demanding that Laetrile be "legalized." These efforts are addressed not to discussions of the scientific merits of Laetrile as a cancer drug, but rather to the issue of "freedom of choice" discussed elsewhere in this opinion. Such action on the part of the Laetrile proponents is typical of other unproven cancer remedies. Failing to win acceptance in the established medical community, proponents seek sympathetic allies in places of political power. (See R 400 at 6-7.)

(g) *Simplistic Theories of Causation and Reliance on Diet.*—The latest claims being made for Laetrile are that it is a "vitamin," and that cancer is a vitamin deficiency disease. The basis for these claims is discussed elsewhere in this opinion. It is sufficient to note here only that this simplistic theory of cancer prevention and treatment is common to other unproven cancer remedies. Cancer patients are told that they can cure or control their cancer by strict adherence to a special diet that includes a special "vitamin" even through this "vitamin" is not recognized by nutritional experts. (See R 266, Ex. 3 at 865-66.)

(h) *A Painless Cure.*—Laetrile, like other unproven cancer remedies, is promoted as a harmless cancer remedy free of the side effects associated with orthodox methods of treatment such as radiation and chemotherapy. Many of the statements submitted by cancer patients and their relatives and friends reflect the proponents' claims that Laetrile is free of side effects. (See, e.g., R 17; R 48; R 137.)

(i) *Only Proponents Can Effectively Use the Drug.*—In common with the supporters of other unproven cancer remedies, the proponents of Laetrile stress, as did Robert W. Bradford of the Committee for Freedom of Choice in Cancer Therapy, that "you" do not and cannot expect to get results from Laetrile treatment unless you are a trained metabolic physician" (Tr. at 349). These arguments are used to explain why orthodox physicians (i.e., those not trained in the proper use of Laetrile) do not see any evidence of Laetrile's effectiveness as a cancer drug.

B. WHY DO PEOPLE USE LAETRILE?

Throughout history persons afflicted with cancer have turned away from the medical establishment to a series of what most euphemistically might be called "unproven remedies." Laetrile is the most recently publicized of these remedies, but, as the discussion above illustrates, it follows on the heels of other widely publicized therapies such as Krebiozen and the Hoxsey cure. Thoughtful persons have questioned the reasons for this troubling phenomenon. Why do people bet their lives, or the lives of their loved ones, on a therapy which is rejected by almost everyone trained and experienced in cancer research and treatment?

Much evidence in the record addresses this question. The answer lies in the fear that cancer engenders—and that proven therapies for cancer engender—and the need of patients and families for hope in a situation where the hope offered by

the legitimate therapies is often modest. The use of "unproven remedies' is, in the opinion of observers, in large part attributable to the loved ones of the cancer victim, in whom both fear and the need for hope are magnified by sympathy and by the guilt that one feels at being unable to relieve the suffering of a person one loves. This situation is, unfortunately, skillfully exploited by the purveyors of "unproven" cancer remedies, of which Laetrile is only the most publicized.

1. The Emotional Reaction to Discovery of Cancer

"[W]hen cancer afflicts an individual, he is frequently faced with a circumstance which is virtually without hope. First of all, the cancer patient must be terrified by the diagnosis * * *. It would be enough to terrify any lay person to simply be told that he has cancer. But more important than that is the fact that once he is told that he has cancer, he is told by he doctor that the treatments that we have available are very often disfiguring; they can be painful; they can be unpleasant; they can even be risky" (Tr. at 204).

The cancer patient must thus cope with two wounds simultaneously. The first is to the body itself (R 423 at 1). "The other wound is to the psyche, reflected in the loss of the feeling of being invulnerable, a feeling which is basic to ordinary day by day living" (id.). The cancer patient senses suddenly that the future is limited. Social and work mobility are seen as curtailed; so are the patient's functional role in the family and the community. In addition, the patient senses a new dependence on others and may fear that he or she will become a burden on the family (id. at 2). "The initial psychological status of the patient and family is characterized by disorientation, anxiety, guilt, fear of pain and suffering" (R 421 at 1).

Dr. Robert C. Eyerly, Chairman of the American Cancer Society's Committee on Unproven Methods of Cancer Management, states that, "Indeed, we've found that the major reason cancer patients use Laetrile is fear * * * fear that the disease is incurable, that surgery or other therapy is mutilating, and that the medical profession is not to be trusted" (R 173, Att. "Laetrile: Focus on the Facts").

In this climate of anxiety and fear, the medical establishment—which, unlike the proponents of "unproven" remedies, feels an obligation to be honest with the patient and his family—cannot always offer hope: "[P]robably the most important factor (explaining why cancer patients choose to use Laetrile) has been the failure of modern medicine and technological advances to cure or adequately control some cancers. These unfulfilled expectations lead patients to disappointments in standard medicine and to attempt a cure of their disease by pseudoscientific methods" (R 398 at ¶ 9).

Physicians, trained in the saving of life and the alleviation of suffering but unable, in some cases, to do either with cancer patients, may contribute to the frustration. "Many patients sense a feeling of frustration and hopelessness conveyed, perhaps unconsciously, by the physician who tells them the nature and probable outcome of their disease—a natural feeling on the part of the physician who is discouraged by his recognition that he cannot cure the patient. Patients sensing this hopelessness frequently are unwilling to 'abandon hope' and therefore seek (unorthodox therapies)" (R 190, Ex. 4, Editorial at 327). Glen W. Davidson, Ph.D., Chairman of the Department of Medical Humanities, Southern Illinois University School of Medicine, testified that, "* * * when primary emphasis for treatment is placed on 'cure' and the physician's abilities, rather than on 'coping' and the patient's abilities, the patient is placed in an inappropriate and ineffective dependency relationship. When the physician can no longer promise 'cure' and then attempts to refer the patient out of his practice, or leaves the patient to institutional care of others, the patient feels abandoned. The patient has already had his coping abilities undermined. And many patients react to unfulfilled expectations and violated trust with anger and panic" (R 387 at 2).

A patient facing cancer and the lack of positive assurance from the physician that the cancer can be cured may simply give up hope that what the physician can do for the patient can work. This lack of confidence in proven remedies is tragic in an era when, in the case of many cancers, a significant percentage of patients can be cured or have their lives extended. See, e.g., R 173, Att. ACS, 1977 Cancer Facts at 3. Laetrile's proponents expend great efforts to encourage this feeling. Much of the oral argument of Laetrile proponents in this proceeding was addressed not to the effectiveness of Laetrile but to the ineffectiveness of proven remedies (see., e.g., Tr. at 16 et seq.; Tr. at 228). With real hope extingished, the use of Laetrile or other unproven remedies is a way of avoiding an acceptance on a conscious level of the consequences of the disease: "The decision to use Laetrile indicates that, at the subconscious level, patients and their families have given up on conventional therapy and, in fact, have accepted the inevitability of death. On the more superficial level, patients choosing Laetrile are persons who believe that they do not require the use of sophisticated, anti-cancer treatments. This reflects an ambivalence which many patients feel at the time they are required to make decisions about cancer therapy. If patients can maintain denial about the seriousness of their cancer, then they can permit themselves to experiment with a bizarre apricot-extract, such as Laetrile" (R 433 at ¶ 13). "Human beings have become accustomed to using the psychological techniques of denial in dealing with real problems" (R 390, Ex. 3 at 386). "The decision to use Laetrile is, in essence, an attempt 'magically' to avoid the reality of cancer" (R 433 at ¶ 9).

2. The Role of Loved Ones

Patients with a diagnosed malignancy frequently encounter ostracism in their private, social, and vocational roles (R 387 at 1). At this point, the caring of loved ones and their sympathetic willingness to continue to associate with and to share the suffering of the cancer patient assume great importance to the patient. This caring relationship, quite understandably, leads to a dependence by the patient on the loved one and a corresponding feeling of responsibility in the nonpatient: "Many patients in their initial response to cancer diagnosis surrender control to those closest to them, further complicating the issue of informed choice. Highly anxious relatives with little or no medical understanding of cancer as a disease entity fall prey to the emotional appeal of the proponents of Laetrile" (R 421 at 2). "Cancer patients are most vulnerable to the manipulations of others when they feel they are (1) being abandoned, (2) unable to control pain, and (3) unable to maintain a 'sense of dignity' by being able to make decisions for themselves. Attempts at guarding oneself from all three fears are often incompatible. Many cancer patients feel they are in a 'double-bind.' If they don't follow their physician's treatment plan, the disease process won't be arrested. If they don't follow the competing, and often contradictory advice from relatives and friends, they will be abandoned. And if they assert their own feelings they will be ostracized by others at the very time they most need support from others" (R 387 at 1–2). Thus, some patients pay the price of what benefits are available from orthodox treatments in order not to be abandoned by family and friends—"a psychological analogue to the theological concept of being 'cast into Hell' * * *" (id. at 2). In many cases, it is family and friends who, amplifying the patient's feelings, try to get their anger and panic under control by manipulating the patient into use of medically unacceptable remedies. (See id. at 2.) The families of cancer patients, particularly parents of children with cancer, are understandably desperate for anything that will cure cancer. They often are beset by irrational feelings of guilt, and seek to assuage these feelings with the assurance that " * * * 'we did everything for our child' even to the point of foolishness in going after an unproven cure * * *" (R 394 at 2).

The shared responsibility of the loved ones of cancer patients for the patients' involvement with Laetrile (or other unproven remedies) helps to explain why these families have been among the most vociferous proponents of Laetrile. "This reaction can be understood because such persons, whether they are family members or friends, have to justify the deceased's use of Laetrile by suggesting that the patients were considerably helped by the drug, that their lives were prolonged to a significant extent, or, at the least, that they did not suffer a great deal of pain during treatment with the drug. To do otherwise would require them to acknowledge that they made a mistake

and misled the patients or that they went along with decisions which were clearly erroneous. Living with that kind of guilt is very difficult and the advocacy of Laetrile is a way of avoiding it" (R 433 at ¶ 15). It is only those family members who did not participate in, or dissented from, the decision to use Laetrile who, after the patient's death, raise their voices against the drug's use (see, e.g., R 47; R 429; R 300; R 348).

3. Methods of Promotion of Laetrile

As is obvious from the above discussion, the cancer victim and his or her family are extremely vulnerable to the kind of persuasion used so skillfully by Laetrile's promoters. This persuasion may take the form of highly polished and thus convincing films and books (see Tr. at 331) or of personal visits. The fact that many persons involved in Laetrile promotion believe strongly in the drug makes their presentations, because sincere, all the more compelling. In his affidavit, one cancer patient, speaking from his own experience, stated that "immediately after a diagnosis of cancer, most patients and family members are susceptible to something such as Laetrile, which offers a painless treatment with certain results" (R 388 at 2). The patient also stated that, somehow, the names of cancer patients in his area had been obtained by certain persons helping to spread the Laetrile theory. He indicated that Laetrile proponents exerted constant pressure on him and his wife to quit orthodox medical treatment and try Laetrile. Testimonials from patients who spoke in glowing terms of their recovery or successful treatment with Laetrile were offered to supported the proponents' claim (id.). Laetrile promoters are diligent in searching out persons with reported cancer to offer their product. One physician noted that he had a patient who, within 24 hours of his being diagnosed as having lung cancer, received information in the mail telling him he ought to take Laetrile and where and how to get it (Tr. at 184).

Laetrile proponents are keenly aware of the involvement of family members and friends in decisions to accept unproven remedies and actively seek to persuade them of the drug's benefits. One woman who had had surgery and chemotherapy for treatment of breast cancer commented: "My biggest problem has been coping with well-meaning relatives and friends who swallow this propaganda of unprofesisonals and then try to make me feel guilty because I don't take their advice * * *" (R 96).

Laetrile proponents play upon the victim's frustration with a medical establishment that cannot offer the certainty of a cure. Some patients reportedly turn to Laetrile precisely because it is "illegitimate," behavior that appears to be "an anger reaction toward legitimate medicine" (R 387 at 3). This antagonism toward the medical establishment is fanned by Laetrile proponents (as it has been by the purveyors of previous "unproven" remedies) to a pitch that most observers would consider absurd. When a speaker at the oral argument asked the audience, which consisted predominantly of Laetrile supporters, if "you really think that a quarter of a million physicians across the country can let people die because they want to make a profit off of them§", the audience response was a loud chorus: "Yes" (Tr. at 191).

Laetrile proponents also play upon and build the cancer patient's fear of legitimate cancer therapies. (See R 421 at 2: "The promise of a painless cure through Laetrile, as opposed to ordothox medical methods with their side effects capitalizes on the fear of pain and suffering".) "Slash (or cut), burn, and poison" are the code words of the Laetrile supporters for the proven remedies of surgery, radiation and chemotherapy (see, e.g., Tr. at 291, 357, 463). A videotape of an interview with a cancer patient (R 419, Ex. B; see also R 197 at ¶ 7) that is part of the record shows graphically the costs of this sort of propaganda. The victim is a woman who, at the time her breast cancer was discovered, was given a reasonably good prognosis of recovery after surgery. Out of fear of surgery she tried Laetrile therapy. Though the tumor grew to involve her whole breast she continued to avoid conventional therapy, even trying, after Laetrile did not help, an "asparagus" diet cure, garlic, and finally a fruit and vegetable diet with hot baths. When, nearly at death's door, she returned to the surgeon, it was too late for surgery to be effective. She then was convinced to try radiation therapy, which she testified she had avoided because the negative descriptions of it in Prevention magazine, to which she had long subscribed. The radiation therapy helped reduce the size of her tumor and make her more comfortable, but her expected survival was greatly diminished by her delay in obtaining effective treatment. This kind of disparagement of conventional thearpy, a bulwark of the campaigns of Laetrile proponents, is perhaps the most morally reprehensible aspect of the pattern of the drug's promotion.

4. The Sampson Survey

While the conclusions about the reasons for use of Laetrile expressed in the record are based upon a multitude of experiences by various witnesses with patients taking Laetrile, it is interesting to note the conclusions of the one attempt to survey Laetrile patients about their reasons for using the drug.

Based upon about 20 interviews with cancer patients who abandoned orthodox therapy in favor of Laetrile, Dr. Wallace I. Sampson, Clinical Associate Professor of Medicine, Stanford University School of Medicine, stated that about 75 percent of the patients reported that they had serious problems with their physicians. About 75 percent believed in Laetrile's therapeutic rationale and effectiveness. About 75 percent of the patients were involved in other methods of therapy that included high doses of Vitamin C, megavitamin therapy, and immunotherapy given by unqualified individuals. Dr. Sampson is of the opinion that the patients receiving Laetrile were involved in other types of unorthodox therapy because of their outlook on life (i.e., they seek nonrational, magical solutions to the problems of dread and often uncurable illness) or perhaps because of difficulties in relating to a standard physician. A large majority of the patients believed that there is a conspiracy to keep Laetrile off the market. Less than 10 percent of the patients tried to inform themselves about Laetrile from non-Laetrile sources. (See Tr. at 118–119; R 398 at 4.)

C. THE LAETRILE TESTIMONIALS

Unproven cancer remedies like Laetrile are invariably supported by numerous testimonials of persons who pronounce themselves satisfied with the results they, or their deceased friends and relatives, have achieved with the drug. The present widespread use of Laetrile as an alternative to remedies of proven effectiveness illustrates the problems to which such "evidence" of a drug's effectiveness leads, and it is a legitimate question to ask why there are so many such testimonials.

The Commissioner does not doubt the honesty or the sincerity of the many testimonials for Laetrile, but many of the positive experiences reported may be accounted for by explanations other than the claimed effectiveness of the drug. The placebo effect discussed above undoubtedly accounts for some of the reports, particularly those claiming decrease in pain and increased sense of well-being. Experts interested in the question have provided other explanations. Most of the patients reporting Laetrile "cures" appear actually to have had the benefit of other, proven effective therapies. Some of those who believe themselves cured may never have had cancer at all. Others may simply not be cured, despite their belief.

Many of the testimonials and anecdotes concerning the effectiveness of Laetrile replay the same scenario. The cancer patient is told he has cancer and agrees to surgery, radiation, and/or chemotherapy. After some time, the patient, feeling nauseous, weak, and general malaise, in desperation turns to Laetrile. Within a few days or weeks after stopping orthodox treatment and starting to use Laetrile, the patient feels better, has an appetite, and is able to move about on his own. The patient in all sincerity attributes his recovery and feeling of well-being to his decision to reject orthodox medical treatment and to choose Laetrile. (See, e.g., R 9; R 35; R 223; R 267; R 315; R 391; R 483.) Many families of deceased cancer patients who had orthodox therapy and who then used Laetrile believe that the patient benefited from the Laetrile and might still be alive if they had turned to Laetrile earlier. (See, e.g., R 19; R 208; R 279.)

It is easy to understand how such a situation could develop. A doctor may prescribe 10 applications of a proven cancer drug, perhaps after surgery. The cancer may have been totally removed by the surgery or it may have been totally destroyed by, for instance, the 7th

of the 10 applications of the effective drug. Because the physician cannot know this, and because he cannot risk the chance that some cancer remains, he has prescribed the recognized treatment regimen. Use of cancer drugs (referred to as chemotherapy) or of radiation may involve unpleasant side effects. The patient, sickened by the side effects of the drug and importuned by Laetrile proponents, may stop the chemotherapy before the prescribed regimen is completed. As the side effects clear up, the patient feels better. If a full cure has been accomplished, it will be attributed to Laetrile. If it has not, the surviving family may well believe that, since the patient felt better after stopping chemotherapy and starting Laetrile, the therapy was only received "too late." See R 184 at ¶ 7:

> Testimonials attesting to a feeling of general improvement and cessation of pain in patients upon abandonment of radiation and chemotherapy in favor of Laetrile treatment do not indicate that Laetrile is effective in curing cancer or in relieving pain. The feeling of well being experienced by these patients derives from two phenomena, one physical and the other psychological. Chemotherapy and radiation treatments produce unpleasant side effects in most patients. When such therapies are stopped, the side effects they produce disappear. This natural physical effect in the case of these patients is reinforced when Laetrile is administered because of the patients' expectation that the treatment will have a beneficial effect.

Dr. John A. Richardson, himself a major proponent of Laetrile therapy, stated that 85 percent of the 4,000 to 5,000 patients treated with Laetrile at his clinic had previously received some type of orthodox medical treatment (Tr. at 463).

Sometimes conventional and Laetrile therapies are administered simultaneously, with any beneficial effects attributed by patients to the latter. Dr. Emil J. Frereich is involved in the development of cancer drugs. He stated that:

> (W)e have numerous patients who are receiving developmental therapy drugs which have at the time, real promise, and subsequently prove to be useful and are introduced into practice, who unbeknownst to us, were also taking therapy with laetrile and when their disease responds to therapy, (they) inadvertently ascribe it to the effectiveness of the unproven remedy, whose administration is revealed to us subsequently. When we compare the responses of patients on a given therapy who have received laetrile at the same time, with those who received none, there is no significant difference, which indicates clearly that those observed responses were due to the cancer chemotherapy drugs which were being administered by us and not by the additional use of laetrile. (R 390 at ¶ 20.)

For other testimony on the propriety of attributing to Laetrile cures that may be caused by other, proven effective, drugs, see, generally, R 174 at ¶ 9 and R 185 at ¶ 20e.

"Some people who believe that Laetrile cured them never had cancer to begin with" (R 174 ¶ 9). In a number of the "case histories" submitted to show Laetrile's effectiveness, there is no acceptable showing that the patient ever had cancer. (See, e.g., R 183, Att. 16, App. 2; R 184, Ex. 2; R 378, Att. "Supplementary Report," cf. evaluation of case histories above.)

In one 1955 pamphlet, Dr. Krebs, Sr., discouraged biopsy, the procedure often used to determine whether a tumor is malignant (cancerous) (R 183, Att. 7 at 14). He urged instead that a special urine test, not generally accepted by the medical community as useful, be the means for diagnosing cancer (id. at 16). Even where the diagnosis has been done by someone other than a Laetrile proponent, a mistake is possible. Some cancers which are discussed in reference to Laetrile are very difficult to diagnose histologically. Thus, a diagnosis of cancer may often on later review be reversed. (See Tr. at 141.)

"Many cancer patients have given testimonials believing themselves cured, only to discover later that they still have the disease" (R 174 at ¶ 9). Since he is involved in the testing of cancer drugs, Dr. Emil J. Freireich is in a good position to follow up on patients who leave his program to use Laetrile. Dr. Freireich reports that "(i)n virtually every instance, (Laetrile patients treated in our department and subsequently followed by our tumor registry, have been) found to have evidence, not only of progressive disease, but to have expired after receiving such unsuccessful treatment, and a significant fraction eventually return to our clinic for more developmental therapy" (R 390 at ¶ 20).

An illustration of what, in all likelihood, explains most Laetrile testimonials appears in the record:

> Testimonials fail to provide objective evidence that there has been control or regression of a tumor which is attributable to the use of Laetrile * * *. To illustrate why such data are important, let us examine two typical versions of testimonials from women who state that their cancer of the breast was cured by Laetrile. The first testimonial is from Jane Doe. She discovered a lump in her breast and based upon the urging of friends has consumed on her own initiative a number of Laetrile tablets. It is also possible that she saw a doctor who administered injections and prescribed a special diet. In a month, the lump has disappeared, and Jane Doe sings the praises of Laetrile. "It cured my cancer; I am living proof." This is not credible evidence. The lump detected may have been caused by a variety of conditions. Without laboratory confirmation that a malignant condition existed, there is no basis to assume that it was cancer and that Laetrile contributed to its disappearance. The second testimonial is from Dorothy Doe. She had objectively diagnosed cancer, underwent a mastectomy, and postoperative chemotherapy or radiation treatments. The physician informs Dorothy that an additional surgical procedure may be necessary. Dorothy decides against further unpleasant treatment and takes Laetrile. Now, six months or three years later—time makes little difference—she, too, sings the praises of Laetrile. Dorothy's experience does not constitute evidence. It is possible that her orthodox treatment was successful; it is possible that she still has cancer, but that it will not manifest itself for another year or, indeed, as is sometimes the case, for another dozen years. The point is that there are no objective data upon which to assess Dorothy's condition at the time Laetrile was administered and the effects of Laetrile. In the absence of such data, there is no basis for a claim that Laetrile was effective (R 191 at ¶ 14).

As another affidavit states,

> * * * It is a certainty that any substance without significant toxic or harmful effect, including mystical activities, faith healing and all other types of non-toxic or non-harmful remedies will be effective in a small fraction of the very large population of patients with hopeless terminal cancer. Those individuals who fail to respond to such treatment, that is, who have the expected outcome, which is progression of their cancer and death, are no longer living and those rare individuals who have the exceptional or miraculous outcomes frequently live for long periods of time. It is obvious that a large number of individuals can be identified who have unusual outcomes. These individuals are of course easily convinced of the effectiveness of such treatments and are free to testify to their effectiveness for as long as their disease remains in control. Such testimonials contribute no significance toward our understanding of the effectiveness of any treatment for cancer. Evidence accumulated in the proven, objective, medical and scientific fashion is the only evidence that can be of use in evaluating the potential of any treatment for influencing the course of malignant disease (R 390 at ¶ 21).

Dr. Melvin Krant, Professor of Medicine and Psychiatry and Director of Cancer Programs at the University of Massachusetts Medical Center, reviewed a number of the testimonials submitted to the record from patients and relatives and friends of patients who have been treated with Laetrile. He stated that the testimonials "do not offer evidence for effectiveness because frequently the treatments with Laetrile were taken after other treatments such as surgery, radiation, or chemotherapy. At times, the Laetrile was taken in conjunction with other modes of therapy such as chemotherapy. In such instances, it is impossible to know whether the Laetrile added anything to the patient's response. There are no objective ways to measure the patient's response. In many instances, it seems like the main emphasis of the testimonials is on the patient's emotional reaction to being treated. Because the testimonials are not presented in a scientific manner, it is also impossible to determine if there were any side effects from Laetrile administration" (R 453 at 1–2).

V. Other Issues Regarding Laetrile

A. Use of Laetrile Outside the United States

Laetrile's proponents have sometimes sought to give the impression that Laetrile is in use around the world and that it is only the United States' overly restrictive drug laws or an evil conspiracy among drug companies, physicians, and bureaucrats that is preventing marketing of the drug in this country. (See, e.g., the claim, in a 1963 publication, Control for Cancer by Glenn D. Kittler, that Laetrile was being studied in several countries in addition to the United States: Canada, the Philippines, Japan, England, Belgium, Italy, Union of South Africa,

and Mexico (R 318 at 31).) The book also reported that the drug was registered in Iran in 1962 (id.). (See also the reference to the use of Laetrile (or Amygdalin) in West Germany in the late 1960's (R 302, Ex. G).) (Cf. R 198, Ex. 2 at 24, (transcript of film World Without Cancer); Tr. at 424.)

The record reflects no international recognition or use of the drug. The State Department and the United States Mission to the World Health Organization made an effort to determine whether Laetrile, Amygdalin, Vitamin B–17, or such drug under any other name was known and approved elsewhere in the world. The State Department sent inquiries to all American embassies instructing embassy officials to ascertain the status of the drug in their respective host countries, and the mission to the World Health Organization made telephone inquiries of member states throughout Western Europe. The following information was obtained:

The American Embassy in Mexico advised that in 1974 the Mexican government gave provisional approval, contingent upon the presentation of evidence of Laetrile's effectiveness in treating cancer, to two laboratories in that country to manufacture the drug. This approval was cancelled in late 1976 because no positive results were obtained in research carried out at the Medical Center General Hospital. The decision to ban Laetrile has been appealed by Laetrile proponents and is now in the Mexican courts (R 426; see also Tr. at 430).

The mission to the World Health Organization had been told by some European contacts that "Laetrile" can be "purchased across the counter in Geneva without prescription" (R 426). The American Embassy in Switzerland, upon inquiry, was told that Laetrile is not sold on the Swiss market and is not approved there. One company does sell "small quantities of Laetrile," "exclusively to cancer research scientists" primarily in Western Europe. The company told the American embassy in Bern that "Laetrile is not made available commercially, nor is it sold as a cancer 'cure' " (id.).

In Madagascar, Laetrile is known as Amygdalin and is considered a poison by health authorities. Its use is prohibited. In Chile, Laetrile is also known as azaribina and its use is prohibited under any circumstance. This prohibition followed receipt of Newsletter 172 from the World Health Organization which described the potential dangers of use of the drug. The importation or use of Laetrile (Amygdalin) is illegal in the Republic of Korea (id.).

Health officials in Guyana reported that Laetrile has been used there. The Minister of Health indicated that he was not aware of FDA's prohibition of the use of Laetrile, however, and that, since the United States standards are closely followed in that country, his country would also ban the drug (R 426).

The State Department inquiry drew 69 responses from around the world. Each of the countries not already mentioned responded by indicating that "Laetrile," "Amygdalin," and "Vitamin B–17" were unknown or were not approved for use for treating cancer or any other use. The responding countries included the Philippines, Japan, the United Kingdom, Belgium, Italy, South Africa, and the Republic of Germany, as well as France, Korea, Taiwan, Hong Kong, India, and others from every part of the globe (id.). The United States Mission at the World Health Organization confirmed that Laetrile "is not registered and by definition, unavailable," in any of WHO's member states throughout western Europe (id.).

B. CLAIMS THAT LAETRILE IS A VITAMIN OR FOOD

Proponents of Laetrile (or amygdalin) have in recent years contended that their product is a vitamin or that it is a natural food substance rather than a drug. These claims are properly irrelevant to the questions this administrative proceeding was intended to address. However, in light of the interest in the vitamin issue demonstrated by the submissions to the record, the Commissioner will take this opportunity to discuss it. The potential safety problems presented by this concept will also be discussed.

1. A Vitamin or Food May Be a Drug As Well

This question is irrelevant to the issues in this administrative proceeding because, even if Laetrile (or amygdalin or "laetrile") were a vitamin (or a food), it would still be a drug. Any substance, including a vitamin or food, is a drug and subject to regulation as such if it is intended for use in the "diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals * * *" (21 U.S.C. 321(g)(1)). (See *Rutherford* v. *United States*, *supra*, 542 F. 2d at 1140; *United States* v. *General Research Laboratories*, 397 F. Supp. 197, 200 (C.D. Cal. 1975).[7] As the previous discussion illustrates, there is no question that Laetrile or amygdalin has been recommended in the treatment of cancer. In fact, in the very article in which Ernst T. Krebs, Jr., explained his theory that his product was "Vitamin B–17", he promoted it for cancer treatment. (See R 183, Att. 10c.)

[7] Section 411 of the act (21 U.S.C. 350) deals specifically with vitamins and minerals. Section 411(a)(1)(B) does limit the authority of the Secretary to classify a vitamin as a drug "solely because it exceeds the level of potency which the Secretary determines is nutritionally rational or useful." The vitamin provisions do not, however, affect FDA's authority to classify and regulate vitamins as drugs if they are represented to be for use in the diagnosis, cure, mitigation, treatment, or prevention of disease. The conference committee report states, "Except as specifically provided, the conference substitute does not alter the drug or food provisions of the Federal Food, Drug, and Cosmetic Act. If a product containing vitamins, minerals or other ingredients is a drug within the meaning of Section 201(g) of the Act, the Secretary may, with regard to such product, exercise his authority under Chapter V of the Act" H. R. Rep. No. 1005, 94th Cong. 2d. Sess. (April 2, 1976); (see also, 122 Cong. Rec. H3244–H3248, April 12, 1976).

It has been suggested that the claims that Laetrile (or amygdalin) is a vitamin or a food are simply an effort to establish that the substance is covered by the food requirements of the Federal Food, Drug, and Cosmetic Act and its regulations rather than those requirements applied to drugs. (See, generally, Tr. at 216, 225, 405; R 173, Att. "Questions most frequently asked about "Laetrile,'" at 1; R 416 at ¶ 16.) One court has called the attempts by Laetrile proponents to represent Laetrile as something other than a drug, "a patently absurd and transparent attempt to avoid the drug labeling provisions of the Federal Food, Drug, and Cosmetic Act." *United States* v. *Spectro Foods Corp.*, Civil No. 76–101 (D.N.J., Jan. 29, 1976) (R 173, Att.). The Commissioner does not agree that Laetrile is a vitamin. (See discussion below.) It is clear, however, that even if Laetrile were a vitamin (or a food) it would be subject to the drug provisions of the act.

2. Is Laetrile a Vitamin?

This administrative proceeding was not intended to address the issue of whether Laetrile is a vitamin, and testimony on that issue was not solicited. Nevertheless, a considerable amount of evidence in the record addresses this issue. It appears that (a) Laetrile proponents classify amygdalin and certain related substances as a vitamin under their own definition of that term and (b) experts in the vitamin area, utilizing the criteria against which each of the legitimate vitamins have been assessed, conclude that amygdalin and other nitrilosides are not a vitamin.

(a) Proponents' Claims.—The idea that Laetrile could be considered a vitamin first appears in a pamphlet,* in use in 1965, published by Krebs Laboratories and entitled "Cancer Is A Deficiency Disease: The Deficiency of Cyanide Sugars" (R 201, Ex. C, No. IV). In that pamphlet, amygdalin and other "cyanogenetic glucosides" are characterized as pro-vitamins for vitamin B–12. This means that they participate in the formation of vitamin B–12. It is stated that "during the process of formation the liver is thoroughly fumigated and rendered sterile (id.). The real anticancer effect of amygdalin is said to be not this formation but the release of cyanide in the cancer cells by the mechanism discussed above under "Theories of Action." It is interesting to note that another Laetrile proponent, Dr. Navarro of the Philippines, states that vitamin B–12 should never be administered to cancer patients (R 318 at 165).

The pro-vitamin theory had apparently been set aside by 1970 when an article by Ernst T. Krebs, Jr., referred to previously, "The Nitrilosides (Vitamin B–17—Their Nature, Occurrence and

* The Krebs were no strangers to the "vitamin" area. Ernst T. Krebs, Jr.'s, marketing of another of his inventions, "Vitamin B–15" ("pangamic acid"), led to his plea of guilty to a charge of causing the introduction into interstate commerce of an unapproved new drug in 1962 (R 185, Att. 16, App. 17 at 7).

Metabolic Significance (Antineoplastic Vitamin B–17)," was published (R 183, Att. 10c). In this article, Krebs, Jr., uses the term "vitamin B–17 (nitriloside)" as "a designation proposed to include a large group of water-soluble, essentially non-toxic, sugary compounds found in over 800 plants, many of which are edible" (id. at 75). He indicates that the compounds "are collectively known chemically as beta-cyanophoric glycosides. They comprise molecules made of sugar, hydrogen cyanide, a benzene ring or an acetone" (id.). These compounds could be hydrolyzed by beta-glucosides to a sugar, free hydrogen cyanide, and benzaldehyde or acetone (id.). He states that amygdalin is one of the most common of the nitrilosides and that it "occurs in the kernels or seeds of practically all fruits" (id.).

Mr. Krebs, Jr., in this article, attempts to build a theory that vitamin B–17 is a specific dietary factor that could be used to prevent and to cure cancer. He explains that prevention and cure occur through the cytotoxic (toxic to cells) compounds of vitamin B–17—hydrogen cyanide and benzaldehyde—through mechanisms discussed elsewhere in this opinion (id. at 80). He concludes that: "In nitriloside or vitamin B–17 we have a new vitamin in which all of us are severely deficient" (id. at 84). The theory that Laetrile (or laetriles) constitutes a vitamin has found another proponent in the person of Dr. Dean Burk, a biochemist and president of the Dean Burk Foundation, Inc. (see, generally, R 302; Tr. at 401 et seq.).

Clearly, whether or not a given substance comes within the definition of vitamin depends upon the definition chosen. In his affidavit, Burk defines a vitamin as a substance which is "virtually non-toxic, water-soluble, an exogenous nutrient or food factor, and active in relatively small, essentially catalytic, non-calorific amounts, and is essential or beneficial in normal metabolism and/or physiologic functioning to *overcome deficiency lesions and symptoms of nutritional disease*" (emphasis in original) (R 302 at 4). Dr. Burk continues that in animal experimentation "* * * the deficiency lesions and symptoms of nutritional disease are best illustrated by the action of amygdalin in lengthening of animal lifetime or decreasing development of metastases, or both, and increase in health and well-being * * *" (id.). (See also Tr. at 408 and 465.)

Thus, even by the Burk definition, the claim that Laetrile is a vitamin depends in large part on the substance's ability to combat cancer, an ability not shown by testing convicing to drug experts in general. Proponents of the vitamin theory claim that the higher the everyday diet is in nitrilosides, the lower the incidence of cancer (R 73 at 36). Others claim that it may not be only high nitriloside levels that account for this observation but that other dietary elements (e.g., vitamin C) may play a role. (See, generally, R 318). These claims are based upon assertions that in some geographical areas, where the normal diet contains nitrilosides in abundance, cancer does not exist. Evaluation of the prevalence of cancers requires careful studies by competent epidemiologists and suitable cancer registries, which contain reports by professional pathologists (R 399 at ¶ 9). What evidence does exist in this area indicates a complete lack of the correlation between high nitriloside diet and low cancer incidence that the Vitamin B–17 proponents claim. The record contains citations to numerous reports showing that a variety of cancers do occur in populations consuming nitriloside-containing diets. These include findings that cases of most of the recognized cancers appear in the Kampala Cancer Registry, Uganda (id.). There are also references to published papers from the Ibadon Cancer Registry, Nigeria on Burkitt's lymphosarcoma, Kaposis sarcoma and breast cancer, cancer of the bladder in Kenya, and the cancer incidence in Bantu (id.). Some cancers that are rare or absent in North America and Western Europe occur in the populations which consume high levels of nitrilosides (id.).

In the film "World Without Cancer," the people of the Kingdom of Hunza in the Himalayan mountains are said to eat a diet containing over two hundred times more nitrilosides than the average American diet and to prize above all other foods the apricot seed. It is stated that "[v]isiting medical teams from the outside world report that there never has been a case of cancer in Hunza" (R 198, Ex. 2 at 8). However, in 1955, a Japanese medical expedition studied the Hunza people and reported that they have many diseases, including cancer (R 173, Att. "Questions Most Frequently Asked" No. 6; Tr. at 338).

Similarly, the film claims that the Eskimos eat a high nitrilosides diet and are "found to be totally free of cancer" (R 198, Ex. 2 at 8). The Eskimos have also been found to have cancer (R 173, Att. "Questions Most Frequently Asked" No. 6; Tr. at 339). In commenting on another reference to "the diets of the cancer-free population" (R 217 at 2), Thomas H. Jukes, Ph.D., states correctly: "There are no cancer-free populations" (R 416 at ¶ 28(C)).

(*b*) *Vitamin Experts' Position.*— Numerous nutrition experts and organizations concerned with nutritional science provide support in the record for the Commissioner's conclusions that "Laetrile," or "amygdalin," or "nitriloside," is not a nutrient or vitamin. (See, e.g., R 173, Att. "Questions Most Frequently Asked" (American Cancer Society); R 168, Att. "The Vitamin Fraud" and R 399 at ¶ 12(C) (David M. Greenberg, Ph.D.); R 416 (Thomas H. Jukes, Ph.D.); R 378, Att. Editorial; Att. American Institute of Nutrition letter; R 169 at ¶ 17 (Vincent T. DeVita, Jr., M.D.); R 191 at ¶ 11 (Philip S. Schein, M.D.); R 227 at 3 (National Council on Drugs).) The steps which are necessary to establish that a substance is a vitamin are described in the record. These steps include the publication in reputable journals of a complete description of the research procedures, and confirmation, by other scientists, of the results obtained. If the work cannot be repeated, the existence of the vitamin is not recognized (see R 416 at ¶ 15). Additional steps include demonstrating the presence of the purported vitamin in foods, determination of its exact chemical molecular structure, the demonstration of its effectiveness, and its chemical synthesis. After these steps are completed, the Food and Nutrition Board of the National Academy of Sciences sets up Recommended Daily Allowances for the vitamin which then must be adopted by the Food and Drug Administration (id.).

The lack of scientific evidence of any effect, which has prevented Laetrile from being recognized by experts as a safe and effective drug, also prevents recognition of its claimed status as a vitamin. (See e.g., R 416 at ¶ 16: "(T)here are no data available to show that a disease state is produced or alleviated by the exclusion from (or) addition to the diet of amygdalin".) Other experts emphasize that there is no evidence that (1) laetriles (*beta*-cyanogenic glucosides, vitamin B–17) are essential nutritional components nor that (2) they promote any physiological process vital to the existence of any living organism. (See R 168, Att. at 347; R 395.)

A compelling point made by experts in this area is that if there were a vitamin B–17, and if cancer were a vitamin B–17 deficiency disease, then every animal deprived of the vitamin would get cancer while no animal given the vitamin in sufficient amounts would get cancer. It is noted, that "No person given adequate vitamin C, for example, ever gets scurvy" (R 198 at 5). Stated another way: "The key to the term 'vitamin' is that the absence of vitamins from the diet in an experimental animal or a human being must lead to the appearance of a nutritional deficiency disease, which is prevented or cured by adding the vitamin to the diet. Laetrile has no such property" (R 416 at ¶ 14).

It is further stated that "(no vitamin has) the property of destroying tissue, such as cancer tissue, that is claimed of Laetrile. Such a property would be incompatible with the action of vitamins" (Tr. at 223). Other experts in this area rejected the claimed vitamin status in part on the grounds, discussed below, that amygdalin is, or can be, harmful to the body. It is pointed out that, amygdalin properly belongs to the class of compounds termed "toxicants occurring naturally in foods". (R 416 at ¶ 27(A)(1)).

3. Dangers of Ingestion of "Vitamin B–17"

As has been demonstrated above, the presence of *beta*-glucosidase, oxynitralase, and amygdalin together in apricot pits presents the potential for a combination that would release cyanide and cause poisoning of the individual consuming an extract of the pits. Additionally, though *beta*-glucosidase is not present in animal tissues, it, and other substances capable of breaking down amyg-

dalin, may be present in the digestive track and thus may break down orally consumed amygdalin to release cyanide in the body. It is therefore with great concern that the Commissioner views the emergence of the theory that human beings should step up their consumption of "naturally occurring" nitrilosides such as amygdalin.

In his vitamin B–17 article, Ernst T. Krebs, Jr., notes that while the "stupidity" of "political power" may keep prepared vitamin B–17 off the market, six or seven teaspoonsful of defatted apricot seed or kernel would supply what is considered to be an adequate oral dose of nitrilosides (R 183, Att. 10c at 84). He suggested, "It is best that the *beta*-glucosidase enzyme be completely heat inactivated in such material" (id.). He does not indicate how much heat inactivation should be accomplished, nor does he cite any support for the idea that it can be.

There are documented cases of poisoning, some fatal, due to the consumption of apricot pits or kernels. The toxic element in these cases is the hydrogen cyanide which is released from the cyanogenetic glucosides by the action of the enzymes (including *beta*-glucosidase) present in apricot kernels (R 378, Att. "California Morbidity Reports," Att. "Hazards to Health"). The suggestion by Mr. Krebs, Jr., that the *beta*-glucosidase be "inactivated" can be taken as tacit—too tacit—acknowledgement that the kernels and/or pits present a hazard when consumed unless the enzymes are first destroyed. The Commissioner notes that other proponents of Laetrile clearly state that amygdalin products should never be given by mouth because the hydrochloric acid in the stomach is capable of hydrolyzing the drug (R 318 at 158). A 1954 document, "The Rationale and Clinical Evaluation of Laetrile-*Beta*-Glucosidase Palliative Therapy" states, "CAUTION: Laetrile (1-mandelonitrile-*beta*-glucuronidase) is NOT TO BE TAKEN ORALLY. It is extremely toxic by this route of administration, since the gastric hydrochloric acid acts to hydrolize the glucoside with the release of hydrogen cyanide" (R 388, Ex. 5).

Dr. Burk seeks to support the idea that Laetrile or amygdalin is a food and, among other things, may be safely consumed by an allegation that "* * * laetrile is listed in the HEW–FDA GRAS list (foods 'Generaly Regarded (sic) as Safe') under the heading of natural extractive from bitter almond, apricot or peach kernels" (R 302 at 3; see also Ex. B). The material to which Dr. Burk refers is "Bitter almond (free from prussic acid)" which does appear on the generally recognized as safe (GRAS) list, 21 CFR 182.20. (Prussic acid is another name for hydrogen cyanide.) The material on the GRAS list, however, is an oil extracted from peach, almond, or apricot kernels. After cold pressing the oil from its source, it is processed to effect enzymatic hydrolysis of amigdalin. There is no amygdalin present after the hydrolysis step. The final product is essentially benzaldehyde. "Thus the material listed for flavor use * * * is not amygdalin and thus neither is it Laetrile" (R 415 at 2). Dr. Burk's contention is thus incorrect and has no basis in fact.

The idea that foods containing nitrilosides may be safely consumed is also supported by stories of "non-toxic" nature of nitrilosides which are found in the diets of various peoples. This claimed nontoxicity is not borne out by reality. In some parts of Africa two important human diseases—human ataxic neuropathy and endemc goitre—appear to be associated with high cassava intake (R 183, Att. 20 at 161; R 378, Att. 6). (Cassava contains linamarin, a commonly consumed nitriloside (R 217, Att. "Sickle Cell Anemia" at 51).) It is also reported that cows have been killed by eating large amounts of young millet, which is particularly high in nitrilosides, and intoxication of other animals has been reported. (See R 416, Ex. 5 at 302.) There have been reports in this country of toxicity and, in some cases fatalities, in humans from consumption of amygdalin-containing substances (See, e.g., R 378, Att. "California Morbidity"; see also R 378, Att. "Hazards to Health; Cyanide Poisoning from Apricot Seeds Among Children in Central Turkey," Sayer et al.). Thus there is ample and clear indication that the consumption of "nitrilosides" is not without hazard. To urge the public to consume "apricot pit milkshakes" or similar foods in order to be sure to get an ample supply of amygdalin or "vitamin B–17" or "nitrilosides" is irresponsible and foolhardy.

C. FREEDOM OF CHOICE

The administrative record contains many comments not directed to the legal issues of Laetrile's "new drug" or "grandfather" status or even to the question of whether the drug is safe or effective for use in cancer therapy. Rather these comments support the proposition that a person should be free to choose his or her own cancer therapy, at least if the drugs involved are not overtly toxic (see, e.g., Tr. at 33; R 231; R 238; R 242; R 209; R 211; R 283; R 500; R 155; R 272). The issue of "freedom of choice" is irrelevant to the issues remanded to the agency by the Rutherford courts. Nevertheless, because of the demonstrated public interest in this issue, the Commissioner has given it, and submissions addressing it, careful consideration.

The very act of forming a government, of course, necessarily involves the yielding of some freedoms in order to obtain others. In passing the 1962 Amendments to the act—the amendments that require that a drug be proved effective before it may be marketed—Congress indicated its conclusions that the absolute freedom to choose an ineffective drug was properly surrendered in exchange for the freedom from the danger to each person's health and well-being from the sale and use of worthless drugs. This is in fact the same decision made by those in government who have decided over the years that only those persons may practice medicine who have been certified by experts to be qualified to actually help the patients who would choose to seek their assistance.

Some would argue that the lawmakers' well-considered decision to prohibit the use of drugs not shown to be effective was the wrong one. One alternative suggested is that a drug such as Laetrile should be marketed with labeling which indicates that experts do not consider it to be effective. The present use of Laetrile vividly illustrates the impracticability of such a solution. There can be few patients taking Laetrile in this country today who do not know that the government and most experts consider it worthless. Yet the drug continues to be used, to the detriment of cancer patients who might otherwise be helped by conventional treatment.

The choice to use Laetrile is seldom, in any case, a free one. As the discussion above (Why Do People Use Laetrile?) illustrates, a cancer patient is a person beset by immense stresses, physical, psychological, emotional and societal; and the persuasion that the patient and his family are subjected to by Laetrile proponents is seldom limited to a rational laying out of competing arguments. The information that the proponents of Laetrile provide is false—that the drug cures, palliates, relieves pain, "controls" cancer. As Dr. Sampson's survey, discussed above, indicates, few Laetrile patients make an effort to hear the argument against Laetrile therapy. The idea that a reasoned free choice is involved in the selection of Laetrile rather than legitimate therapy is thus ultimately an illusion. (See R 421 at 1.)

The record contains the views of many persons who have considered the issue of "freedom of choice" in cancer therapy. Each represents a thoughtful attempt to deal with this question, which, while irrelevant to the legal issues which are the subject of this opinion, is troubling to those concerned with the Laetrile problem. These comments may be grouped roughly as supporting the two responses to the "freedom of choice" argument set forth above: (1) The surrender of an absolute freedom to choose among cancer remedies in order to obtain the greater freedom from the suffering associated with use of ineffective remedies is a rational decision; and (2) the "choice" of unproven cancer remedies cannot fairly be characterized as "free."

1. Balancing Freedoms

Reverend Allan W. Reed, Director, Department of Pastoral Services and School for Pastoral Care, Massachusetts General Hospital, considered the ethical side of the "freedom of choice" question. He states "The ethical issues of a group of legislating for an individual, thereby threatening the principal (of) freedom of choice, contrasts with the ethical principal of a government protecting its citizens from fraud and abuse. In the case of a drug for which there is no proven efficacy, the ethical weight is on the side of protection of the citizens" (R 148).

Leroy G. Kerney, Chief of the Department of Spiritual Ministry at the Clinical Center, National Institutes of Health, pointed out that, "Freedom of the indi-

vidual is important. But when the freedom to accept any drug for treatment and the freedom to injure oneself collide, a judgement must be made: Stop signs or restrictions on turning at certain corners restrict my freedom in driving, but, at the same time, they protect my freedom from hurting myself and others in traffic" (R 414 at 3).

J. Philip Wogaman is Dean and Professor of Christian Social Ethics at the Wesley Theological Seminary and past president of the American Society of Christian Ethics. He noted an "initial presumption" in favor of freedom from governmental prohibition but concluded that Laetrile should be banned for three reasons: (1) The ban prevents fraud in the medical marketplace; (2) "[M]isrepresentation in the field of medicine is particularly serious because it undermines public confidence in medicines that are of real value"; (3) "(T)here is a real danger that persons may be led by false hopes in a worthless drug to neglect treatment at a time when it could be most effective" (R 417 at 2–3).

Dr. James F. Holland of the Mount Sinai School of Medicine points out that the freedom achieved by regulation of drug products is often the freedom to live: "For the patient ignorant of the inertness of Laetrile as an anticancer drug, there is an overriding concern that he not be denied his individual freedom by untimely death from cancer from having relied on Laetrile to help. This is a cruel deprivation of individual freedom, since the patient does not get a second chance" (R 396 at 2).

James Harvey Young, Ph.D., a historian of health quackery, discussed the past use of the freedom of choice concept and phrased his conclusions concerning the validity of application of that concept to health care in colorful terms. He states that acceptance of the primacy of the freedom to choose medical therapies "leads only toward the license of those ancient days, when 'the toadstool millionaires,' preaching religion and spouting patriotism, operating without restraint, fleeced and often killed their gullible victims. That is a fate from which seven decades of constructive legislation, beginning with the Pure Food and Drugs Act of 1906, has somewhat rescued the nation. Complex, modern, industrial, urbanized society, with standards of medical judgment far more precise than those existing in the nineteenth century, cannot afford to let the nation's health concerns be governed by a distored definition of that great symbol, 'freedom', which would return piratical anarchy to the realm of health" (R 400 at 11–12).

2. The Choice Is Not Free

The discussion above of "Why People Use Laetrile?" describes the many pressures that induce cancer patients and their families to make the decision to use Laetrile. Orville Eugene Kelly is a cancer patient who has founded an organization called "Make Today Count," which now has 103 chapters in 30 states, to help other cancer patients and their families deal with the problems that discovery of cancer entails. He addressed the question of "freedom of choice" in an affidavit submitted to the record (R 389). He notes from personal experience that patients and their families are often susceptible to arguments that a painless drug like Laetrile can cure them (id. at 2) and describes the persistence with which those arguments are made. He himself has tried to present the counter-arguments to other cancer patients. "But it is difficult to convince some of these people that the substance Laetrile is ineffective as a therapy for cancer when they have watched a film, listened to tapes, and heard testimonials from other patients, quite sincere in their beliefs that Laetrile has helped them" (id. at 3). He asks: "(I)s it a fair choice if (the cancer patients) are being pressured by Laetrile proponents?" (id.).

The constant efforts of Laetrile proponents are emphasized by those dealing with cancer patients. See, e.g., statement of Helene Brown, Executive Director of Community Cancer Control, Los Angeles, "that far from exercising a free and informed choice patients are confronted with enormous pressures to use Laetrile instead of conventional forms of therapy and that representatives attesting to the worth of Laetrile make untrue, misleading and unsubstantiated claims" (R 393 at 5).

The presentations of the Laetrile proponents are made, as discussed in more detail elsewhere, to patients and families deprived of their normal decisionmaking abilities. See statement of John J. Dawson, M. Div., Director, Patient and Family Support, Mountain States Tumor Institute: "Research conducted at the Mountain States Tumor Institute and elsewhere indicates that the emotional trauma of a cancer diagnosis severely impairs the patient's and families' ability to engage in rational decisionmaking processes" (R 421 at 1).

Other submissions reflect a similar conclusion, see the statement of Rev. Reed: "The ability of (cancer patients and their families) to protect themselves is often severely limited by the emotional situation in which they find themselves" (R 418). (See also R 414 at 4; R 433 at ¶ 14.)

The Commissioner thus concludes as follows:

(1) To the extent that any freedom has been surrendered by the passage of the legislation which bans from the marketplace drugs that have not been proven to be effective, that surrender was a rational decision which has resulted in the achievement of a greater freedom from the dangers to health and welfare represented by such drugs.

(2) The choice of Laetrile therapy, by persons under the severe stresses associated with discovery of cancer and in response to misinformation presented persuasively by Laetrile's proponents, cannot be regarded as a choice which is free.

D. ALLEGATIONS OF BIAS

Several submissions charged that FDA is too biased against Laetrile to conduct a fair hearing. Aside from general allegations of bias (R 313; R 248; R 353; R 507, R 302; R 73, Att. at 43; Tr. at 444–45), these submissions fall into two general categories: (1) the administrative rulemaking proceeding should have been conducted by someone other than FDA (R 144; R 505; R 222; Tr. at 12, 29, 75, 444–45); and, (2) the drug approval process administered by FDA is wrong (R 235; R 258; R 144; R 509; Tr. Ex. 1).

It is difficult for an agency charged with bias to rebut such charges persuasively. Nonetheless, the Commissioner feels that a complete decision requires some rebuttal of charges that he regards as erroneous and misdirected. Insofar as comments suggesting that the proceedings should have been conducted by someone other than FDA, it should be noted that FDA was required by court order to assemble an administrative record and make appropriate determinations therefrom. The task could not have been delegated to anyone else, and, even had the agency been able to do so, it is not likely that any tribunal chosen by FDA would have satisfied those persons who are convinced that the agency is biased. The FDA is, of course, the agency designated by Congress to evaluate the safety and effectiveness of drugs and, as such, it is the agency with expertise in this area.

The comments charging that the requirements for drug approval administered by FDA are wrong contained statements to the effect that testimonial evidence should be accepted as adequate proof of safety and effectiveness or that the cost of a clinical trial is too great a burden for the proponents of Laetrile to bear. Laetrile proponents place particular emphasis on the cost factors, stating that because clinical trials are expensive, FDA somehow favors only large drug companies.

As has been discussed above, FDA is bound by the requirements of law regarding drug safety and effectiveness. Those requirements have been challenged in court before, by the very drug companies toward whom Laetrile proponents allege FDA has a positive, favorable bias. These "favored" groups did not prevail, and the safety and effectiveness provisions were upheld.

In Pharmaceutical Manufacturers Ass'n v. Richardson, supra, a trade association whose membership includes major drug firms sought to enjoin the FDA regulations establishing the standards of evidence necessary to demonstrate the effectiveness of drug products (21 CFR 314.111). Pointing out that Congress could not have had testimonial evidence, clinical impressions, practical experience, or the unsubstantiated subjective views of medical practitioners in mind when it defined "substantial evidence," the court upheld the regulations. As one witness in the case pointed out, the approach which assumed that a collection of impressions would furnish the truth, "did not prevent doctors from having unbounded faith in the curative powers of leeches for hundreds of years before scientific evaluation became the pre-

ferred means of judging efficacy of therapy" (318 F. Supp. at 307).

In *Upjohn Company* v. *Finch*, 422 F.2d 944 (6th Cir. 1970), a drug manufacturer sought review of an FDA order revoking marketing approval for seven combination antibiotic drugs. Stating that testimonial evidence was not enough to meet the standard of substantial evidence, the court held that "the record of commercial success of the drugs in question and their widespread acceptance by the medical profession, do not, standing alone, meet the standards of substantial evidence, prescribed by 21 U.S.C. 355(d)" (422 F. 2d at 954). Although the cost of developing the proper scientific evidence of safety and effectiveness is high, placing this burden upon those who wish to sell drugs is more than justified by the need to protect the consumer from harmful, useless, and fraudulent drugs.

The Commissioner acknowledges that the FDA is biased in one sense; the agency is committed to requiring that drugs meet the standards of safety and effectiveness required by law. The standards are designed to protect the public from drugs which are not both safe and effective. While the standards are rigorous, they are not mysterious. They are accepted by the scientific community and can be applied by any scientists who seriously wants to prove the value of a drug. The proponents of Laetrile choose to attack the standards. They have not attempted to meet them.

E. LIMITING USE TO TERMINAL PATIENTS

There has been concern expressed in the submissions to the record that Laetrile might be approved for use by "terminal" cancer patients. Such an approval would be theoretically justified only on the grounds that since such patients might be considered beyond the help of other therapies, Laetrile cannot hurt them. Approval of a drug for use by terminal patients is not possible under the act; however, in light of the interest in this issue the Commissioner will discuss the evidence relating to it.

One submission objected to the possible use of Laetrile by terminal patients on the grounds that approval of such use constitutes sanction of an inhumane fraud upon the patients involved, one which wastes the financial resources of the patients and their families uselessly (R 190 at ¶ 17). Two other arguments were expressed by a number of submitters: (1) there is no such thing as a "terminal" patient and (2) allowing use by a subgroup of cancer patients would lead to increased use by patients who could be helped by legitimate therapy.

1. Who is Terminal?

Dr. Peter H. Wiernik, Chief of the Clinical Oncology Branch of the National Cancer Institute's Baltimore Cancer Research Center, states, "One major difficulty in making a particular chemical available for terminal patients only, is that no one can prospectively define the term 'terminal' with any accuracy. A patient can be said to be terminal only after he dies. Many patients who are critically ill respond to modern day management of cancer" (R 200 at ¶ 18).

D. Joseph F. Ross, Professor of Medicine at the University of California School of Medicine at Los Angeles, is actively involved in the medical care of cancer patients. He states, "[T]he distinction of 'terminal' patients from 'nonterminal' patients may not be reliably determined and an assumption that Laetrile may be given to such patients with impunity may deprive such patients of therapeutic measures which could help them" (R 190 at ¶ 17). Cf. R 393, Ex. 1 at 2: "Medical history is full of miracles." "No one knows if and when any patient is going to die." (Helene Brown, Executive Director of Cancer Control/Los Angeles); see also R 173, Att. "Questions Most Frequently Asked * * *" at 2).

2. Effects on Other Patients

Approval for use of Laetrile by "terminal" patients, assuming some way could be found to define that class of individuals so as to exclude all those who might be helped by legitimate therapy, would still pose a risk to other patients who could be helped. This effect would, the evidence in the record shows, occur in two ways. First, approval for even this limited use would encourage illegitimate use of the type now occurring in this country.

Historian James Harvey Young, based upon his study of past "unproven" medical cures, states, "Permitting Laetrile's use in terminal cases gives it a credence among the public at large that will expand its use in early cases, for people will prefer taking a 'vitamin' to confronting the surgeon's knife" (R 400 at 11).

Dr. Samuel C. Klagsbrun, a psychiatrist who works with cancer patients at St. Luke's Hospital in New York, states, "Permitting Laetrile to be used by any population of cancer victims would have the correlative effect of creating the misimpression in the minds of other cancer victims that the drugs is, in fact, safe and effective for a broader population" (R 433 at ¶ 12).

A second danger from such a limited approval of Laetrile is that the limitation would be extremely difficult to enforce. Kenneth A. Durrin, Acting Director, Office of Compliance and Regulatory Affairs, Drug Enforcement Administration, submitted an affidavit describing the detailed and costly regulation of "controlled substances" under the Controlled Substances Act (CSA) and then considered the possibility of approval of Laetrile "for terminal patients only" (R 435). He stated his conclusion as to the practicality of preventing the diversion of Laetrile from "terminal" patients, if approved for such patients, to others who might be helped by legitimate therapy: "Absent the kinds of controls available under the CSA—and indeed even with such controls—it is my opinion that a drug such as Laetrile could not effectively be restricted to a class of terminally ill cancer patients. For example, absent a quota on production, manufacturers would not be limited to producing an amount of Laetrile sufficient only to provide a source of supply for terminally ill cancer patients. Manufacturers would not be restricted in the channels in which they could permissibly distribute thn drug. They would not be required to report transactions in Laetrile. The amount of Laetrile which could be imported into this country would be unlimited.

"Given such unrestricted and unfettered availability of Laetrile, it is my opinion that there would be no practical way of limiting access to the drug to terminally ill cancer patients only. It is completely unrealistic to suggest that any other result would occur" (id. at ¶ 18–19).

The Commissioner concludes that approval of Laetrile restricted to "terminal" patients would lead to needless deaths and suffering among (1) patients characterized as "terminal" who could actually be helped by legitimate therapy and (2) patients clearly susceptible to the benefits of legitimate therapy who would bn misled as to Laetriles' utility by the limited approval program or who would be able to obtain the drug through the inevitable leakage in any system set up to administer such a program.

F. USE CONCURRENTLY WITH OTHER THERAPY

Some persons not familiar with the problem of drug interactions have suggested that Laetrile might be approved for use concurrently with legitimate cancer therapy. This theory would logically extend to allow any worthless drug to be used as long as effective therapy was also utilized. Such a limited use program would, of course, involve the problems of administration discussed in the previous section. Particularly in light of the Laetrile proponents' practice of dissuading patients from what they characterize as the "cut, burn, and poison" techniques of legitimate therapy, any seeming government sanction of Laetrile would inevitably involve encouragement of use of "painless" Laetrile therapy alone and thus would result in needless suffering and loss of life (cf. R 191 at ¶17).

More important, it simply has not been shown by any sound scientific evidence that the administration of Laetrile along with other therapy may not either make such therapy more dangerous or interfere with its effects. Dr. James F. Holland states (R 396 at 2), "That Laetrile is inert as an anticancer drug does not mean it may not interfere with the metabolism of and compromise the effects from known anticancer treatments. This would require years of study to elucidate, and it is not a worthwhile undertaking since Laetrile itself has no anticancer activity. One does not seek further information on why not to use Laetrile. If there is no good reason to do something, the best reason exists not to do it" (emphasis in original). Thus, the same reasons that justify the law's ban on use of drugs not shown to be effective form an equally strong basis for

the ban on that use where the use will be concurrent with other therapy.

VI. CONCLUSIONS

The Commissioner, after careful review of the administrative record amassed in this rule making proceeding, makes the following conclusions:

(1) Although the terms "Laetrile," "laetrile," "amygdalin," "Sarcarcinase," "vitamin B–17," and "nitriloside" have been used interchangebly, the chemical identity of the substances to which these terms refer has varied over the years. The identity of material referred to or called by any of those names is often not known. All too frequently terms have been used haphazardly or imprecisely by proponents, as well as opponents, of Laetrile:

"Laetrile," as described by Ernst T. Krebs, Jr., is: 1-mandelonitrile-*beta*-glucuronic acid.

"Amygdalin" is: D-mandelonitrile-*beta*-D-glucosido-6-*beta*-D-glucoside.

"Sarcarcinase" is the name given by Dr. E. T. Krebs, Sr., to a mixture of 6, possibly more, enzymes extracted from apricot pits.

(2) Neither Laetrile nor any other drug called by the various terms mentioned above nor any other product which might be characterized as a "nitriloside" is generally recognized by experts qualified by scientific training and experience to evaluate the safety and effectiveness of drugs to be safe and effective for any therapeutic use.

(3) Animal studies conducted to date show that Laetrile has no anticancer activity in laboratory animals. Even if such activity were shown, the data would not be relevant to the issue of whether Laetrile is generally recognized by qualified experts as a safe and effective anticancer drug in humans.

(4) Neither Laetrile, amygdalin, nor any other drug called by the various terms set out in conclusion (1) is exempted from the "new drug" definitions of the act (21 U.S.C. 321(p)) by virtue of compliance with either the "1938 grandfather clause" (21 U.S.C. 321(p)(1)) or the "1962 grandfather clause" (section 107(c)(4) of Pub. L. 87–781).

(5) The history and promotion of Laetrile are characteristic of other unproven cancer remedies. Laetrile's popular acceptance by laymen lies not in credible proof of its effectiveness, but rather in the fears of orthodox medical treatment and the false hope, fostered by Laetrile's proponents, that suffering and eventual death can be avoided through Laetrile.

(6) Laetrile is not in general use as cancer therapy anywhere in the world.

(7) There is no evidence that "Vitamin B–17" is generally recognized among experts in the field of nutrition or nutrition research as a vitamin. Even if there were such recognition, "Vitamin B–17" would still be subject to regulation as a drug under the Federal Food, Drug, and Cosmetic Act because of the claims made for its use in cancer therapy.

(8) The safety of ingesting amygdalin, Laetrile and/or apricot or peach kernels or pits has not been established. There is, in fact, evidence of frank toxicity from ingestion of the kernels or pits.

(9) There is no basis in law or in fact for the use of Laetrile or related substances in the treatment of cancer.

The foregoing opinion in its entirety constitutes the Commissioner's findings of facts and conclusion of law. Distribution of Laetrile, amygdalin, or any other substance called by the various terms set out in conclusion (1) in interstate commerce is in violation of the Federal Food, Drug, and Cosmetic Act and subject to regulatory action.

Dated: July 29, 1977.

DONALD KENNEDY,
Commissioner of Food and Drugs.

[FR Doc.77–22310 Filed 8–4–77;10:00 am]

federal register

FRIDAY, AUGUST 5, 1977
PART III

DEPARTMENT OF JUSTICE

■

PAROLE, RELEASE, SUPERVISION AND RECOMMITMENT OF PRISONERS, YOUTH OFFENDERS, AND JUVENILE DELINQUENTS

Title 28—Judicial Administration

CHAPTER I—DEPARTMENT OF JUSTICE

PART 2—PAROLE, RELEASE, SUPERVISION AND RECOMMITMENT OF PRISONERS, YOUTH OFFENDERS, AND JUVENILE DELINQUENTS

Paroling, Recommitting and Supervising Federal Prisoners

AGENCY: The United States Parole Commission, Justice.

ACTION: Final rules.

SUMMARY: The Parole Commission has adopted a procedure whereby federal prisoners will be notified of their ultimate release dates at the outset of their terms of imprisonment. This procedure is necessary to reduce the degree of uncertainty with which federal prisoners presently serve their sentences of imprisonment. The purpose of the procedure is to achieve a significant degree of certainty while not foregoing the advantageous features of the parole system.

EFFECTIVE DATE: September 6, 1977, for all prisoners sentenced on that date or thereafter. For prisoners sentenced prior to September 6, 1977, the substantive provisions of the amended rules (setting presumptive release dates) will apply at the next scheduled in-person hearing (initial, review, rescission, or revocation).

FOR FURTHER INFORMATION CONTACT:

Michael A. Stover, Office of the General Counsel, United States Parole Commission, 320 First Street, NW., Washington, D.C. 20537, telephone 202-724-3092.

SUPPLEMENTARY INFORMATION:

(A) The Proposal and Its Purpose

On June 10, 1977, the United States Parole Commission published a proposal whereby Federal prisoners would be notified of their ultimate release dates at the outset of their terms of imprisonment (42 FR 29934). The purpose of this proposal, which is now adopted as a final rule, was to achieve a substantial reduction of indeterminacy in Federal prison sentences (i.e. increasing certainty on the part of the prisoner as to what his total incarceration will be), without foregoing the significant advantages of the present federal parole system. Among the advantages offered by the federal parole system are: (1) Release decision-making by a small, independent, collegial body of correctional experts adhering to a national parole policy (promoting reduction of unwarranted disparity in punishments); and (2) the ability to account for intervening factors not foreseeable at the time of sentencing, through systematic review of each prisoner's case (promoting fairness to the individual and avoiding excessive use of confinement).

(B) Public Comment

The proposal prompted numerous letters from the public, among which were letters from prisoners, families of prisoners, corrections officials, probation officers, one legislator, and one prison ministry organization. The majority of these letters endorsed the proposal because of the certainty it would bring to prisoners and to those awaiting a prisoner's return to society, thus increasing the stability of the prisoner's community support.

Corrections officials also favored the proposal. Chairman Ira Blalock of the Oregon State Parole Board wrote that a similar system adopted in Oregon has been administratively successful and generally beneficial. Chairman Blalock also pointed out that the proposal was consistent with the recommendations of criminologists and of the American Bar Association's Draft Standards Relating to the Legal Status of Prisoners (American Criminal Law Review, January 1977). Assistant Director Roy Gerard of the Federal Bureau of Prisons wrote that the new system will make prison management easier and more efficient, inmates will be better informed and less anxious, and the processing of parole procedures will be improved.

Finally, Representative Robert W. Kastenmeier, Chairman of the House Subcommittee on the Courts, Civil Liberties, and the Administration of Justice, and a key architect of the Parole Commission and Reorganization Act of 1976, wrote:

> I whole-heartedly endorse such a new rule. I believe it is entirely consistent with the intent of Congress that federal prisoners be provided with clear, consistent parole policies which will permit them to know at an early date when they can expect release.

This comment shared the position taken by the 1977 Report of the Senate Subcommittee on National Penitentiaries:

> First, the subcommittee must see that the Parole Commission continues to administer the guidelines system in a way that is consistent with the intention that indeterminancy be reduced to the extent consistent with the law.
>
> The legislation attempted to provide inmates with knowledge of their parole status, so that the typical inmate would know the prospective time of his release, plan for this, and not make release plans when he has no hope of early release. The legislation attempts to achieve this without creating procedural requirements that would be the basis for extensive and continuous litigation. At present, prospective parole information is not being given to all the prison population, and this would be of future concern to the Subcommittee. [at page 2 of the Report]

The most common criticism of the proposal from prisoners was its distinction between sentences of less than seven years and sentences of seven years or more. The effects of this demarcation are that: (1) A prisoner with a sentence of seven years or more and a minimum term of imprisonment must await the completion of his minimum term before receiving his initial hearing, whereas all prisoners with sentences of less than seven years receive an initial hearing at the outset of incarceration; and (2) in all of the longer sentences, a presumptive release date cannot be set if it would result in a date more than four years from the date of the initial hearing.

The seven-year mark as a divider between short and long sentences for the purpose of setting a prisoner's entitlement to hearings is a figure already selected by Congress at 18 U.S.C. 4208(h). That section uses the seven-year mark to distinguish between those sentences in which interim hearings are required every eighteen months and those sentences (of seven years or more) in which interim hearings are required every twenty-four months. Moreover, the Commission decided that, for its present administrative purposes, a four-year effective limit on the setting of presumptive release dates is a practical restriction, as well as one which coincides with the statutory scheme. Whether the limit may be expanded in the future is a question which the Commission reserves for further deliberation.

Other comments urged that the Commission adopt a similar policy with regard to federal parolees serving new federal sentences for crimes committed while on parole, by informing such prisoners at the outset of the total combined length of the new confinement and the consecutive parole violator term (the remaining time on the original sentence). This proposal raises substantial questions beyond the scope of the present rule-making (for example, the problem of federal parolees serving new state sentences, in whose situations the Commission could not set a combined release date). However, the proposal will be taken under study.

One comment suggested that the Commission's plan contained an inherent paradox, stating that "* * * if the purpose of parole is to determine the extent of rehabilitation and fitness for return to society, how can the [Commission] make such determinations without a longer period of incarceration?" The point this writer missed is that, in the federal system, seriousness of the offense and likelihood of favorable parole outcome are the principal standards by which parole decisions are made. (See 18 U.S.C. 4206). A prisoner's release date is not tied to the outward indicia of his rehabilitative efforts.

(C) Changes From the Proposal

The proposal was adopted substantially as set forth in the Federal Register of June 10, 1977, with one exception. The five-year limit on presumptive release dates in the case of sentences of seven years or more was reduced to four years, in order to coincide with the occurrence of the second interim (statu-

tory) review hearing at forty-eight months from the initial hearing. Thus, in a case in which no presumptive release date was set at the initial hearing, the second interim review hearing would be conducted as a four-year reconsideration hearing pursuant to §§ 2.12(c)(2) and 2.14(c).

The amended rules also make clear that the formal rescission procedures of § 2.34 apply to presumptive parole dates, a point not covered in the proposal. This is consistent with the Commission's statement that the intent of the proposal is that release will normally be granted at the presumptive date (42 FR 29934). By the same token, the amended rules also contain a clear statement that once set, a presumptive release date shall not be advanced except under clearly exceptional circumstances.

(D) Summary of the Principal Amendments

Adoption of this proposal required numerous conforming amendments, in addition to the substantive changes. For the convenience of the reader, the Commission's rules (together with changes effected by accompanying documents) are republished in their entirety. A summary of the principal amendments covered by this document follows.

In § 2.1, the term effective date of parole is defined to distinguish that term from the term presumptive parole date. An effective date of parole is a parole date that has been approved following an in-person hearing held within six months of such date, or following a pre-release record review. Thus, a presumptive parole date become an effective date of parole when approved following a pre-release record review, or when approved following an interim hearing which is held within six months of the presumptive parole date. However, the term effective date of parole also includes the familiar grant of parole with a few months delay for the development of a release plan. The term presumptive release date encompasses both presumptive release by parole (a presumptive parole date), as well as presumptive release through the accumulation of good time (mandatory release pursuant to 18 U.S.C. 4163 and 4164).

In § 2.12, the principal features of the proposal (the holding of early initial hearings and the setting of presumptive release dates) are codified. The reader should not fail to note that the setting of presumptive release dates (either by parole or by mandatory release) will be pursuant to the Commission's guidelines at § 2.20 (including decisions above or below the guideline ranges).

In § 2.13, a number of provisions relating to the conduct of the initial hearing as restructured. The only substantive change is the requirement that if a release date is set in excess of six months from the date of the hearing, reasons must be given as in the case of a parole denial.

In § 2.14, the three types of proceedings subsequent to the initial hearing are fully described: Interim hearings pursuant to 18 U.S.C. 4208(h); pre-release reviews; and four-year reconsideration hearings. It is important to note that under no circumstances will a prisoner go without the periodic reviews to which he is entitled by section 4208(h).

In § 2.29, the terms of an effective date of parole are set forth. (The good conduct condition is omitted since it is already contained in § 2.34.)

In § 2.34, the amendment at paragraph (a)(3) permits the Commission to defer consideration of disciplinary infractions until the commencement of the next interim hearing or the pre-release review required by § 21.4(b). Since, as a practical policy, the Commission considers only those disciplinary infractions that have been the subject of formal findings following an Institutional Disciplinary Committee hearing, a delay until the next scheduled review will not operate to the prisoner's disadvantage (through loss of evidence, etc.).

(E) Effective Date

These amended rules will become effective as follows: (1) In the case of prisoners sentenced on September 6, 1977, or thereafter (including prisoners with one or more multiple sentences imposed on September 6, 1977, or thereafter), all provisions of the amended rules shall apply from the initial hearing onward;

(1) In the case of prisoners sentenced prior to September 6, 1977, the amended rules will apply, excepting the provisions of § 2.12(a), at the first regularly scheduled in-person hearing that is held on September 6, 1977, or thereafter. Thus, following the first hearing (initial, review, rescission, or revocation hearing) that is held on September 6, 1977, or thereafter, each prisoner sentenced prior to September 6, 1977, will be notified of a presumptive release date according to the procedures of § 2.12 (c), (d), and (e), and related provisions.

(F) Further Consideration of These Amended Rules

The Commission intends to evaluate the first four months of the operation of these rules at its meeting in January, 1978. Therefore, public comment by interested persons will continue to be welcome and will be considered at that time.

(G) Conclusion

Accordingly, pursuant to the provisions of 18 U.S.C. 4203(a)(1) and 4204(a)(6), 28 CFR Chapter I, Part 2, is amended as set forth below to become effective in the manner described above.

Dated: August 2, 1977.

Curtis C. Crawford,
Acting Chairman,
Parole Commission.

Sec.

Authority: 28 CFR Chapter 1, Part O Subpart I, and (18 U.S.C. 3655, 4164, 4201–4218, 4254–5, and 5005–5041).

§ 2.1 Definitions.

As used in this part:

(a) The term "Commission" refers to the United States Parole Commission.

(b) The term "Commissioner" refers to members of the United States Parole Commission.

(c) The term "National Appeals Board" refers to the Vice Chairman of the Commission and two other National Commissioners who are assigned in the headquarters office of the Commission in Washington, D.C. The Vice Chairman shall be the Chairman of the National Appeals Board. In the absence or vacancy of the Vice Chairman the Chairman of the Commission functions as the Chairman of the National Appeals Board. In the absence or vacancy of a member the Chairman of the Commission functions as a member of the National Appeals Board.

(d) The term "National Commissioners" refers to the Chairman of the Commission and the three members of the National Appeals Board. The Vice Chairman of the Commission shall be the Chairman of the National Commissioners. In the absence or vacancy of the Vice Chairman, the Chairman of the Commission shall be Chairman of the National Commissioners.

(e) The term "Regional Commissioner" refers to Commissioners assigned to the Commission's regional offices.

(f) The term "eligible prisoner" refers to any Federal prisoner eligible for parole pursuant to this Part and includes any Federal prisoner whose parole has been revoked and who is not otherwise ineligible for parole.

(g) The term "parolee" refers to any Federal prisoner released on parole or as if on parole pursuant to 18 U.S.C. 4164 or 4205(f). The term "mandatory release" refers to release pursuant to 18 U.S.C. 4163 and 4164.

(h) The term "effective date of parole" refers to a parole date that has been approved following an in-person hearing held within six months of such date, or following a pre-release record review.

(i) All other terms used in this part shall be deemed to have the same meaning as identical or comparable terms as used in Chapter 311 of Part IV of Title 18 of the United States Code or Chapter I, Part O, Subpart V of Title 28 of the Code of Federal Regulations.

§ 2.2 Eligibility for parole; adult sentences.

(a) Unless otherwise provided by statute, a Federal prisoner confined and serving a maximum term or terms of more than one year may not be released on parole prior to completion of one-third of such term or terms, or prior to completion of ten years of a life sentence or of a sentence of over thirty years (18 U.S.C. 4205(a)).

(b) If the court has designated a minimum term (which may be less than but not more than one-third of the maximum sentence imposed), a Federal prisoner serving a maximum term of more than one year may not be released on parole prior to completion of the court-designated minimum term (18 U.S.C. 4205(b)(1)).

(c) In cases in which the court designates only a maximum term and specifies that the Commission may release on parole at any time, the prisoner may be released on parole in the discretion of the Commission (18 U.S.C. 4205(b)(2)).

(d) A Federal prisoner sentenced to a maximum term or terms of at least six months but not more than one year prior to May 14, 1976 is eligible for parole consideration after service of one-third of such term or terms.

(e) A Federal prisoner sentenced under 18 U.S.C. 924(a) or 26 U.S.C. 5871 for violation of Federal gun control laws is eligible for parole consideration as if sentenced under 18 U.S.C. 4205(b)(2).

(f) A Federal prisoner committed under 18 U.S.C. 3651 for a period of six months or less with a period of probation to follow is not eligible for parole.

§ 2.3 Same; Narcotic Addict Rehabilitation Act.

A Federal prisoner committed under the Narcotic Addict Rehabilitation Act may not be released on parole prior to completion of at least six months in treatment, not including any period of time for "study" prior to final judgment of the court. Before parole is ordered by the Commission, the Surgeon General or his designated representative must certify that the prisoner has made sufficient progress to warrant his release and the Attorney General or his designated representative must also report to the Commission whether the prisoner should be released. Recertification by the Surgeon General prior to reparole consideration is required (18 U.S.C. 4254).

§ 2.4 Same; juvenile delinquents.

A committed juvenile delinquent may be released on parole at any time in the discretion of the Commission (18 U.S.C. 5041).

§ 2.5 Same; youth offenders.

A committeed youth offender may be released on parole at any time in the discretion of the Commission (18 U.S.C. 5017(a)).

§ 2.6 Withheld and forfeited good time.

(a) While neither a forfeiture of good time nor a withholding of good time shall bar a prisoner from receiving a parole hearing, § 4206 of Title 18 of the United States Code permits the Commission to parole only those prisoners who have substantially observed the rules of the institution.

(b) Forfeiture of statutory good time not restored shall be deemed, in itself, to indicate that the prisoner has violated the rules of the institution to a serious degree.

§ 2.7 Committed fines.

In any case in which a prisoner shall have had a fine imposed upon him by the committing court for which he is to stand committed until it is paid or until he is otherwise discharged according to law, such prisoner shall not be released on parole or mandatory release until payment of the fine, or until the fine commitment order is discharged according to law as follows:

(a) An indigent prisoner may make application to a U.S. Magistrate in the District wherein he is incarcerated or to the chief executive officer of the institution setting forth, under the institutional regulations, his inability to pay such fine; if the magistrate or chief executive officer shall find that the prisoner, having no assets exceeding $20 in value except such as are by law exempt from being taken on execution for debt, is unable to pay the fine, and if the prisoner takes a prescribed oath of indigency, he shall be discharged from the commitment obligation of the committed fine sentence.

(b) If the prisoner is found to possess assets in excess of the exemption in paragraph (a) of this section, nevertheless if the chief executive officer of the institution or U.S. Magistrate shall find that retention of all such assets is reasonably necessary for his support or that of his family, upon taking of the prescribed oath concerning his assets the prisoner shall be discharged from the commitment obligation of the committed fine sentence. If the chief executive officer of the institution or U.S. Magistrate shall find, that retention by the prisoner of any part of his assets is reasonably necessary for his support or that of his family, the prisoner upon taking of the prescribed oath concerning his assets, shall be discharged from the commitment obligation of the committed fine sentence upon payment on account of his fine or that portion of his assets in excess of the amount found to be reasonably necessary for his support or that of his family.

(c) Discharge from the commitment obligation of any committed fine does not discharge the prisoner's obligation to pay the fine as a debt due the United States.

§ 2.8 Mental competency proceedings.

(a) Whenever a prisoner or parolee is scheduled for a hearing in accordance with the provisions of this part and reasonable doubt exists as to his mental competency, i.e., his ability to understand the nature of and participate in scheduled proceedings, a preliminary hearing to determine his mental competency shall be conducted by a panel of hearing examiners or other official(s) (including a U.S. Probation Officer) designated by the Commission.

(b) At the competency hearing, the hearing examiners or designated official(s) shall receive oral or written psychiatric or psychological testimony and other evidence that may be available. A preliminary determination of the prisoner's mental competency shall be made upon the testimony, evidence, and personal observation of the prisoner. If the examiner panel or designated official(s) determines that the prisoner is mentally competent, the previously scheduled hearing shall be held. If they determine that the prisoner is not men-

tally competent, the previously scheduled hearing shall be temporarily postponed.

(c) Whenever the hearing examiners or designated official(s) determine that a person is incompetent and postpone the previously scheduled hearing, they shall forward the record of the preliminary hearing with their findings to the Regional Commissioner for review. If the Regional Commissioner concurs with their findings, he shall order the temporarily postponed hearing to be postponed indefinitely until such time as it is determined that the prisoner or parolee has recovered sufficiently to understand the nature of and participate in the proceedings and, in the case of a parolee, may order such parolee transferred to a Bureau of Prison's facility for further examination. In any such case, the Regional Commissioner shall require a progress report on the mental health of the prisoner at least every six months. When the Regional Commissioner determines that the prisoner has recovered sufficiently, he shall reschedule the hearing for the earliest feasible date.

(d) If the Regional Commissioner disagrees with the findings of the hearing examiners or designated official(s) as to the mental competency of the prisoner, he shall take such action as he deems appropriate.

§ 2.9 Study prior to sentencing.

(a) When an adult Federal offender has been committed to an institution by the sentencing court for observation and study prior to sentencing, under the provisions of 18 U.S.C. 4205(c), the report to the sentencing court is prepared and submitted directly by the United States Bureau of Prisons.

(b) The court may order a youth to be committed to the custody of the Attorney General for observation and study at an appropriate classification center or agency. Within sixty days from the date of the order, or such additional period as the court may grant, the Commission shall report its findings to the court (18 U.S.C. 5010(e)).

§ 2.10 Date service of sentence commences.

(a) Service of a sentence of imprisonment commences to run on the date on which the person is received at the penitentiary, reformatory, or jail for service of the sentence: *Provided, however,* That any such person shall be allowed credit toward the service of his sentence for any days spent in custody in connection with the offense or acts for which sentence was imposed.

(b) The imposition of a sentence of imprisonment for civil contempt shall interrupt the running of any sentence of imprisonment being served at the time the sentence of civil contempt is imposed, and the sentence or sentences so interrupted shall not commence to run again until the sentence of civil contempt is lifted.

(c) Service of the sentence of a committed youth offender or a person committed under the Narcotic Addict Rehabilitation Act commences to run from the date of conviction and is interrupted only when such prisoner or parolee (1) is on bail pending appeal; (2) is in escape status; (3) has absconded from his or her district of supervision; or (4) comes within the provisions of subsection (b) of this section.

§ 2.11 Application for parole; notice of hearing.

(a) A federal prisoner (including a committed youth offender or prisoner sentenced under the Narcotic Addict Rehabilitation Act) desiring to apply for parole shall execute an application form as prescribed by the Commission. Such forms shall be available at each federal institution and shall be provided to each prisoner who is eligible for an initial parole hearing pursuant to § 2.12. Prisoners committed under the Federal Juvenile Delinquency Act shall be considered for parole without application and may not waive parole consideration. A prisoner who receives an initial hearing need not apply for subsequent hearings.

(b) A prisoner may knowingly and intelligently waive any parole consideration on a form provided for that purpose. If a prisoner waives parole consideration, he may later apply for parole and may be heard during the next visit of the Commission to the institution at which he is confined, provided that he has applied at least 45 days prior to the first day of the month in which such visit of the Commission occurs.

(c) A prisoner who fails to submit either an application for parole or a waiver form shall be referred to the Commission's representatives by the chief executive officer of the institution. The prisoner shall then receive an explanation of his right to apply for parole at a later date.

(d) In addition to the above procedures relating to parole application, all prisoners prior to initial hearing shall be provided with an inmate background statement by the Bureau of Prisons for completion by the prisoner.

(e) At least thirty days prior to the initial hearing (and prior to any hearing conducted pursuant to § 2.14), the prisoner shall be provided with written notice of the time and place of the hearing and of his right to review the documents to be considered by the Commission, as provided by § 2.55. A prisoner may waive such notice, except that if such notice is not waived, the case shall be continued to the time of the next regularly scheduled proceeding of the Commission at the institution in which the prisoner is confined.

§ 2.12 Initial hearings: Setting presumptive release dates.

(a) An initial hearing shall be conducted within 120 days of a prisoner's arrival at a federal institution, or as soon thereafter as practicable, in the following cases:

(1) A prisoner with no minimum term of imprisonment; and

(2) A prisoner with a minimum term of imprisonment and a maximum term or terms of less than seven years.

(b) In the case of a prisoner with a minimum term of imprisonment and a maximum term or terms of seven years or more, an initial hearing shall be conducted at least thirty days prior to the completion of the minimum term of imprisonment, or as soon thereafter as practicable.

(c) Following initial hearing: (1) The Commission shall set a presumptive release date (either by parole or by mandatory release), or set an effective date of parole, in the case of every prisoner with a maximum term or terms of less than seven years.

(2) In the case of a prisoner with a maximum term or terms of seven years or more, the Commission shall either set a presumptive release date, if such date falls within four years of the initial hearing, or continue the prisoner to a four-year reconsideration hearing pursuant to § 2.14(c), or set an effective date of parole.

(d) Notwithstanding the above paragraph, a prisoner may not be paroled earlier than the completion of any judicially set minimum term of imprisonment or other period of parole ineligibility fixed by law.

(e) A presumptive parole date shall be contingent upon a continued record of good conduct and the establishment of a suitable release plan, and shall be subject to the provisions of §§ 2.14 and 2.34. In the case of a prisoner sentenced under the Narcotic Addict Rehabilitation Act, 18 U.S.C. 4254, a presumptive parole date shall also be contingent upon certification by the Surgeon General pursuant to § 2.3 of these rules.

§ 2.13 Initial hearing; procedure.

(a) An initial hearing shall be conducted by a panel of two hearing examiners. The examiners shall discuss with the prisoner his offense severity rating and salient factor score as described in § 2.20, his institutional conduct and, in addition, any other matter the panel may deem relevant.

(b) A prisoner may be represented at a hearing by a person of his choice. The function of the prisoner's representative shall be to offer a statement at the conclusions of the interview of the prisoner by the examiner panel, and to provide such additional information as the examiner panel shall request. Interested parties who oppose parole may select a representative to appear and offer a statement. The presiding hearing examiner shall limit or exclude any irrelevant or repetitious statement.

(c) At the conclusion of the hearing, the panel shall orally inform the prisoner of its recommendation and, if such recommendation is for denial, of the reasons therefor. Written notice of the official decision, or the decision to refer under § 2.17 or § 2.24, shall be mailed or transmitted to the prisoner within 21 days of the date of the hearing, except in emergencies. If parole is denied, or a release date is set in excess of six

months from the date of the hearing, the prisoner shall also receive in writing the reasons therefor.

(d) In accordance with 18 U.S.C. 4206, reasons for parole denial may include the following, with further specification as appropriate:

(1) The prisoner has not substantially observed the rules of the institution or institutions in which confined;

(2) Release, in the opinion of the Commission, would depreciate the seriousness of the offense or promote disrespect for the law; or

(3) Release, in the opinion of the Commission, would jeopardize the public welfare.

In lieu of, or in combination with, the above reasons the prisoner shall be furnished with a guidelines evaluation statement containing his offense severity rating and salient factor score (including the points credited on each item of such score) as described in § 2.20, as well as the specific factors and information relied upon for any decision to continue such prisoner for a period outside the range indicated by the guidelines.

(e) No interviews with the Commission or any representative thereof, shall be granted to a prisoner unless his name is docketed for a hearing in accordance with Commission procedures. Hearings shall not be open to the public.

(f) A full and complete record of every hearing shall be retained by the Commission. Upon a request, pursuant to § 2.55, the Commission shall make available to any eligible prisoner such record as the Commission has retained of the hearing.

§ 2.14 Subsequent proceedings.

(a) *Interim proceedings.* The purpose of an interim proceeding required by 18 U.S.C. 4208(h) shall be to consider any significant developments or changes in the prisoner's status that may have occurred subsequent to the initial hearing.

(1) Notwithstanding a previously ordered presumptive release date or four-year reconsideration hearing, interim hearings shall be conducted by an examiner panel pursuant to the procedures of § 2.13 (b), (c), (e), and (f) at the following intervals from the date of the last hearing:

(i) In the case of a prisoner with a maximum term or terms of less than seven years, every eighteen months (until released).

(ii) In the case of a prisoner with a maximum term or terms of seven years or more, every twenty-four months (until released).

(2) However, in the case of a prisoner with an unsatisfied minimum term, the first interim hearing shall be deferred until the docket of hearings immediately preceding completion of the minimum term.

(3) Following an interim hearing, the Commission may:

(i) Order no change in the previous decision;

(ii) Advance a presumptive release date, or the date of a four-year reconsideration hearing. However, it shall be the policy of the Commission that once set, a presumptive release date or the date of a four-year reconsideration hearing shall not be advanced except under clearly exceptional circumstances;

(iii) Retard or rescind a presumptive parole date for reason of disciplinary infractions. In a case in which disciplinary infractions have occurred, the interim hearing shall be conducted in accordance with the procedures of § 2.34(a).

(b) *Pre-release reviews.* The purpose of a pre-release review shall be to determine whether the conditions of a presumptive release date by parole have been satisfied.

(1) At least sixty days prior to a presumptive parole dates, an examiner panel shall review the case on the record, including a current institutional progress report.

(2) Following review and recommendation, the Regional Commissioner may:

(i) Approve the parole date;

(ii) Advance or retard the parole date as provided by § 2.29(c);

(iii) Retard the parole date or commerce rescission proceedings as provided by § 2.34.

(3) A pre-release review pursuant to this section shall not be required if an in-person hearing has been held within six months of the parole date.

(c) *Four-year reconsideration hearings.* A four-year reconsideration hearing shall be a full reassessment of the case pursuant to the procedures of § 2.13 to determine whether the setting of a presumptive release date would be appropriate at that time.

(1) A four-year reconsideration hearing shall be ordered following initial hearing in any case in which a release date is not set.

(2) Following a four-year reconsideration hearing, the Commission may:

(i) Set a presumptive release date, if such date falls within four years of the hearing; or

(ii) Continue the prisoner to a further four-year reconsideration hearing if no presumptive release date is set.

§ 2.15 Petition for consideration of parole prior to date set at hearing.

When a prisoner has served the minimum term of imprisonment required by law, the Bureau of Prisons may petition the responsible Regional Commissioner for reopening the case under § 2.28 and consideration for parole prior to the date set by the Commission at the initial or review hearing. The petition must show cause why it should be granted, i.e., an emergency, hardship, or the existence of other extraordinary circumstances that would warrant consideration of early parole.

§ 2.16 Parole of prisoner in state, local, or territorial institution.

(a) Any person who is serving a sentence of imprisonment for any offense against the United States, but who is confined therefor in a state reformatory or other state or territorial institution, shall be eligible for parole by the Commission on the same terms and conditions, by the same authority, and subject to recommittal for the violation of such parole, as though he were confined in a Federal penitentiary, reformatory, or other correctional institution.

(b) Federal prisoners serving concurrent state and Federal sentences in state, local, or territorial institutions shall be furnished upon request parole application forms. Upon receipt of the application and any supplementary classification material submitted by the institution, parole consideration shall be made by an examiner panel of the appropriate region on the record only. If such prisoner is released from his state sentence prior to a Federal grant of parole, he shall be given a personal hearing as soon as feasible after receipt at a Federal institution.

(c) Prisoners who are serving Federal sentences exclusively but who are being boarded in state, local or territorial institutions may be provided hearings at such facilities or may be transferred by the Bureau of Prisons to Federal Institutions for hearings by examiner panels of the Commission.

§ 2.17 Original jurisdiction cases.

(a) A Regional Commissioner may designate certain cases for decision by a quorum of Commissioners as described below, as original jurisdiction cases. In such instances, he shall forward the case with his vote, and any additional comments he may deem germane, to the National Commissioners for decision. Decisions shall be based upon the concurrence of three votes with the appropriate Regional Commissioner and each National Commissioner having one vote. Additional votes, if required, shall be cast by the other Regional Commissioners on a rotating basis as established by the Chairman of the Commission.

(b) The following criteria will be used in designating cases as original jurisdiction cases:

(1) Prisoners who have committed serious crimes against the security of the Nation, e.g., espionage or aggravated subversive activity.

(2) Prisoners whose offense behavior: (i) Involved an unusual degree of sophistication or planning or (ii) Was part of a large scale criminal conspiracy of a continuing criminal enterprise.

(3) Prisoners who have received national or unusual attention because of the nature of the crime, arrest, trial, or prisoner status, or because of the community status of the offender or his victim.

(4) *Long-term sentences.* Prisoners sentenced to a maximum term of forty-five years (or more) or prisoners serving life sentences.

(c)(1) Any case designated for the original jurisdiction of the Commission shall remain an original jurisdiction case unless designation is removed pursuant to this subsection.

(2) A case found to be inappropriately designated for the Commission's original jurisdiction, or to no longer warrant such

designation, may be removed from original jurisdiction under the procedures specified in paragraph (a) of this section following a regularly scheduled hearing or the reopening of the case pursuant to § 2.28. Removal from original jurisdiction may also occur by majority vote of the Commission considering an appeal pursuant to § 2.27. Where the circumstances warrant, a case may be redesignated as original jurisdiction pursuant to the provisions of paragraphs (a) and (b) of this section.

§ 2.18 Granting of parole.

The granting of parole to an eligible prisoner rests in the discretion of the United States Parole Commission. As prerequisites to a grant of parole, the Commission must determine that the prisoner has substantially observed the rules of the institution or institutions in which he has been confined; and upon consideration of the nature and circumstances of the offense and the history and characteristics of the prisoner, must determine that release would not depreciate the seriousness of his offense or promote disrespect for the law, and that release would not jeopardize the public welfare (i.e., that there is a reasonable probability that, if released, the prisoner would live and remain at liberty without violating the law or the conditions of his parole).

§ 2.19 Information considered.

(a) In making a determination under this chapter (relating to release on parole) the Commission shall consider, if available and relevant:

(1) Reports and recommendations which the staff of the facility in which such prisoner is confined may make;

(2) Official reports of the prisoner's prior criminal record, including a report or record of earlier probation and parole experiences;

(3) Presentence investigation reports;

(4) Recommendations regarding the prisoner's parole made at the time of sentencing by the sentencing judge and prosecuting attorney; and

(5) Reports of physical, mental, or psychiatric examination of the offender.

(b) There shall also be taken into consideration such additional relevant information concerning the prisoner (including information submitted by the prisoner) as may be reasonably available (18 U.S.C. 4207). The Commission encourages the submission of relevant information concerning an eligible prisoner by interested persons.

§ 2.20 Paroling policy guidelines; statement of general policy.

(a) To establish a national paroling policy, promote a more consistent exercise of discretion, and enable fairer and more equitable decision-making without removing individual case consideration, the United States Parole Commission has adopted guidelines for parole release consideration.

(b) These guidelines indicate the customary range of time to be served before release for various combinations of offense (severity) and offender (parole prognosis) characteristics. The time ranges specified by the guidelines are established specifically for cases with good institutional adjustment and program progress.

(c) These time ranges are merely guidelines. Where the circumstances warrant, decisions outside of the guidelines (either above or below) may be rendered.

(d) The guidelines contain examples of offense behaviors for each severity level. However, especially mitigating or aggravating circumstances in a particular case may justify a decision or a severity rating different from that listed.

(e) An evaluation sheet containing a "salient factor score" serves as an aid in determining the parole prognosis (potential risk of parole violation). However, where circumstances warrant, clinical evaluation of risk may override this predictive aid.

(f) Guidelines for reparole consideration are set forth at § 2.21.

(g) The Commission shall review the guidelines, including the salient factor score, periodically and may revise or modify them at any time as deemed appropriate.

Guidelines for decisionmaking

[Customary total time to be served before release (including jail time)]

Offense characteristics—severity of offense behavior (examples)	Offender characteristics—parole prognosis (salient factor score) (in months)			
	Very good (11 to 9)	Good (8 to 6)	Fair (5 to 4)	Poor (3 to 0)
Adult				
Low: Escape [open institution or program (e.g., CTC, work release)—absent less than 7 d. Marihuana or soft drugs, simple possession (small quantity for own use). Property offenses (theft or simple possession of stolen property) less than $1,000.	6-10	8-12	10-14	12-18
Low moderate: Alcohol law violations. Counterfeit currency (passing/possession less than $1,000). Immigration law violations. Income tax evasion (less than $10,000). Property offenses (forgery/fraud/theft from mail/embezzlement/interstate transportation of stolen or forged securities/receiving stolen property with intent to resell) less than $1,000. Selective Service Act violations.	8-12	12-16	16-20	20-28
Moderate: Bribery of a public official (offering or accepting). Counterfeit currency (passing/possession $1,000 to $19,999). Drugs: Marihuana, possession with intent to distribute/sale (small scale (e.g., less than 50 lb)). "Soft drugs", possession with intent to distribute/sale (less than $500). Escape [secure program or institution, or absent 7 d or more—no fear or threat used). Firearms Act, possession/purchase/sale (single wapon: not sawed-off shotgun or machine gun). Income tax evasion ($10,000 to $50,000). Mailing threatening communication(s). Misprison of felony. Property offenses (theft/forgery/fraud/embezzlement/interstate transportation of stolen or forged securities/receiving stolen property) $1,000 to $19,999. Smuggling/transporting of alien(s). Theft of motor vehicle (not multiple theft or for resale).	12-16	16-20	20-24	24-32
High: Counterfeit currency (passing/possession $20,000 to $100,000). Counterfeiting (manufacturing). Drugs: Marihuana, possession with intent to distribute/sale (medium scale (e.g., 50 to 1,999 lb). "Soft drugs", possession with intent to distribute/sale ($500 to $5,000). Explosives, possession/transportation. Firearms Act, possession/purchase/sale (sawed-off shotgun(s), machine gun(s), or multiple weapons). Mann Act (no force—commercial purposes). Theft of motor vehicle for resale. Property offenses [theft/forgery/fraud/embezzlement/interstate transportation of stolen or forged securities/receiving stolen property) $20,000 to $100,000.	16-20	20-26	26-34	34-44

Offense characteristics—severity of offense behavior (examples)	Offender characteristics—parole prognosis (salient factor score) (in months)			
	Very good (11 to 9)	Good (8 to 6)	Fair (5 to 4)	Poor (3 to 0)
Very high: Robbery (weapon or threat). Breaking and entering (bank or post office-entry or attempted entry to vault). Drugs: Marihuana, possession with intent to distribute/sale (large scale (e.g., 2,000 lb or more)). "Soft drugs", possession with intent to distribute/sale (over $5,000). "Hard drugs", possession with intent to distribute/sale (not exceeding $100,000). Extortion. Mann Act (force). Property offenses (theft/forgery/fraud/embezzlement/interstate transportation of stolen or forged securities/receiving stolen property) over $100,000 but not exceeding $500,000. Sexual act (force).	26-36	36-48	48-60	60-72
Greatest: Aggravated felony (e.g., robbery, sexual act, aggravated assault)—weapon fired or personal injury. Aircraft hijacking. Drugs: "Hard drugs", possession with intent to distribute/sale (in excess of $100,000). Espionage. Explosives (detonation). Kidnaping. Willful homicide.	Greater than above—however, specific ranges are not given due to the limited number of cases and the extreme variation in severity possible within the category.			

YOUTH/NARA

Low: Escape (open institution or program (e.g., CTC, work release)—absent less than 7 d). Marihuana or soft drugs, simple possession (small quantity for own use). Property offenses (theft or simple possession of stolen property) less than $1,000.	6-10	8-12	10-14	12-18
Low moderate: Alcohol law violations. Counterfeit currency (passing/possession less than $1,000). Immigration law violations. Income tax evasion (less than $10,000). Property offenses (forgery/fraud/theft from mail/embezzlement/interstate transportation of stolen or forged securities/receiving stolen property with intent to resell) less than $1,000. Selective Service Act violations.	8-12	12-16	16-20	20-26
Moderate: Bribery of a public official (offering or accepting). Counterfeit currency (passing/possession $1,000 to $19,999). Drugs: Marihuana, possession with intent to distribute/sale (small scale (e.g., less than 50 lb)). "Soft drugs," possession with intent to distribute/sale (less than $500). Escape (secure program or institution, or absent 7 d or more—no fear or threat used). Firearms Act, possession/purchase/sale (single weapon: not sawed-off shotgun or machine gun). Income tax evasion ($10,000 to $50,000). Mailing threatening communication(s). Misprison of felony. Property offenses (theft/forgery/fraud/embezzlement/interstate transportation of stolen or forged securities/receiving stolen property) $1,000 to $19,999. Smuggling/transporting of alien(s). Theft of motor vehicle (not multiple theft or for resale)	9-13	13-17	17-21	21-28
High: Counterfeit currency (passing/possession $20,000 to 100,000). Counterfeiting (manufacturing). Drugs: Marihuana, possession with intent to distribute/sale (medium scale (e.g., 50 to 1,999 lbs)). "Soft drugs", possession with intent to distribute/sale ($500 to $5,000). Explosives, possession/transportation. Firearms Acts, possession/purchase/sale (sawed-off shotgun(s), machine gun(s), or multiple weapons). Mann Act (no force—commercial purposes). Theft of motor vehicle for resale. Property offenses (theft/forgery/fraud/embezzlement/interstate transportation of stolen or forged securities/receiving stolen property) $20,000 to $100,000.	12-16	16-20	20-26	26-32
Very high: Robbery (weapon or threat). Breaking and entering (bank or post office-entry or attempted entry to vault). Drugs: Marihuana, possession with intent to distribute/sale (large scale (e.g., 2,000 lbs or more)). "Soft drugs", possession with intent to distribute/sale (over $5,000). "Hard drugs", possession with intent to distribute/sale (not exceeding $100,000). Extortion. Mann Act (force). Property offenses (theft/forgery/fraud/embezzlement/interstate transportation of stolen or forged securities/receiving stolen property) over $100,000 but not exceeding $500,000. Sexual act (force).	20-27	27-34	34-41	41-48

Offense characteristics—severity of offense behavior (examples)	Offender characteristics—parole prognosis (salient factor score) (in months)			
	Very good (11 to 9)	Good (8 to 6)	Fair (5 to 4)	Poor (3 to 0)
Greatest: Aggravated felony (e.g., robbery, sexual act, aggravated assault)—weapon fired or personal injury. Aircraft hijacking. Drugs: "Hard drugs", possession with intent to distribute/sale (in excess of $100,000). Espionage. Explosives (detonation). Kidnapping. Willful homicide.	Greater than above—however, specific ranges are not given due to the limited number of cases and the extreme variation in severity possible within the category.			

NOTES.—1. These guidelines are predicated upon good institutional conduct and program performance.
2. If an offense behavior is not listed above, the proper category may be obtained by comparing the severity of the offense behavior with those of similar offense behaviors listed.
3. If an offense behavior can be classified under more than 1 category, the most serious applicable category is to be used.
4. If an offense behavior involved multiple separate offenses, the severity level may be increased.
5. If a continuance is to be given, allow 20 d (1 mo) for release program provision.
6. "Hard drugs" include heroin, cocaine, morphine, or opiate derivatives, and synthetic opiate substitutes. "Soft drugs" include, but are not limited to, barbiturates, amphetamines, LSD, and hashish.
7. Conspiracy shall be rated for guideline purposes according to the underlying offense behavior if such behavior was consummated. If the offense is unconsummated, the conspiracy will be rated one step below the consummated offense.

SALIENT FACTOR SCORE

Case name ..... Register No. ..... ☐
Item A ..... ☐
No prior convictions (adult or juvenile)=3.
1 prior conviction=2.
2 or 3 prior convictions=1.
4 or more prior convictions=0.
Item B ..... ☐
No prior incarcerations (adult or juvenile)=2.
1 or 2 prior incarcerations=1.
3 or more prior incarcerations=0.
Item C ..... ☐
Age at first commitment (adult or juvenile):
26 or older=2.
18 to 25=1.
17 or younger=0.
Item D ..... ☐
Commitment offense did not involve auto theft or check(s) (forgery/furcenty)=1.
Commitment offense involved auto theft or check(s)=0.
Item E ..... ☐
Never had parole revoked or been committed for a new offense while on parole, and not a probation violator this time=1.
Has had parole revoked or been committed for a new offense while on parole, or is a probation violator this time=0.
Item F ..... ☐
No history of heroin or opiate dependence=1.
Otherwise=0.
Item G ..... ☐
Verified employment (or full-time school attendance) for a total of at least 6 mo during the last 2 yr in the community=1.
Otherwise=0.
Total score ..... ☐

§ 2.21 Reparole consideration guidelines.

(a) If revocation is based upon administrative violation(s) only [i.e., violations other than new criminal conduct] the following guidelines shall apply.

	Customary time to be served before rerelease (months)
Positive supervision history (examples):	
a. No serious alcohol/drug abuse and no possession of weapon(s) [and]	
b. At least 8 months from date of release to date of violation behavior [and]	
c. Positive employment/school record during supervision [and]	
d. Present violation represents first instance of failure to comply with parole regulations of this term	0–8
Negative supervision history (examples):	
a. Serious alcohol/drug abuse (e.g. readdiction to hard drugs) or possession of weapon(s) [or]	
b. Less than 8 months from date of release to date of violation behavior [or]	
c. Negative employment/school record during supervision [or]	
d. Negative attitude toward supervision demonstrated by lack of positive efforts to cooperate with parole (aftercare) plan or by repetitious or persistent violations	8–16

(b) (1) If a finding is made that the prisoner has engaged in behavior constituting new criminal conduct, the appropriate severity rating for the new criminal behavior shall be calculated. New criminal conduct may be determined either by a new federal, state, or a local conviction or by an independent finding by the Commission at revocation hearing. As violations may be for state or local offenses, the appropriate severity level may be determined by analogy with listed federal offense behaviors.

(2) The guidelines for parole consideration specified at 28 CFR 2.20 for the poor parole risk category shall then be applied. The original sentence type (i.e. adult, youth), shall determine the applicable guidelines for the parole violator term. Time served on a new state or federal sentence shall be counted as time in custody. This does not affect the computation of the total violator term as provided by §§ 2.47 (b) and (c) and 2.52 (c) and (d).

(c) The above are merely guidelines. A decision outside these guidelines (either above or below) may be made when circumstances warrant. For example, violations of an assaultive nature, or violations by a person with a history of assaultive conduct or by a person with a history of repeated parole failure may warrant a decision above the guidelines. Minor offense(s) (e.g., traffic infractions, disorderly conduct) shall normally be treated under administrative violations.

§ 2.22 Communication with the Commission.

Attorneys, relatives, or interested parties wishing a personal interview to discuss a specific case with a representative of the Commission must submit a written request to the appropriate regional office setting forth the nature of the information to be discussed. Such personal interview may be conducted by Staff Personnel in the regional offices. Personal interviews, however, shall not be held by an examiner or member of the Commission except under the Commission's appeals procedures.

§ 2.23 Delegation to hearing examiners.

(a) There is hereby delegated to hearing examiners the authority necessary to conduct hearings and make recommendations relative to the grant or denial of parole or reparole, revocation or reinstatement of parole or mandatory release, and conditions of parole.

(b) Hearing examiners shall function as two-man panels except as provided by §§ 2.43 and 2.47 and the concurrence of two examiners shall be requested for their recommendation. In the event of a divided recommendation by the panel, the appropriate regional Administrative hearing Examiner shall cast the deciding vote.

(c) In the event the Administrative Hearing Examiner is serving as a member of a hearing examiner panel or is otherwise unavailable, cases requiring his action under paragraph (b) of this section will be referred to another hearing examiner.

(d) A recommendation of a hearing examiner panel shall become an effective Commission decision upon review at the Regional Office and docketing, unless action is initiated by the regional Commissioner pursuant to § 2.24.

§ 2.24 Review of panel recommendation by the Regional Commissioners.

(a) A Regional Commissioner may review the recommendation of any examiner panel and refer this recommendation, prior to written notification to the prisoner, with his recommendation and vote to the National Commissioners for consideration and any action deemed appropriate. Written notice of this referral action shall be mailed or transmitted to the prisoner within twenty-one days of the date of the hearing. The Regional Commissioner and each National Commissioner shall have one vote and decisions shall be based upon the concurrence of two votes. Action shall be taken by the National Commissioners within thirty days of the date of referral action by the Regional Commissioner, except in emegencies.

(b) Notwithstanding the provisions of paragraph (a) of this section, a Regional Commissioner may:

(1) On the motion of the Administrative Hearing Examiner, modify or reverse the recommendation of a hearing examiner panel that is outside the guidelines to bring the decision closer to (or to) the nearer limit of the appropriate guideline range; or

(2) On his own motion, modify the recommendation of a hearing examiner panel to bring the decision to a date not to exceed six months from the date recommended by the examiner panel.

§ 2.25 Regional appeal.

(a) A prisoner or parolee may submit to the responsible Regional Commissioner a written appeal of a decision to grant, rescind, deny, or revoke, parole, except that an appeal of a Commission decision pursuant to § 2.17 shall be pursuant to § 2.27. This appeal must be filed on a form provided for that purpose within thirty days from the date of entry of such decision.

(b) The Regional Commissioner may affirm the decision, order a new institutional hearing on the next docket, order a regional appellate hearing, reverse the decision, or modify a continuance or the effective date of parole. Reversal of a decision or the modification of a decision by more than one hundred eighty days whether based upon the record or following a regional appellate hearing shall require the concurrence of two out of three Regional Commissioners. Decisions requiring a second or additional vote shall be referred to other Regional Commissioners on a rotating basis as established by the Chairman.

(c) Regional appellate hearings may be held at the regional office before the Regional Commissioner. If a regional appellate hearing is ordered, attorneys, relatives and other interested parties who wish to appear must submit a written request to the Regional Commissioner stating their relationship to the prisoner and the general nature of the information they wish to present. The Regional Commissioner shall determine if the requested appearances will be permitted. The prisoner shall not appear personally.

(d) Within 30 days of receipt of the appeal, except in emergencies, the Regional Commissioner shall inform the applicant in writing of the decision and the reasons therefor.

(e) If no appeal is filed within thirty days of the date of the entry of the original decision, such decision shall stand as the final decision of the Commission.

(f) Appeals under this section may be based on the following grounds:

(1) That the guidelines were incorrectly applied as to any or all of the following:

(i) Severity rating;

(ii) Salient factor score;

(iii) Time in custody;

(2) That a decision outside the guidelines was not supported by the reasons or facts as stated;

(3) That especially mitigating circumstances (for example, facts relating to the severity of the offense or the prisoner's probability of success on parole) justify a different decision;

(4) That a decision was based on erroneous information, and the actual facts justify a different decision;

(5) That the Commission did not follow correct procedure in deciding the case, and a different decision would have resulted if the error had not occurred;

(6) There was significant information in existence but not known at the time of the hearing;

(7) There are compelling reasons why a more lenient decision should be rendered on grounds of compassion.

§ 2.26 Appeal to National Appeals Board.

(a) Within 30 days of entry of a Regional Commissioner's decision under § 2.25, a prisoner or parolee may appeal to the National Appeals Board on a form provided for that purpose. However, any matter not raised on a regional level appeal may not be raised on appeal to the National Appeals Board. The National Appeals Board may, upon the concurrence of two members, affirm, modify, or reverse the decision, or order a rehearing at the institutional or regional level.

(b) The National Appeals Board shall act within 60 days of receipt of the appellant's papers, to affirm, modify, or reverse the decision.

(c) Decisions of the National Appeals Board shall be final.

§ 2.27 Appeal of original jurisdiction cases.

(a) Cases decided under the procedure specified in § 2.17 may be appealed within thirty days of the entry of the decision on a form provided for this purpose. Attorneys, relatives and other interested parties who wish to submit written information in support of a prisoner's appeal should send such information to the National Appeals Board Analyst, United States Parole Commission, 320 First Street, N.W., Washington, D.C. 20537. Appeals of original jurisdiction cases shall be reviewed by the Commission at its next quarterly meeting. A quorum of five Commissioners shall be required and all decisions shall be by majority vote. This appellate decision shall be final.

(b) Attorneys, relatives, or other interested parties who wish to speak for or against parole at such consideration must submit a written request to the Chairman of the Commission stating their relationship to the prisoner and the general nature of the material they wish to present. The Chairman shall determine if the requested appearances will be permitted.

(c) If no appeal is filed within thirty days of the entry of the decision under § 2.17, that decision shall stand as the final decision of the Commission.

§ 2.28 Reopening of cases.

Notwithstanding the appeal procedure of §§ 2.25 and 2.26, the appropriate Regional Commissioner may, on his own motion, reopen a case at any time upon the receipt of new information of substantial significance and may then take any action authorized under the provisions and procedures of § 2.25. Original jurisdiction cases may be reopened upon the motion of the appropriate Regional Commissioner under the procedures of § 2.17.

§ 2.29 Release on parole.

(a) A grant of parole shall not be deemed to be operative until a certificate of parole has been delivered to the prisoner.

(b) An effective date of parole shall not be set for a date more than six months from the date of the hearing. Residence in a Community Treatment Center as part of a parole release plan generally shall not exceed one hundred and twenty days.

(c) When an effective date of parole has been set by the Commission, release on that date shall be conditioned upon the completion of a satisfactory plan for parole supervision. The appropriate Regional Commissioner may, on his own motion, reconsider any case prior to release and may reopen and advance or retard an effective parole date. An effective parole grant may be retarded for up to one hundred and twenty days without a hearing for development and approval of release plans.

(d) When an effective date of parole falls on a Saturday, Sunday, or legal holiday, the Warden of the appropriate institution shall be authorized to release the prisoner on the first working day preceding such date.

§ 2.30 False or withheld information.

All paroles are ordered on the assumption that information from the prisoner has not been fraudulently given to or withheld from the Commission. If evidence comes to the attention of the Regional Commissioner that a prisoner willfully concealed or misrepresented information deemed significant, the Regional Commissioner may initiate action pursuant to § 2.34(b) to determine whether such parole should be revoked or rescinded.

§ 2.31 Parole to detainers; statement of policy.

(a) Where a detainer is lodged against a prisoner, the Commission may grant parole if the prisoner in other respects

meets the criteria set forth in § 2.18. The presence of a detainer is not in itself a valid reason for the denial of parole.

(b) The Commission will cooperate in working out arrangements for concurrent supervision with other jurisdictions where it is feasible and where release on parole appears to be justified.

§ 2.32 Parole to local or immigration detainers.

(a) When a state or local detainer is outstanding against a prisoner whom the Commission wishes to parole, the Commission may order either of the following:

(1) "Parole to the actual physical custody of the detaining authorities only." In this event, release is not to be effected except to the detainer. When such a detainer is withdrawn, the prisoner is not to be released unless and until the Commission makes a new order of parole.

(2) "Parole to the actual physical custody of the detaining authorities or an approved plan." In this event, release is to be effected even though the detainer might be withdrawn, providing there is an acceptable plan for community supervision.

(b) When the Commission wishes to parole a prisoner subject to a detainer filed by Federal immigration officials, the Commission may order one of the following:

(1) "Parole for deportation only." In this event, release is not to be effected unless immigration officials make full arrangements for deportation immediately upon release.

(2) "Parole to the actual physical custody of the immigration authorities only." In this event, release is not to be effected unless immigration officials take the prisoner into custory—regardless of whether or not deportation follows;

(3) "Parole to the actual physical custody of the immigration authorities or an approved plan." In this event, release is to be effected regardless of whether or not immigration officials take the prisoner into custody, providing there is an acceptable plan for community supervision.

(c) As used in this section "parole to a detainer" means release to the "physical custody" of the authorities who have lodged the detainer. Temporary detention in a jail in the county where the institution of confinement is located does not constitute release on parole to such detainer. If the authorities who lodged the detainer do not take the prisoner into custody for any reason, he shall be returned to the institution to await further order of the Commission.

§ 2.33 Release of plans.

(a) A grant of parole is conditioned upon the approval of release plans by the Regional Commissioner. In general, the following factors are considered as elements in the prisoner's release plan.

(1) Availability of legitimate employment and an approved residence for the prospective parolee; and

(2) Availability of necessary aftercare for a parolee who is ill or who requires special care.

(b) Generally, parolees will be released only to the place of their legal residence unless the Commission is satisfied that another place of residence will serve the public interest more effectively or will improve the probability of the applicant's readjustment.

(c) Where the circumstances warrant, the Commission on its own motion, or upon recommendation of the probation officer, may require that an adviser who is a responsible, reputable, and law-abiding citizen living in or near the community in which the releasee will reside be available to the releasee. Such advisor shall serve under the direction of and in cooperation with the probation officer to whom the parolee is assigned.

§ 2.34 Rescission of parole.

(a) When an effective date of parole or mandatory parole has been set by the Commission, release on that date shall be conditioned upon continued good conduct by the prisoner. If a prisoner has been granted parole and has subsequently been charged with institutional misconduct sufficient to become a matter of record, the Regional Commissioner shall be advised promptly of such misconduct. The prisoner shall not be released until the institution has been notified that no change has been made in the Commissioner's order to parole.

(1) Upon receipt of information that a prisoner has violated the rules of the institution, the Regional Commissioner may retard the parole grant for up to sixty days without a hearing or may retard the parole grant and schedule the case for a rescission hearing. If the prisoner was confined in a Federal prison at the time of the order retarding parole, the rescission hearing shall be scheduled for the next docket of parole hearings at the institution. If the prisoner was residing in a Federal community treatment center or a state or local halfway house, the rescission hearing shall be scheduled for the first docket of parole hearings after return to a Federal institution. When the prisoner is given written notice of the Commission action retarding parole, he shall be given notice of the charges of misconduct to be considered at the rescission hearing. The purpose of the rescission hearing shall be to determine whether rescission of the parole grant is warranted. At the rescission hearing the prisoner may be represented by a person of his choice and may present documentary evidence.

(2) An institution discipline committee hearing conducted by the institution resulting in a finding that the prisoner has violated the rules of his confinement, may be relied upon by Commission as conclusive evidence of institutional misconduct.

(3) Consideration of disciplinary infractions in cases with presumptive parole dates may be deferred until the commencement of the next in-person hearing or the prerelease record review required by § 2.14(b). While prisoners are encouraged to earn the restoration of forfeited or withheld good time, the Commission will consider the prisoner's overall institutional record in determining whether the conditions of a presumptive parole date have been satisfied.

(4) If the parole grant is rescinded, the prisoner shall be furnished a written statement of the findings of misconduct and the evidence relied upon.

(b)(1) Upon receipt of new information adverse to the prisoner regarding matters other than institutional misconduct, the Regional Commissioner may refer the case to the National Commissioners under the procedures of § 2.17(a) with his recommendation and vote, to retard a previously granted parole. If parole is retarded the case shall be scheduled for a hearing on the next docket of parole hearings or at the first docket of parole hearings following return to a federal institution.

(2) The prisoner shall be given notice of the nature of the new adverse information upon which the rescission consideration is to be based. The hearing shall be conducted in accordance with the procedures set out in §§ 2.12 and 2.13. The purpose of the hearing shall be to determine if the parole grant should be rescinded or if a new parole date should be established.

§ 2.35 Mandatory release in the absence of parole.

A prisoner shall be mandatorily released by operation of law at the end of the sentence imposed by the court less such good time deductions as he may have earned through his behavior and efforts at the institution of confinement. If released pursuant to 18 U.S.C. 4164, such prisoner shall be released, as if on parole, under supervision until the expiration of the maximum term or terms for which he was sentenced less 180 days. If released pursuant to 18 U.S.C. 4205(f), such prisoner shall remain under supervision until the expiration of the maximum term or terms for which he was sentenced. Insofar as possible, release plans shall be completed before the release of any such prisoner.

§ 2.36 Same; youth offenders.

A prisoner committed under the Youth Corrections Act must be initially released conditionally under supervision not later than two years before the expiration of the term imposed by the court.

§ 2.37 Reports to police departments of names of parolees; statement of policy.

Names of parolees under supervision will not be furnished to a police department of a community, except as required by law. All such notifications are to be regarded as confidential.

§ 2.38 Community supervision by United States Probation Officers.

(a) Pursuant to sections 3655 and 4203 (b) (4) of Title 18 of the United States Code, United States Probation Officers shall provide such parole services as the Commission may request. In conformity with the foregoing, probation officers function as parole officers and provide supervision to parolees and mandatory releasees under the Commission's jurisdiction.

(b) A parolee or mandatory releasee may be transferred to a new district of supervision with the permission of the probation officers of both the transferring and receiving district, provided such transfer is not contrary to instructions from the Commission.

§ 2.39 Jurisdiction of the Commission.

(a) Jurisdiction of the Commission over a parolee shall terminate no later than the date of expiration of the maximum term or terms for which he was sentenced, except as provided by § 2.35, § 2.43, or § 2.52.

(b) The parole of any parolee shall run concurrently with the period of parole or probation under any other Federal, State, or local sentence.

(c) The parole of any prisoner sentenced before June 29, 1932, shall be for the remainder of the term or terms specified in his sentence, less good time allowances provided by law.

(d) Upon the termination of jurisdiction, the Commission shall issue a certificate of discharge to such parolee and to such other agencies as it may determine.

§ 2.40 Conditions of release.

(a) The conditions of release are printed on the release certificate and are binding regardless of whether the parolee signs the certificate. The following conditions are deemed necessary to provide adequate supervision and to protect the public welfare:

(1) The parolee shall go directly to the district named in the certificate (unless released to the custody of other authorities). Within three days after his arrival, he shall report to his parole adviser, if he has one, and to the United States Probation Officer whose name appears on the certificate. If in any emergency the parolee is unable to get in touch with his parole adviser or his probation officer or his office, he shall communicate with the United States Parole Commission, Washington, D.C. 20537.

(2) If the parolee is released to the custody of other authorities, and after release from the physical custody of such authorities, he is unable to report to the United States Probation Officer to whom he is assigned within three days, he shall report instead to the nearest United States Probation Officer.

(3) The parolee shall not leave the limits fixed by his certificate of parole without written permission from the probation officer.

(4) The parolee shall notify his probation officer within two days of any change in his place of residence.

(5) The parolee shall make a complete and truthful written report (on a form provided for that purpose) to his probation officer between the first and third day of each month, and on the final day of parole. He shall also report to his probation officer at other times as the probation officer directs.

(6) The parolee shall not violate any law, nor shall he associate with persons engaged in criminal activity. The parolee shall get in touch within two days with his probation officer or office if he is arrested or questioned by a law-enforcement officer.

(7) The parolee shall not enter into any agreement to act as an informer or special agent for any law-enforcement agency.

(8) The parolee shall work regularly unless excused by his probation officer, and support his legal dependents, if any, to the best of his ability. He shall report within two days to his probation officer any changes in employment.

(9) The parolee shall not drink alcoholic beverages to excess. He shall not purchase, possess, use, or administer marihuana or narcotic or other habit-forming drugs, unless prescribed or advised by a physician. The parolee shall not frequent places where such drugs are illegally sold, dispensed, used, or given away.

(10) The parolee shall not associate with persons who have a criminal record unless he has permission of his probation officer.

(11) The parolee shall not have firearms (or other dangerous weapons) in his possession without the written permission of his probation officer, following prior approval of the United States Parole Commission.

(b) The Commission or a member thereof may at any time modify or add to the conditions of release pursuant to this section, on its own motion or on the request of the U.S. Probation Officer supervising the parolee. The parolee shall receive notice of the proposed modification and unless waived shall have ten days following receipt of such notice to express his views thereon. Following such ten day period, the Commission shall have 21 days, exclusive of holidays, to order such modification of or addition to the conditions of release.

(c) The Commission may require a parolee to reside in or participate in the program of a residential treatment center, or both, for all or part of the period of parole.

(d) The Commission may require a parolee, who is an addict, within the meaning of section 4251(a), or a drug dependent person within the meaning of section 2(8) of the Public Health Service Act, as amended, to participate in the community supervision program authorized by § 4255 for all or part of the period of parole.

(e) A parolee may petition the Commission on his own behalf for a modification of conditions pursuant to this section.

(f) The notice provisions of paragraph (b) of this section shall not apply to modification of parole or mandatory release conditions pursuant to a revocation proceeding or pursuant to paragraph (e) of this section.

(g) A parolee may appeal an order to impose or modify parole conditions under the procedures of §§ 2.25 and 2.26 as applicable not later than thirty days after the effective date of such conditions.

§ 2.41 Travel by parolees and mandatory releasees.

(a) The probation officer may approve travel outside the district without approval of the Regional Commissioner in the following situations:

(1) Vacation trips not to exceed thirty days.

(2) Trips, not to exceed thirty days, to investigate reasonably certain employment possibilities.

(3) Recurring travel across a district boundary, not to exceed fifty miles outside the district, for purpose of employment, shopping, or recreation.

(b) Specific advance approval by the Regional Commissioner is required for other travel (including travel outside the contiguous forty-eight states, employment more than fifty miles outside the district, and vacations exceeding thirty days). A request for such permission shall be in writing and must demonstrate a substantial need for such travel. In cases falling under the criteria of § 2.17, the concurrence of two out of three Commissioners shall be required to grant such permission.

(c) A special condition imposed by the Regional Commissioner prohibiting certain travel shall supersede any general rules relating to travel as set forth above.

§ 2.42 Probation Officer's Reports to Commission.

A supervision report shall be submitted by the responsible probation officer to the Commission for each parolee or mandatory release after the completion of 12 months of continuous supervision and annually thereafter. The probation officer shall submit such additional reports as the Commission may direct.

§ 2.43 Early termination of parole.

(a) (1) Upon its own motion or upon request of the parolee, the Commission may terminate supervision, and thus jurisdiction, over a parolee prior to the expiration of his maximum sentence. A committed youth offender may be granted an early termination of jurisdiction (unconditional discharge) at any time after one year of continuous supervision on parole.

(2) Two years after each parolee's release on parole, and at least annually thereafter, the Commission shall review the status of the parole to determine the need for continued supervision. In calculating such two-year prior there shall not be included any period of release on parole prior to the most recent such release, nor any period served in confinement on any other sentence.

(3) Five years after each parolee's release on parole, the Commission shall terminate supervision over such parolee unless it is determined, after a hearing conducted in accordance with the procedures prescribed in 18 U.S.C. 4214(a)(2), that such supervision should not be terminated because there is a likelihood that the parolee will engage in conduct violating any criminal law. Such hearing may be conducted by a hearing examiner or other official designated by the Regional Commissioner.

(4) If supervision is not terminated under paragraph (a)(3) of this section the parolee may request a hearing annually thereafter, and a hearing shall be conducted with respect to such termination of supervision not less frequently than biennially.

(5) In calculating the five-year period referred to in paragraph (a)(3) of this section, there shall not be included any period of release on parole prior to the most recent such release or any period served in confinement on any other sentence.

(6) When termination of jurisdiction prior to the expiration of sentence is granted in the case of a youth offender, his conviction shall be automatically set aside. A certificate setting aside his conviction shall be issued in lieu of a certificate of termination.

(b) The Regional Commissioner in the region of supervision may release a parolee from supervision pursuant to this section if warranted by the circumstances of the case and reports of the supervising probation officer. Except that, in the case of a parolee previously considered pursuant to § 2.17, the decision to grant termination of supervision must also be pursuant to the provisions of § 2.17.

(c) A parolee may appeal an adverse decision under paragraphs (a) (3) or (4) of this section pursuant to §§ 2.25, 2.26 or § 2.27 as applicable.

§ 2.44 Summons to appear or warrant for retaking of parolee.

(a) If a parolee is alleged to have violated the conditions of his release, and satisfactory evidence thereof is presented, the Commission or a member thereof may:

(1) Issue a summons requiring the offender to appear for a preliminary interview or local revocation hearing.

(2) Issue a warrant for the apprehension and return of the offender to custody.

A summons or warrant may be issued or withdrawn only by the Commission, or a member thereof.

(b) Any summons or warrant under this section shall be issued as soon as practicable after the alleged violation is reported to the Commission, except when delay is deemed necessary. Issuance of a summons or warrant may be withheld until the frequency or seriousness of violations, in the opinion of the Commission, requires such issuance. In the case of any parolee charged with a criminal offense, issuance of a summons or warrant may be withheld, or a warrant may be issued and held in abeyance pending disposition of the charge.

(c) A summons or warrant may be issued only within the prisoner's maximum term or terms except that in the case of a prisoner released as if on parole pursuant to 18 U.S.C. 4164, such summons or warrant may be issued only within the maximum term or terms, less one-hundred eighty days. A summons or warrant shall be considered issued when signed and placed in the mail at the Commission Headquarters or appropriate regional office.

(d) The issuance of a warrant under this section suspends the running of a sentence until such time as the parolee may be retaken into custody and a final determination of the charges may be made by the Commission.

(e) A summons or warrant issued pursuant to this section shall be accompanied by a statement of the charges against the parolee, the applicable procedural rights under the Commission's regulations and the possible actions which may be taken by the Commission. A summons shall specify the time and place the parolee shall appear for a revocation hearing. Failure to appear in response to a summons shall be grounds for issuance of a warrant.

§ 2.45 Same, youth offenders.

(a) In addition to the issuance of a summons or warrant pursuant to § 2.44 above, the Commission or a member thereof, when of the opinion that a youth offender will be benefitted by further treatment in an institution or other facility, may direct his return to custody or issue a warrant for his apprehension and return to custody.

(b) Upon his return to custody, such youth offender shall be scheduled for a revocation hearing.

§ 2.46 Execution of warrant and service of summons.

(a) Any officer of any Federal correctional institutional or any Federal officer authorized to serve criminal process within the United States, to whom a warrant is delivered shall execute such warrant by taking the prisoner and returning him to the custody of the Attorney General.

(b) On arrest of the parolee the officer executing the warrant shall deliver to him a copy of the Warrant Application listing the charges against the parolee, the applicable procedural rights under the Commission's regulations and the possible actions which may be taken by the Commission.

(c) If execution of the warrant is delayed pending disposition of local charges, for further investigation, or for some other purpose, the parolee is to be continued under supervision by the probation officer until the normal expiration of the sentence, or until the warrant is executed, whichever first occurs. Monthly supervision reports are to be submitted, and the parolee must continue to abide by all the conditions of release.

(d) A summons to appear at a preliminary interview or revocation hearing shall be served upon the parolee in person by delivering to the parolee a copy of the summons. Service shall be made by any federal officer authorized to serve criminal process within the United States, and certification of such service shall be returned to the appropriate regional office of the Commission.

§ 2.47 Warrant placed as a detainer and dispositional Review.

(a) In those instances where a parolee is serving a new sentence in an institution, a parole violation warrant may be placed against him as a detainer. Such warrant shall be reviewed by the regional Commissioner not later than 180 days following notification to the Commission of such placement. The parolee shall receive notice of the pending review, and shall be permitted to submit a written application containing information relative to the disposition of the warrant. He shall also be notified of his right to request counsel under the provisions of § 2.48(b) to assist him in completing his written application.

(b) Following a dispositional review under this section, the Regional Commissioner may:

(1) Let the detainer stand and order further review at an appropriate time;

(2) Withdraw the detainer and: (i) Order reinstatement of the parolee to supervision upon release from custody, or (ii) Close the case if the expiration date has passed;

(3) Order a revocation hearing to be conducted by a hearing examiner or an official designated by the regional Commissioner at the institution in which the parolee is confined.

Following a revocation hearing conducted pursuant to this section, the Commission may take any action specified at § 2.52 including the ordering of concurrent or consecutive service of all or part of any violator term imposed. Such revocation hearing shall be conducted under the applicable procedures at § 2.50, and the parolee may be represented by his own or appointed counsel as provided in § 2.48(b).

(c) It shall be the general policy of the Commission that, in the absence of substantial mitigating circumstances the violator term of a parolee convicted of a new offense subsequent to release on parole shall run consecutively to any term imposed for the new offense.

§ 2.48 Revocation by the Commission, preliminary interview.

(a) *Interviewing Officer.* A parolee who is retaken on a warrant issued by a Commissioner shall be given a preliminary interview by an official designated by the Regional Commissioner to enable the Commission to determine if there is probable cause to believe that the parolee has violated his parole as charged, and if so, whether a revocation hearing should be conducted. The official designated to conduct the preliminary interview may be a United States Probation Officer in the district where the prisoner is confined, provided he is not the officer who recommended that the warrant be issued.

(b) *Notice and Opportunity to Postpone Interview.* At the beginning of the preliminary interview, the interviewing officer shall ascertain that the Warrant Application has been given to the prisoner as required by § 2.46(b), and shall advise the prisoner that he may have the preliminary interview postponed in order to obtain representation by an attorney or arrange for the attendance of witnesses. The prisoner shall also be advised that if he cannot afford to retain an attorney he may apply to a United

States District Court for appointment of counsel to represent him at the preliminary interview and the revocation hearing pursuant to 18 U.S.C. 3006A. In addition, the prisoner may request the Commission to obtain the presence of persons who have given information upon which revocation may be based. Such adverse witnesses shall be requested to attend the preliminary interview unless the prisoner admits a violation or has been convicted of a new offense while on supervision or unless the interviewing officer finds good cause for their non-attendance. Pursuant to § 2.49(a) a subpoena may issue for the appearance of adverse witnesses or the production of documents.

(c) *Review of the charges.* At the preliminary interview, the interviewing officer shall review the violation charges with the prisoner, apprise the prisoner of the evidence which has been presented to the Commission, receive the statements of witnesses and documentary evidence on behalf of the prisoner, and allow cross-examination of those witnesses in attendance. Disclosure of the evidence presented to the Commission shall be made pursuant to § 2.50(e).

(d) At the conclusion of the preliminary interview, the interviewing officer shall inform the parolee of his recommended decision as to whether there is probable cause to believe that the parolee has violated the conditions of his release, and shall submit to the Commission a digest of the interview together with his recommended decision.

(1) If the interviewing officer's recommended decision is that no probable cause may be found to believe that the parolee has violated the conditions of his release, the responsible regional Commissioner shall review such recommended decision and notify the parolee of his final decision concerning probable cause as expeditiously as possible following receipt of the interviewing officer's digest. A decision to release the parolee shall be implemented without delay.

(2) If the interviewing officer's recommended decision is that probable cause may be found to believe that the parolee has violated a condition (or conditions) of his release, the responsible regional Commissioner shall notify the parolee of his final decision concerning probable cause within 21 days of the date of the preliminary interview.

(3) Notice to the parolee of any final decision of a regional Commissioner finding probable cause and ordering a revocation hearing shall state the charges upon which probable cause has been found and the evidence relied upon.

(e) Release notwithstanding probable cause: If the Commission finds probable cause to believe that the parolee has violated the conditions of his release, reinstatement to supervision or release pending further proceeding may nonetheless be ordered if it is determined that:

(1) Continuation of revocation proceedings is not warranted despite the violations found; or

(2) Incarceration pending further revocation proceedings is not warranted by the alleged frequency or seriousness of such violation or violations, and that the parolee is not likely to fail to appear for further proceedings, and that the parolee does not constitute a danger to himself or others.

(f) Conviction as probable cause: Conviction of a Federal, State, or Local crime committed subsequent to release on parole or mandatory release shall constitute probable cause for the purposes of this section and no preliminary interview shall be conducted unless otherwise ordered by the regional Commissioner.

(g) Local revocation hearing: A postponed preliminary interview may be conducted as a local revocation hearing by an examiner panel or other interviewing officer designated by the regional Commissioner provided that the prisoner has been advised that the postponed preliminary interview will constitute his final revocation hearing.

§ 2.49 Place of revocation hearing.

(a) If the prisoner requests a local revocation hearing, he shall be given a revocation hearing reasonably near the place of the alleged violation(s) or arrest, if the following conditions are met:

(1) The prisoner has not been convicted of a crime committed while under supervision; and

(2) The prisoner denies that he has violated any condition of his release.

(b) If there are two or more alleged violations, the hearing may be conducted near the place of the violation chiefly relied upon as a basis for the issuance of the warrant or summons as determined by the regional Commissioner.

(c) A prisoner who voluntarily waives his right to a local revocation hearing, or who admits any violation of his release, or who is retaken following conviction of a new crime, shall be given a revocation hearing upon his return to a Federal institution. However, the Regional Commissioner may, on his own motion, designate a case for a local revocation hearing.

(d) A prisoner retaken on a warrant issued by the Commission shall be retained in custody until final action relative to revocation of his release, unless otherwise ordered by the regional Commissioner under § 2.48(d)(2). A parolee who has been given a revocation hearing pursuant to the issuance of a summons under § 2.44 shall remain on supervision pending the decision of the Commission.

(e) Local revocation hearings shall be scheduled to be held within sixty days of the probable cause determination. Institutional revocation hearings shall be scheduled to be held within ninety days of the date of the execution of the violator warrant upon which the prisoner was retaken. However, if a prisoner requests and receives any postponement of his preliminary interview or revocation hearing, or consents to a postponed revocation proceeding initiated by the Commission; or if a prisoner by his actions otherwise precludes the prompt conduct of such proceedings, the above stated time limits may be extended.

§ 2.50 Revocation hearing procedure.

(a) A revocation hearing shall be conducted by a hearing examiner panel or, in a local revocation hearing only, may be conducted by another official designated by the Regional Commissioner. In the case of a revocation hearing conducted by such other official or in the case of a revocation hearing conducted by a single examiner pursuant to § 2.47, a recommendation relative to revocation shall be made by the concurrence of two examiners on the basis of a review of the record. A revocation decision may be appealed under the provisions of § 2.25 and § 2.26, or § 2.27 as applicable.

(b) The purpose of the revocation hearing shall be to determine whether the prisoner has violated the conditions of his release and, if so, whether his parole or mandatory release should be revoked or reinstated.

(c) The alleged violator may present witnesses and documentary evidence in his behalf. However, the presiding hearing officer or examiner panel may limit or exclude any irrelevant or repetitious statement or documentary evidence.

(d) At a local revocation hearing, the Commission may on the request of the alleged violator or on its own motion, request the attendance of persons who have given statements upon which revocation may be based. Those witnesses who are present shall be made available for questioning and cross-examination in the presence of the alleged violator unless the presiding hearing officer or examiner panel finds good cause for their non-attendance. Adverse witnesses will not be requested to appear at institutional revocation hearings.

(e) All evidence upon which the finding of violation may be based shall be disclosed to the alleged violator at the revocation hearing. The hearing officer or examiner panel may disclose documentary evidence by permitting the alleged violator to examine the document during the hearing, or where appropriate, by reading or summarizing the document in the presence of the alleged violator.

(f) In lieu of an attorney, an alleged violator may be represented at a revocation hearing by a person of his choice. However, the role of such non-attorney representative shall be limited to offering a statement on the alleged violator's behalf with regard to reparole or reinstatement to supervision.

§ 2.51 Issuance of a subpoena for the appearance of witnesses or production of documents.

(a)(1) Preliminary Interview or Local Revocation Hearing: If any person who has given information upon which revocation may be based refuses, upon request by the Commission to appear, the regional Commissioner may issue a subpoena for the appearance of such witness. Such subpoena may also be issued at the discretion of the regional Commissioner in the event such adverse witness is judged unlikely to appear as requested.

(2) In addition, the regional Commissioner may, upon his own motion or upon a showing by the parolee that a witness whose testimony is necessary to the proper disposition of his case will not appear voluntarily at a local revocation hearing or provide an adequate written statement of his testimony, issue a subpoena for the appearance of such witness at the revocation hearing.

(3) Both such subpoenas may also be issued at the discretion of the regional Commissioner if it is deemed necessary for orderly processing of the case.

(b) A subpoena issued pursuant to paragraph (a) of this section above may require the production of documents as well as, or in lieu of, a personal appearance. The subpoena shall specify the time and the place at which the person named therein is commanded to appear, and shall specify any documents required to be produced.

(c) A subpoena may be served by any Federal officer authorized to serve criminal process. The subpoena may be served at any place within the judicial district in which the place specified in the subpoena is located, or any place where the witness may be found. Service of a subpoena upon a person named therein shall be made by delivering a copy thereof to such person.

(d) If a person refuses to obey such subpoena, the Commission may petition a court of the United States for the judicial district in which the parole proceeding is being conducted, or in which such person may be found, to require such person to appear, testify, or produce evidence. The court may issue an order requiring such person to appear before the Commission, and failure to obey such an order is punishable by contempt.

§ 2.52 Revocation of parole or mandatory release.

(a) Whenever a parolee is summoned or retaken by the Commission, and the Commission finds by a preponderance of the evidence, that the parolee has violated a condition of the parole, the Commission may take any of the following actions:

(1) Restore the parolee to supervision including where appropriate: (i) Reprimand (ii) Modification of the parolee's conditions of release (iii) Referral to a residential community treatment center for all or part of the remainder of his original sentence; or

(2) Revoke parole.

(b) If parole is revoked pursuant to this section, the Commission shall also determine, on the basis of the revocation hearing, whether reparole is warranted or whether the prisoner should be continued for further review.

(c) A parolee whose release is revoked by the Commission will receive credit on service of his sentence for time spent under supervision, except as provided below:

(1) If the Commission finds that such parolee intentionally refused or failed to respond to any reasonable request, order, summons or warrant of the Commission or any agent thereof, the Commission may order the forfeiture of the time during which the parolee so refused or failed to respond, and such time shall not be credited to service of the sentence.

(2) If the parolee has been convicted of a new offense committed subsequent to his release on parole, which is punishable by a term of imprisonment, forfeiture of the time from the date of such release to the date of execution of the warrant shall be ordered, and such time shall not be credited to service of the sentence. An actual term of confinement or imprisonment need not have been imposed for such conviction; it suffices that the statute under which the parolee was convicted permits that trial court to impose any term of confinement or imprisonment in any penal facility. If such conviction occurs subsequent to a revocation hearing (i) which the Commission makes an independent finding of violation of conditions of parole), the Commission may reopen the case and schedule a further hearing relative to time forfeiture and such further disposition as may be appropriate. However, in no event shall the violator term imposed under this subsection, taken together with the time served before release, exceed the total length of the original sentence.

(d)(1) Notwithstanding the above, prisoners committed under the Narcotic Addict Rehabilitation Act or the Youth Corrections Act shall not be subject to any forfeiture provision, but shall serve uninterrupted sentences from the date of conviction, except as provided in § 2.10 (b) and (c).

(2) The commitment of a juvenile offender under the Federal Juvenile Delinquency Act may not be extended past the offender's twenty-first birthday unless the juvenile has attained his nineteenth birthday at the time of his commitment, in which case his commitment shall not exceed the lesser of two years or the maximum term which could have been imposed on an adult convicted of the same offense.

§ 2.53 Mandatory parole.

(a) A prisoner (including a prisoner sentenced under the Narcotic Addiction Rehabilitation Act, Federal Juvenile Delinquency Act, or the provisions of 5010 (c) of the Youth Corrections Act) serving a term or terms of five years or longer shall be released on parole after completion of two-thirds of each consecutive term or terms or after completion of thirty years of each term or terms of more than 45 years (including life terms), whichever comes earlier, unless pursuant to a hearing under this section, the Commission determines that there is a reasonable probability that the prisoner will commit any Federal, State, or local crime or that the prisoner has frequently or seriously violated the rules of the institution in which he is confined. If parole is denied pursuant to this section such prisoner shall serve until the expiration of his sentence less good time. The forfeiture of statutory good time shall be deemed in itself to indicate that the prisoner has frequently or seriously violated the rules of the institution or institutions in which he has been confined.

(b) When feasible, at least sixty days prior to the scheduled two-thirds date, a review of the record shall be conducted by an examiner panel. If a mandatory parole is ordered following this review, no hearing shall be conducted.

(c) A prisoner released on mandatory parole pursuant to this section shall remain under supervision until the expiration of the full term of his sentence unless the Commission terminates parole supervision pursuant to § 2.43 prior to the full term date of the sentence.

(d) A prisoner whose parole has been revoked and whose parole violator term is five years or more shall be eligible for mandatory parole under the provisions of this section upon completion of two-thirds of the violator term and shall be considered for mandatory parole under the same terms as any other eligible prisoners.

§ 2.54 Reviews pursuant to 18 U.S.C. 4203/4215.

(a) The Attorney General, within thirty days after entry of a Regional Commissioner's decision, may request in writing that the National Appeals Board review such decision. Within sixty days of the receipt of the request the National Appeals Board shall, upon the concurrence of two members, affirm, modify, or reverse the decision, or order a rehearing at the institution or regional level. The Attorney General and the prisoner affected shall be informed in writing of the decision, and the reasons therefor.

(b) Notwithstanding the above provision, the Commission, by majority vote, may, upon its own motion, review any decision of a Regional Commissioner relative to grant or denial of parole, imposition of parole conditions or revocation of parole, upon the receipt of new and significant information. Referrals for this purpose may be made by not less than three Commissioners. Such review by the Commission must be made within thirty days following the entry of the decision by the Regional Commissioner. Following the review the Commission shall inform the affected prisoner in writing of its action and, if parole is denied, the reasons therefor.

(c) Notwithstanding the provisions of §§ 2.23–2.26 and § 2.28, any decision made by a Regional Commissioner or the National Appeals Board shall, upon the petition of not less than three Commissioners, be referred to the full Commission for review and, by majority vote, affirmed, modified, or reversed. Such petition must be submitted to the Chairman of the Commission and be acted upon by the Commission not later than 30 days from the date of entry of the decision to be reviewed. The prisoner shall receive a written, notice of this referral, which shall stay the decision in his case until such review has been completed. Following review by the full Commission, the prisoner shall be informed in writing of the Commission's decision and, if parole is denied, of the reasons therefor.

§ 2.55 Disclosure of Records.

(a) Prior to an initial parole hearing conducted pursuant to § 2.13 or any review hearing thereafter, a prisoner may review reports and other documents in the institution file which will be considered by the Commission at his parole hearing. These documents are generally limited to official reports bearing on the prisoner's offense behavior, personal history, and institutional progress. Review of such reports shall be permitted by the Bureau of Prisons pursuant to its regulations within seven days of a request by the prisoner, except that in the case of reports which must be sent to the originating agency for clearance pursuant to paragraph (c) of this section, a reasonable amount of time shall be permitted to obtain such clearance. Copies of reports and documents may be furnished under applicable Bureau of Prisons regulations.

(b) A report shall not be disclosed to the extent it contains:

(1) Diagnostic opinions which, if known to the prisoner, could lead to a serious disruption of his institutional program;

(2) Material which would reveal sources of information obtained upon a promise of confidentiality; or

(3) Any other information which, if disclosed, might result in harm, physical or otherwise, to any person. The term "otherwise" shall be deemed to include the legitimate privacy interests of such person under the Privacy Act of 1974.

(c) It shall be the duty of the agency which originated any report or document referred to in paragraph (a) of this section to determine whether or not to apply any of the exceptions to disclose set forth in paragraph (b) of this section. If any report or portion thereof is deemed by the originating agency to fall within an exception to disclosure, such agency shall prepare and furnish for inclusion in the institution file a summary of the basic contents of the material to be withheld, bearing in mind the need for confidentiality or impact on the prisoner, or both. In the case of a report prepared by an agency other than the Bureau of Prisons, the Bureau shall refer such report to the originating agency for a determination relative to disclosure, if the report has not been previously cleared or prepared for disclosure.

(d) Upon request by the prisoner, the Commission shall make available a copy of any record which it has retained of a parole or parole revocation hearing pursuant to 18 U.S.C. 4208(f).

(e) Except for deliberative memoranda referred to in paragraph (f) of this section, reports or documents received at regional offices which may be considered by the Commission at any proceeding shall be forwarded for inclusion in the prisoner's institutional file so that he may review them pursuant to paragraph (a) of this section. Such reports will first be referred by the Commission to originating agencies pursuant to paragraph (c) of this section for a determination relative to disclosure if the report has not previously been cleared or prepared for disclosure.

(f) Duplicate copies of records in a prisoner's institutional file as well as deliberative memoranda among Commission Members or staff which do not contain new factual information relative to the parole release determination are retained in Parole Commission regional office files following initial hearing. Records maintained in these files, shall be made available to prisoners, parolees, mandatory releasees, their authorized representative and members of the public upon written request in accordance with applicable law and Department of Justice regulations at 28 CFR Part 16, Subparts C & D. The Commission reserves the right to invoke statutory exemptions to disclosure of its files in appropriate cases under the Freedom of Information Act or Privacy Act text provisions and Alternate Means of Access.

§ 2.56 Special parole terms.

(a) The Drug Abuse Prevention and Control Act, 21 U.S.C. 801 to 966, provides that, on conviction of certain offenses, mandatory "special parole terms" must be imposed by the court as part of the sentence. This term is an additional period of supervision which follows the completion of the regular sentence (including competition of any period on parole or mandatory release).

(b) At the time of release under the regular sentence, whether under full term expiration or under a mandatory release certificate or a parole certificate, a separate Special Parole Term certificate will be issued to the prisoner by the Bureau of Prisons.

(c) Should a releasee be found to have violated conditions of release during supervision under his regular sentence, i.e., before commencement of the Special Parole Term, he will be returned as a violator of his basic supervision period under his regular sentence; the Special Parole Term will follow unaffected, as in paragraph (a) of this section. Should a releasee violate conditions of release during the Special Parole Term he will be subject to revocation on the Special Parole Term as provided in § 2.52, and subject to reparole or mandatory release under the Special Parole Term.

(d) If the prisoner is reparoled under the revoked Special Parole Term a certificate of parole to Special Parole Term is issued by the Commission. If the inmate is mandatorily released under the revoked "special parole term" a certificate of mandatory release to Special Parole Term will be issued by the Bureau of Prisons.

(e) If the prisoner is terminated from regular parole under § 2.43, the Special Parole Term commences to run at that point in time. Early termination from supervision from a Special Parole Term may occur as in the case of a regular parole term, except that the time periods considered shall commence from the beginning of the Special Parole Term.

§ 2.57 Prior orders.

Any order of the United States Board of Parole entered prior to May 14, 1976, including, but not limited to, orders granting, denying, rescinding or revoking parole or mandatory release, shall be a valid order of the United States Parole Commission according to the terms stated in the order.

§ 2.58 Absence of hearing examiner.

In the absence of a hearing examiner, a regional commissioner may exercise the authority delegated to hearing examiners in § 2.23.

§ 2.59 Appointment of committees.

The Chairman shall appoint four permanent committees, as follows: (a) Policy, (b) Budget, (c) Personnel and training, (d) Research, and in addition such ad hoc committees as may from time to time be approved by a majority of the Commissioners, to study, review, and recommend to the Commission and Chairman regarding policies and procedures of the Commission. Such Committees shall be appointed from among the Commissioners.

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FRIDAY, AUGUST 5, 1977

PART IV

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Secretary

■

NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS

Proposed Annual Operating Plan for FY 1978

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Secretary

NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS

Proposed Annual Operating Plan for FY 1978

PUBLICATION FOR COMMENT

The Office for Civil Rights (OCR) is issuing its proposed FY 1978 Annual Operating Plan for public comment. The plan, set forth in detail in the accompanying narrative and charts, establishes the numbers of complaint investigations, compliance reviews, and the other related activities which will be conducted by the investigative, managerial, and non-clerical support staff of OCR's Headquarters and ten Regional offices.

Responses to OCR's solicitation for comments should be received no later than September 6, 1977, and should be addressed to:

Director
Office for Civil Rights
Department of Health, Education, and Welfare
Washington, D.C. 20201

OCR will review its proposed plan in light of the comments received and, within the overall staffing levels included in the plan, will revise the plan to reflect suggestions which have merit. Commentators who recommend OCR undertake activities in addition to those proposed in the plan are urged to indicate the specific activity they would displace, together with the reason for their position, or to identify the specific area to be changed and the impact of that change on the remaining elements of the proposed plan.

Persons seeking clarification of any of the provisions of the proposed plan may contact the Office for Civil Rights, at the above address.

DAVID S. TATEL,
Director.

AUGUST 1, 1977.

OFFICE FOR CIVIL RIGHTS

PROPOSED ANNUAL OPERATING PLAN FOR FY 1978

I. Purpose

The Office for Civil Rights (OCR) within the Office of the Secretary is responsible for assuring that Federally assisted programs are free from unlawful discrimination. The Annual Operating Plan (AOP) represented in the narrative and charts below describes the compliance and compliance related activities OCR will undertake in FY 1978 to carry out that responsibility.

II. Jurisdiction

OCR is charged with enforcing the following statutes and executive orders as they relate to the expenditures of HEW funds:

Title VI of the Civil Rights Act of 1964, which prohibits discrimination on the basis of race, color, or national origin in federally assisted programs and activities;

Title IX of the Education Amendments of 1972, which prohibits discrimination on the basis of sex in federally assisted education programs;

Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination against qualified handicapped persons on the basis of physical or mental handicap in federally assisted programs;

Sections 799A and 855 of the Public Health Service Act, which require that schools of medicine and nurse training, as a condition of receiving Federal support, must provide assurances that there is no discrimination on the basis of sex in admissions;

Executive Order 11246, as amended, which prohibits employment discrimination on the basis of race, color, sex, religion, and national origin and requires affirmative action on the part of Federal contractors and subcontractors;

Title VII of the Education Amendments of 1972 (referred to as the Emergency School Aid Act or ESAA), which provides aid to desegregating institutions;

Age Discrimination Act of 1975, which prohibits discrimination in all federally funded programs on the basis of an individual's age.

III. Balanced Compliance Program

OCR has established as its goal for FY 1978 the conduct of a balanced compliance program designed in view of existing resources to be responsive to the needs of all protected groups served by all institutions and programs over which OCR has jurisdiction. There are two major assumptions underlying the development of this annual operating plan. First, it is OCR's best judgment regarding the implementation of a balanced enforcement program that 55 percent of the total investigative time should be assigned to complaint investigations and 45 percent to compliance reviews. Reserving 45 percent of the time for reviews allows OCR the flexibility to conduct OCR selected compliance reviews as well as pre-grant and pre-award reviews required by law.

Second, OCR recognizes that limiting the resources assigned to complaint processing will result in an increase in the backlog of complaints. However, OCR intends to insure that this resulting increase in the backlog is only a short-term phenomenon. Through increased resources and efficiencies, OCR plans to attempt to reduce the backlog and become current in complaint processing by the end of fiscal year 1980 or 1981. Last year's Annual Operating Plan which indicated that the backlog could be reduced by the end of this fiscal year, was totally unrealistic and disregarded OCR's other lawful responsibilities. The proposed fiscal year 1978 operating plan, unlike last year's, represents an effort to utilize existing resources to fulfill OCR obligations to complainants and at the same time to fulfill other statutory responsibilities. The principle of this plan, together with similar plans for future fiscal years, which will reflect increased resources and efficiencies, will lay the ground work for the elimination of the complaint backlog and the permanent installation of a balanced and responsible enforcement program. The annual operating plan for FY 1978 represents an effort to use resources to meet OCR's obligations to complainants in the fairest and most expeditious manner possible and, at the same time, allow OCR to carry out its other statutory responsibilities.

The essential elements of a balanced compliance program are:

Compliance reviews;
Pre-award and pre-grant reviews;
Complaint investigations; and
Expansion of civil rights responsibilities into all HEW programs.

Balance will be achieved by distributing staff resources and determining numbers of activities to be conducted in a manner that insures coverage of all of OCR's legislative and executive order authorities and all types of recipients/contractors (for example, public school districts, colleges and universities, vocational schools and programs, hospitals, nursing homes, medical laboratories, and various state and local government agencies receiving Federal financial assistance). Since complaint investigations and pre-funding reviews are limited in scope, compliance reviews will be planned and scheduled to include those issues, jurisdictions, and protected groups which would not otherwise be addressed or which would receive inadequate attention were OCR's activities limited to complaint activities.

The actual numbers of activities to be conducted are computed on a total expected OCR staff of 1102 positions[1] in FY 1978. Subtracted from this total is a 3 percent vacancy rate considered acceptable by the Office of Management and Budget. The staffing figures in the plan indicate professional staff only.

IV. Compliance Program

A. Complaint Investigations.—A complaint is an allegation that an HEW contractor or a recipient of HEW funds has violated one or several of the legal authorities OCR is responsible for enforcing by discriminating against an individual or group of individuals. OCR will begin FY 1978 with a backlog of approximately 3025 complaints. During the fiscal year, it expects to receive an additional 2455 complaints. By allocating 232 person years or 55 percent of its total investigative staff, OCR will be able to resolve 42 percent of the backlog and will investigate 10 percent of the new receipts, or a total of 1501 complaints. Within the total staff allocation for complaints, the distribution of resources to the regions to conduct complaint investigations will be based on each region's proportion of the total complaints on hand as of October 1, 1977, and the total number of complaints expected to be received during the fiscal year.

During FY 1978, each regional office

[1] This is the staffing level expected to be authorized by Congress. However, the Office of Management and Budget job ceilings may prevent OCR from attaining the authorized level. Accordingly, the activities projected in this AOP may have to be reduced to reflect actual staffing levels.

will first bring to completion all complaint investigations active on the first of October. All remaining complaints (backlogged and new receipts) will be divided by enforcement area (race, national origin, sex, and handicap), and investigative resources allocated in proportion to the number of complaints in each enforcement area. For example, if 25 percent of a regional office's complaints allege national origin discrimination, then 25 percent of that office's complaint investigation staff, remaining after the assignment of staff to active complaints, will be allocated to the investigation of national origin complaints. Within the proportions established for each regional office, OCR will investigate backlogged and newly received complaints on a one-to-one ratio and within these categories, in chronological order by date of receipt. The proportions for each regional office will be revised on a semi-annual basis and the allocation of resources altered to conform to changes in the proportions. Certain complaint investigations will be consolidated as follows:

1. Before any complaint investigation is initiated, the Regional Office will determine if there are other similar allegations on hand against the same recipient/contractor. If so, all such complaints will be consolidated into one investigation.

2. If a compliance review of a recipient/contractor is scheduled, investigation of all outstanding complaints against the recipient/contractor will be incorporated into the review.

During FY 1978, OCR will concentrate heavily on developing new techniques for increasing complaint handling efficiency. Revised Complaint Handling Procedures, improved work measurements, better policy articulation, improved training, and new approaches to resolving complaints will help OCR reduce its backlog and handle new complaints more efficiently and expeditiously.

B. Pre-Funding Activity.—Under Federal law and executive order OCR, is responsible for conducting a variety of pre-funding reviews. Pre-grant reviews are required to ensure compliance with the civil rights requirements of Section 706 of the Emergency School Aid Act (ESAA). During FY 1978, OCR will allocate 61.44 investigative person years to the processing of ESAA applications, including Title VI action on ineligible or waiver-denied applicant school districts. Routine health and human development pre-grant clearances relevant to Title VI compliance will require a total of 15.5 person years during FY 1978. Also since under Executive Order 11246, OCR has been designated a compliance agency by the Department of Labor's Office of Federal Contract Compliance Programs (OFCCP), 16.1 investigative person years will be devoted to the conduct of pre-award reviews to determine the equal employment compliance status of prospective recipients of HEW contracts in excess of $1 million. In addition to these three specific areas of pre-funding activity, OCR will be working with the HEW principal operating components (POC's) through OCR's new Office of Program Review and Assistance to develop uniform, effective pre-grant review procedures for the Department's funding programs.

C. Compliance Reviews.—A compliance review is an OCR initiated investigation of the policies and practices of a recipient of Federal funds to determine whether that recipient is in compliance with the legal authorities OCR enforces. Unlike a complaint investigation or a required pre-funding review, a compliance review allows OCR to select the site of an investigation, the jurisdiction(s) under which the investigation will be conducted, and the issue(s) the investigation will include. Thus, compliance reviews provide OCR with a tool essential to addressing those areas of discrimination not targeted by complaints or pre-grant reviews.

During FY 1978, OCR will conduct 185 compliance reviews requiring a staff allocation of approximately 113 investigative person years. Investigative staff from the regional offices as well as staff from the headquarters Compliance and Enforcement Office's Compliance Program Branch will participate in the investigations, assisted by staff from the Office of Policy, Planning and Research where policy and procedures are not firmly established.

The reviews will be geographically disbursed and, on a national level, will cover a comprehensive range of issues in all program areas and under all jurisdictional authorities. The selection of the actual issues and jurisdictions to be covered will be made following an assessment of the issues and jurisdictions covered in the complaint investigations and pre-funding reviews to be conducted. Types of recipients and issues to be addressed in compliance reviews include:

Program area	Recipient	Issue
Elementary and secondary education.	State education agencies	Potential discriminatory impact of all policies affecting the treatment of students and the employment of faculty by SEA's.
		Employment within agency.
	Vocational/technical schools	Admission to schools.
		Admission to programs.
	Nonvocational/technical State administered schools.	Admission to schools.
		Admission to programs.
	Local education agencies.	Discipline.
		Special education.
		Migrant education.
Higher education	State education agencies which administer formerly dual systems.	Failure to eliminate vestiges of formal racial duality.
		Potential discriminatory impact of all policies affecting the treatment of students and employment of staff and faculty by public higher education institutions.
		Agency employment.
	Other State education agencies	Potential discriminatory impact of policies.
		Agency employment.
	Professional schools	Admissions.
		Retention.
		Supportive services.
	Graduate schools (nonprofessional)	Admissions.
		Retention.
		Supportive services.
	Undergraduate schools	Admissions.
		Retention.
		Supportive services.
		Employment.
	Community colleges	Retention.
		Supportive services.
		Employment.
Nonprofit organizations.		Do.
Health and human development.	Residential health facilities, (e.g., hospitals, nursing homes).	Site selection.
		Access to facilities.
		Room assignment.
		Comparability of treatment.
	Nonresidential health and human development facilities (e.g., family health centers, vocational rehabilitation centers and work shops).	Site selection.
		Access to facilities.
		Access to services.
		Delivery of services.
	State and local health and human development agencies.	Policies affecting the location and provision of services.
		Adequacy of monitoring vendors.
		Adequacy of complaint handling procedures.

During the fiscal year, OCR will also complete 44 on-going elementary and secondary education Title VI reviews specifically aimed at ensuring equal educational opportunity for non-native English speakers (commonly referred to as *Lau* reviews) and will continue, subject to careful reevaluation and possible limitation, the comprehensive reviews of the public school systems in New York City, Philadelphia, Chicago, and Los Angeles now underway. In addition, OCR will conduct Title VI student assignment reviews where evidence indicates that unconstitutional segregation or its effects exists and where constitutionally acceptable remedies are achievable. These reviews will cover Title IX and Section 504 issues as well.

V. Support

Conduct of the compliance activities described in IV above requires a variety of regional and headquarters support staff. While, with few exceptions, these staff will not participate directly in the conduct of reviews and investigations, they will provide the management and staff support necessary to the full development and implementation of the balanced compliance program. The descriptions below are not meant to be exhaustive, nor do they delineate all of the

functions to be performed by the staff. They are meant only to explain the activities which are most critical to the implementation of the compliance program.

A. Regional Management and Professional Support Staff. This staff of 111 provides overall regional office management and management support, including reporting, assessments of regional progress, evaluations of compliance activities, provision of data collection services, provision of administrative support services, and coordination of the correspondence of the regional office, which is largely prepared by the regional investigative staffs.

B. Headquarters Staff.

Unit	Professional staff
Office of the Director	4
Executive Secretariat	3
Office of Inter-Governmental Affairs	8
Office of Public Affairs	7
Office of the Assistant Director, Administration and Management	27
Office of the Deputy Director, Compliance and Enforcement	3
Division of Operational Planning and Support	7
Division of Technical Review and Assistance	65
Division of Training	10
Office of the Associate Director, Policy, Planning and Research	2
Division of Policy and Procedures	32
Division of Planning and Research	12
Office of the Deputy Director, Program Review and Assistance	2
Division of Program Planning and Appraisal	8
Division of Intra-Departmental Technical Assistance	13
Total	203

1. Director.—In addition to the Director, the staff will include the Executive Secretariat responsible for document control; the Office of Public Affairs responsible for planning and directing a comprehensive civil rights public information program; and the Office of Inter-Governmental Affairs responsible for liaison with the Congress, Federal Departments and agencies, and State and local governments and their representative organizations. All three of these offices are responsible for coordinating the preparation of responses to the large volume of congressional, governmental, and other correspondence received by OCR; much of the actual letterwriting is done by the staffs of the operational and policy divisions.

2. Administration and Management.—This staff will provide financial management and personnel and supply services, as well as support of information systems (the automated case tracking system and the other elements of the overall information management system). In addition to providing management analysis, the staff will coordinate the development of the short-term and annual operating plans.

3. Compliance and Enforcement.—This office will provide a wide range of support services to the compliance program and will be the direct link between headquarters and the regions. Staff will oversee the conduct of the compliance activities to ensure that all policies, procedures, and standards are uniformly and effectively implemented. They will also provide direct technical assistance to the regions in the development of cases. Approximately one-third of the staff will participate in the compliance reviews conducted by the regions.

The staff assigned to training will develop, maintain, and administer an OCR staff training program. FY 1978 will be the first year of implementation of an intensive training program designed to provide staff with the skills necessary to implement an effective compliance program. This first year will focus on investigation and negotiation skills development.

4. Policy, Planning and Research.—Roughly two thirds of this staff will be devoted to the development of policies and procedures. Organized by type of discrimination (age, sex, race, handicap) and by function (legislative analysis, dissemination), this staff will concentrate its efforts on developing policies and procedures in all areas, including but not limited to:

Complaint investigation and compliance review procedures.
Guidelines for state health and human development agencies.
Anti-discrimination provisions for the location of health and human development facilities and services.
Policy on vocational education programs.
Policy on discipline in schools.
Title IX policies.

Guidelines, standards, and remedies for language barrier problems in all facilities.
Procedures for monitoring corrective action agreements.
Policy on recipient/contractor record keeping.
Procedures for full implementation of the 504 regulation.

The remaining staff will be responsible for long range planning, research and evaluation, and the design and conduct of surveys and other bulk data collection activities. Projects stemming from this last activity may, subject to the availability of funds, include: the Adams Higher Education state plan evaluation instrument, the survey of college and university enrollments and degrees conferred, the comprehensive urban review data collection efforts, vocational education survey, special school survey, planning and development of a comprehensive health and human development survey, and the elementary and secondary education survey.

In addition, staff will provide data collection and analysis support in the development of individual cases.

5. Program Review and Assistance.—This office, created in FY 1977, is to carry out the new efforts of the Department to infuse civil rights responsibilities into the activities of the HEW program agencies (principal operating components or POC's). It is these agencies that have direct contact with the recipients and beneficiaries of Federal funds. The staff will concentrate their FY 1978 efforts on developing and promoting civil rights responsibilities and providing technical assistance. The focus will be on those operating agencies which have the most critical civil rights responsibilities.

Specific objectives to be accomplished in FY 1978 include:

1. Develop and implement a Self-Assessment Guide with POC's.
2. Develop short and long range goals for OCR/POC civil rights initiatives.
3. Develop a civil rights orientation program for POC program and contracting officers.
4. Develop pre-award grant and contract clearance procedures to be implemented jointly by POC's and OCR.
5. Participate in the revision of the procurement manual used by POC's.
6. Develop consolidated language for all assurances required in grant applications and in contracts.
7. Establish a process for OCR clearance of Vocational Education State Plans.
8. Coordinate, with the POC's, the 504 technical assistance effort of the Department.
9. Develop and implement the initial phase of an OCR/POC technical assistance, education and advocacy program.

C. General Counsel.

Unit:	Professional staff
Headquarters	33
Regions	36
Total	69

The staff of the Civil Rights Division of the Office of the General Counsel (OGC) work in direct support of OCR's compliance program. In addition to OGC involvement in preparing a case for and following it through the administrative enforcement process, emphasis will be placed on OGC involvement in all aspects of OCR's program, including participation in the development and conduct of reviews and investigations, reviews of pertinent legislation and regulations, provision of formal opinions, and participation in the development of policies and procedures.

VI. Work Measurement

To determine investigative staff requirements for complaint and review activity, standard times for each type of activity were computed and then applied against the number of activities to be performed during FY 1978.

The standard time for complaints is 44 person days per investigation. This is an average. The actual work time required to process any one given complaint can vary from as little as a day to as much as the equivalent of several months, depending on the nature of the allegation. OCR has set a goal to increase its efficiency in the investigation of complaints by 30 percent by the end of the fiscal year. Since this goal will be attained throughout the year, the numbers of new investigations planned for FY 1978 reflect an overall increase of 15 percent.

The standard times for reviews are as follows:

Type:	*Person days per review*
ESAA applications	14
Executive order 11246 preaward revisions.	23
Lau reviews	20
Brown reviews	406
State elementary and secondary education agencies.	118
Vocational/technical schools	84
Health pre-grant reviews	1
Monitoring of Adams State higher education systems.	84
Nonvocational/technical State administered elementary and secondary education schools.	84
Elementary and secondary school district discipline practices.	62
Elementary and secondary school district special education programs.	46
Elementary and secondary school district migrant education practices.	76
Formerly dual State higher education systems.	169
Other State higher education systems.	157
Professional schools	105
Graduate schools	105
Undergraduate schools	111
Community colleges	105
Nonprofit organizations	81
Residential health facilities	118
Nonresidential health and human development facilities.	35
State and local health and human development agencies.	149

The time required to conduct any given review depends on the number of issues investigated and the number of jurisdictional authorities covered. The standard times above assume that each type of review listed will cover the issues delineated in Section III and will be conducted under all applicable authorities.

The final standard times for both complaints and reviews shown on the activity charts are stated in person years. A person year contains 169 person days, that figure representing the number of days available to each investigator for complaint and review activity. The 169–day figure was derived by subtracting from the total working days available in a year, Federal holidays, average annual and sick leave, and an average of days an investigator can be expected to spend performing other activities not directly related to the conduct of specific complaint investigations and reviews, such as providing technical assistance, answering non-case related correspondence, attending meetings and conferences, and participating in training. During FY 1978 efforts will be made to reduce the amount of time spent by investigators on non-case related activities. In addition, for all activities on the charts on which some investigative work will have been completed prior to October 1, the standard times have been reduced by 50 percent.

VII. AOP Monitoring and Adjustment

OCR will regularly monitor progress under the AOP. At the end of the second quarter of the fiscal year it will revise the second six months of the plan as required by assessments of the first six months. The revising will include both the numbers and kinds of activities and the time measures used. For example, if incoming complaints are being received at a rate different than expected at the beginning of the fiscal year, the proportions will be recomputed; or if the standard times previously estimated for completing compliance activities were inaccurate, they will likewise be recomputed and built into the plan.

SUMMARY

PLANNED COMPLAINT RESOLUTION ACTIVITY-FY 1978

(Staff time shown in investigative person years)

BASIS	CARRYOVER*		NEW INVESTIGATIONS				TOTAL	
			BACKLOG		NEW RECEIPTS			
	NUMBER	PERSON YEARS	NUMBER	PERSON YEARS	NUMBER	PERSONS YEARS	NUMBER	PERSON YEARS
RACE z	344	44.02	82	18.14	77	17.04	503	79.20
SEX	504	59.25	82	18.17	80	17.72	666	95.14
NATIONAL ORIGIN	104	13.46	22	4.87	23	5.09	149	23.42
HANDICAP	70	9.10	56	12.41	57	12.63	183	34.14
TOTALS	1022	125.83	242	53.59	237	52.48	1501	231.90

*Carryover means all complaints in which an investigation was initated prior to October 1, 1977 but which have not been resolved as of that date.

REGION I

PLANNED COMPLAINT RESOLUTION ACTIVITY-FY 1978

(Staff time shown in investigative person years)

BASIS	CARRYOVER*		NEW INVESTIGATIONS				TOTAL	
			BACKLOG		NEW RECEIPTS			
	NUMBER	PERSON YEARS	NUMBER	PERSON YEARS	NUMBER	PERSONS YEARS	NUMBER	PERSON YEARS
RACE	20	2.60	2	.44	2	.44	24	3.48
SEX	22	3.97	6	1.33	6	1.33	34	6.63
NATIONAL ORIGIN	1	.13	1	.22	1	.22	3	.57
HANDICAP	4	.52	1	.22	1	.22	6	.96
TOTALS	47	7.22	10	2.21	10	2.21	67	11.64

*Carryover means all complaints in which an investigation was initated prior to October 1, 1977 but which have not been resolved as of that date.

REGION II

PLANNED COMPLAINT RESOLUTION ACTIVITY-FY 1978

(Staff time shown in investigative person years)

BASIS	CARRYOVER*		NEW INVESTIGATIONS				TOTAL	
			BACKLOG		NEW RECEIPTS			
	NUMBER	PERSON YEARS	NUMBER	PERSON YEARS	NUMBER	PERSONS YEARS	NUMBER	PERSON YEARS
RACE	27	3.51	14	3.10	13	2.88	54	9.49
SEX	34	4.42	12	2.66	12	2.66	58	9.74
NATIONAL ORIGIN	5	.65	5	1.12	5	1.12	15	2.89
HANDICAP	10	1.30	10	2.21	10	2.21	30	5.72
TOTALS	76	9.88	41	9.09	40	8.87	157	27.84

*Carryover means all complaints in which an investigation was initated prior to October 1, 1977 but which have not been resolved as of that date.

REGION III

PLANNED COMPLAINT RESOLUTION ACTIVITY-FY 1978

(Staff time shown in investigative person years)

BASIS	CARRYOVER*		NEW INVESTIGATIONS				TOTAL	
			BACKLOG		NEW RECEIPTS			
	NUMBER	PERSON YEARS	NUMBER	PERSON YEARS	NUMBER	PERSONS YEARS	NUMBER	PERSON YEARS
RACE	21	2.73	9,	1.99	8	1.77	38	6.49
SEX	38	3.38	8	1.77	7	1.55	53	6.70
NATIONAL ORIGIN	8	1.04	1	.22	2	.44	11	1.70
HANDICAP	7	.91	6	1.33	6	1.33	19	3.57
TOTALS	74	8.06	24	5.31	23	5.09	121	18.46

*Carryover means all complaints in which an investigation was initated prior to October 1, 1977 but which have not been resolved as of that date.

REGION IV

PLANNED COMPLAINT RESOLUTION ACTIVITY-FY 1978

(Staff time shown in investigative person years)

BASIS	CARRYOVER*		NEW INVESTIGATIONS				TOTAL	
			BACKLOG		NEW RECEIPTS			
	NUMBER	PERSON YEARS	NUMBER	PERSON YEARS	NUMBER	PERSONS YEARS	NUMBER	PERSON YEARS
RACE	49	6.37	17	3.76	16	3.54	82	13.67
SEX	33	4.03	10	2.21	10	2.21	53	8.45
NATIONAL ORIGIN	3	.33	2	.44	2	.44	7	1.21
HANDICAP	8	1.04	13	2.88	13	2.88	34	6.80
TOTALS	93	11.77	42	9.29	41	9.07	176	30.13

*Carryover means all complaints in which an investigation was initated prior to October 1, 1977 but which have not been resolved as of that date.

REGION V

PLANNED COMPLAINT RESOLUTION ACTIVITY-FY 1978

(Staff time shown in investigative person years)

BASIS	CARRYOVER*		NEW INVESTIGATIONS				TOTAL	
			BACKLOG		NEW RECEIPTS			
	NUMBER	PERSON YEARS	NUMBER	PERSON YEARS	NUMBER	PERSONS YEARS	NUMBER	PERSON YEARS
RACE	49	5.98	7	1.55	7	1.55	63	9.08
SEX	148	17.24	17	3.76	17	3.76	182	24.76
NATIONAL ORIGIN	10	1.30	1	.22	1	.22	12	1.74
HANDICAP	17	2.21	9	1.99	9	1.99	35	6.19
TOTALS	224	26.73	34	7.52	34	7.52	292	41.77

*Carryover means all complaints in which an investigation was initated prior to October 1, 1977 but which have not been resolved as of that date.

REGION VI

PLANNED COMPLAINT RESOLUTION ACTIVITY-FY 1978

(Staff time shown in investigative person years)

BASIS	CARRYOVER*		NEW INVESTIGATIONS				TOTAL	
			BACKLOG		NEW RECEIPTS			
	NUMBER	PERSON YEARS	NUMBER	PERSON YEARS	NUMBER	PERSONS YEARS	NUMBER	PERSON YEARS
RACE	109	14.18	23	5.09	23	5.09	155	24.36
SEX	59	7.68	13	2.88	13	2.88	85	13.44
NATIONAL ORIGIN	34	4.42	6	1.33	6	1.33	46	7.08
HANDICAP	9	1.17	6	1.33	6	1.33	21	3.83
TOTALS	211	27.45	48	10.63	48	10.63	307	48.71

*Carryover means all complaints in which an investigation was initated prior to October 1, 1977 but which have not been resolved as of that date.

REGION VII

PLANNED COMPLAINT RESOLUTION ACTIVITY-FY 1978

(Staff time shown in investigative person years)

BASIS	CARRYOVER*		NEW INVESTIGATIONS				TOTAL	
			BACKLOG		NEW RECEIPTS			
	NUMBER	PERSON YEARS	NUMBER	PERSON YEARS	NUMBER	PERSONS YEARS	NUMBER	PERSON YEARS
RACE	2.	.26	3	.66	3	.66	8	1.58
SEX	22	1.69	5	1.12	5	1.12	32	3.93
NATIONAL ORIGIN	7	.91	1	.22	1	.22	9	1.35
HANDICAP	5	.65	4	.89	4	.89	13	2.43
TOTALS	36	3.51	13	2.89	13	2.89	62	9.29

*Carryover means all complaints in which an investigation was initated prior to October 1, 1977 but which have not been resolved as of that date.

REGION VIII

PLANNED COMPLAINT RESOLUTION ACTIVITY-FY 1978

(Staff time shown in investigative person years)

BASIS	CARRYOVER*		NEW INVESTIGATIONS				TOTAL	
			BACKLOG		NEW RECEIPTS			
	NUMBER	PERSON YEARS	NUMBER	PERSON YEARS	NUMBER	PERSONS YEARS	NUMBER	PERSON YEARS
RACE	8	1.04	2	.44	1	.22	11	1.70
SEX	36	3.77	4	.89	3	.66	43	5.32
NATIONAL ORIGIN	1	.13	2	.44	2	.44	5	1.01
HANDICAP	1	.13	2	.44	3	.66	6	1.23
TOTALS	46	5.07	10	2.21	9	1.98	65	9.26

*Carryover means all complaints in which an investigation was initated prior to October 1, 1977 but which have not been resolved as of that date.

REGION IX

PLANNED COMPLAINT RESOLUTION ACTIVITY-FY 1978

(Staff time shown in investigative person years)

BASIS	CARRYOVER*		NEW INVESTIGATIONS				TOTAL	
			BACKLOG		NEW RECEIPTS			
	NUMBER	PERSON YEARS	NUMBER	PERSON YEARS	NUMBER	PERSONS YEARS	NUMBER	PERSON YEARS
RACE	42	5.14	4	.89	4	.89	50	6.92
SEX	49	6.37	6	1.33	6	1.33	61	9.03
NATIONAL ORIGIN	23	2.99	3	.66	3	.66	29	4.31
HANDICAP	6	.78	5	1.12	5	1.12	16	3.02
TOTALS	120	15.28	18	4.00	18	4.00	156	23.28

*Carryover means all complaints in which an investigation was initated prior to October 1, 1977 but which have not been resolved as of that date.

REGION X

PLANNED COMPLAINT RESOLUTION ACTIVITY-FY 1978

(Staff time shown in investigative person years)

BASIS	CARRYOVER*		NEW INVESTIGATIONS				TOTAL	
			BACKLOG		NEW RECEIPTS			
	NUMBER	PERSON YEARS	NUMBER	PERSON YEARS	NUMBER	PERSONS YEARS	NUMBER	PERSON YEARS
RACE	17	2.21	1	.22	0	0	18	2.43
SEX	63	6.70	1	.22	1	.22	65	7.14
NATIONAL ORIGIN	12	1.56	0	0	0	0	12	1.56
HANDICAP	3	.39	0	o	0	0	3	.39
TOTALS	95	10.86	2	.44	1	.22	98	11.52

*Carryover means all complaints in which an investigation was initated prior to October 1, 1977 but which have not been resolved as of that date.

PLANNED COMPLIANCE REVIEW ACTIVITY - FY 1978
(Staff time shown in investigative person years)

TYPE OF REVIEW	BOSTON		NEW YORK		PHILA.		ATLANTA		CHICAGO		DALLAS		KANSAS CITY		DENVER		SAN FRAN.		SEATTLE		TOTAL [1]	
	ACTV.	STAFF	ACTV.	STAFF	ACTV.	STAFF	ACTV.	STAFF	ACTV.	STAFF	ACTV.	STAFF	ACTV.	STAFF	ACTV.	STAFF	ACTV.	STAFF	ACTV.	STAFF	ACTV.	STAFF
1. Emergency School Aid Act Pre-Grant Reviews	24	1.92	53	4.24	59	4.72	200	16.00	46	3.68	255	20.40	18	1.44	55	4.40	47	3.76	11	.88	768	61.44
2. Executive Order 11246 Pre-Award Reviews of Contractors	11	1.43	12	1.56	14	1.82	19	2.47	24	3.12	12	1.56	9	1.17	4	.52	15	1.95	4	.52	124	16.12
3. Health Agency and Program Pre-Grant Reviews	211	1.37	204	1.32	216	1.40	326	2.11	480	3.12	250	1.62	192	1.24	91	.59	341	2.21	88	.57	2399	15.55 [2]
4. Monitoring of Adams State Higher Education Systems					3	1.53	3	1.53			2	1.02									8	4.08
5. Equal Educational Services Reviews of Major City School Systems			1	2.00	1	6.00			1	6.00							1	6.00			4	20.00
6. Reviews of Elementary and Secondary School District Language Programs (LAU)											43	5.16					1	.12			44	5.28
7. Comprehensive Reviews of Elementary and Secondary School Districts in the North and West (Brown)									4	9.6							2	4.80	1	2.40	7	16.80
8. Reviews of State Elementary and Secondary Education Agencies																					10	7.00
9. Reviews of Elementary and Secondary Vocational Technical Schools/Programs																					9	3.33
10. Reviews of Elementary and Secondary Special Purpose State Administered Schools																					8	2.16
11. Reviews of Elementary and Secondary School District Discipline Practices																					10	3.70
12. Reviews of Elementary and Secondary School District Special Education Programs																					10	2.70
13. Reviews of Elementary and Secondary School District Migrant Ducation Practices																					2	.50

(Continued) Page 2

14. Reviews of Formerly Dual State Higher Education Systems							2	2.00			1	1.00	1	1.00							4	4.00
15. Reviews of State Higher Education Systems																					6	5.58
16. Reviews of Professional Schools																					3	1.86
17. Reviews of Graduate Schools																					3	1.86
18. Reviews of Undergraduate Schools																					10	6.60
19. Reviews of Community Colleges/Community College Systems																					10	6.20
20. Reviews of Non Profit Organizations																					5	2.40
21. Reviews of Residential Health Facilities																					9	6.30[3/]
22. Reviews of Non-Residential Health Facilities																					11	2.31
23. Reviews of State Health Agencies																					4	3.52
24. Reviews of Non-Residential Human Development Facilities																					11	2.31
25. Reviews of State Human Development Agencies																					4	3.52
26. TOTALS																					1077	190.07[4/]

[FR Doc.77-22486 Filed 8-4-77;8:45 am]

federal register

FRIDAY, AUGUST 5, 1977

PART V

DEPARTMENT OF LABOR

Employment Standards Administration

■

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

General Wage Determination Decisions; Index to General Wage Determination Decisions as of July 1, 1977

DEPARTMENT OF LABOR

Employment Standards Administration

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

General Wage Determination Decisions

General Wage Determination Decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed in construction activity of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates, (37 FR 21138) and of Secretary of Labor's Orders 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General Wage Determination Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

MODIFICATIONS AND SUPERSEDEAS DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS

Modifications and Supersedeas Decisions to General Wage Determination Decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the Modifications and Supersedeas Decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing General Wage Determination Decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and Supersedeas Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Office of Special Wage Standards, Division of Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rule-making procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Wage Determination Decision.

MODIFICATIONS TO GENERAL WAGE DETERMINATION DECISIONS

The numbers of the decisions being modified and their date of publication in the FEDERAL REGISTER are listed with each State.

Arkansas:	
AR77–4147	July 1, 1977.
Delaware:	
DE77–3042	Apr. 1, 1977.
Florida:	
FL77–1044	Mar. 1, 1977.
FL77–1028	Mar. 18, 1977.
FL77–1034; FL77–1043	Apr. 1, 1977.
FL77–1049	Apr. 29, 1977.
FL77–1065	May 13, 1977.
FL77–1091	July 8, 1977.
Illinois:	
IL76–2124; IL76–2125; IL 76–2127; IL76–2129.	Oct. 8, 1976.
IL76–2141	Oct. 29, 1976.
IL76–2143	Nov. 12, 1976.
IL76–2153	Nov. 26, 1976.
IL76–2149	Dec. 10, 1976.
IL77–2030	Mar. 4, 1977.
IL77–2068	June 10, 1977.
Indiana:	
IN76–2005	Jan. 23, 1976.
IN77–2008; IN77–2009; IN 77–2016; IN77–2017.	Feb. 11, 1977.
IN77–2082; IN77–2084; IN 77–2085.	May 13, 1977.
IN77–2101	June 24, 1977.
Maryland:	
MD77–3021	Jan. 14, 1977.
MD77–3077	June 3, 1977.
Michigan:	
MI77–2053; MI77–2054	May 6, 1977.
MI77–2055	May 13, 1977.
MI77–2071	June 3, 1977.
Nevada:	
NV77–5061	June 17, 1977.
NV77–5072	July 8, 1977.
New Mexico:	
NM77–4116	June 17, 1977.
New Jersey:	
NJ77–3093	July 8, 1977.
North Dakota:	
ND77–5062	June 10, 1977.
Oklahoma:	
OK77–4150	July 1, 1977.
OK77–4163; OK77–4164; OK77–4165; OK77–4166; OK77–4167.	July 15, 1977.
OK77–4168; OK77–4171	July 29, 1977.
Tennessee:	
TN77–1036	Mar. 25, 1977.
Texas:	
TX77–4070	Apr. 1, 1977.
TX77–4101	May 13, 1977.
TX77–4111	June 10, 1977.
Virginia:	
VA77–3088; VA77–3089; VA 77–3090; VA77–3091.	July 1, 1977.
Wyoming:	
WY77–5054	May 20, 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:	
AL77–1027 (AL77–1079)	Mar. 18, 1977.
Florida:	
FL77–1024 (FL77–1098)	Feb. 25, 1977.
Illinois:	
IL76–2015 (IL77–2112)	Feb. 27, 1976.
IL76–2121 (IL77–2113)	Oct. 11, 1976.
Maryland:	
MD77–3020 (MD77–3086)	Jan. 14, 1977.
Texas:	
TX76–4172 (TX77–4172)	May 7, 1976.
Utah:	
UT77–5006 (UT77–5075)	Jan. 28, 1977.

Signed at Washington, D.C. this 29th day of July 1977.

RAY J. DOLAN,
Assistant Administrator,
Wage and Hour Division.

DECISION NO. AR77-4147 - Mod. #2
(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:					
BRICKLAYERS	$8.15	.40	.35		.04

DECISION #DE77-3042 - Mod. #3
(42 FR-17756 - April 1, 1977)
State of Delaware

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
BOILERMAKERS:					
New Castle County	$13.10	.75	1.00		.02
Kent & Sussex Counties	11.15	.70	1.00		.02
LABORERS - BUILDING CONSTRUCTION:					
New Castle County:					
Group 1 - General construction, dumpmen, & truck spotters	8.10	.90	.50		
Group 2 - Caulkers, operators of pneumatic & electric tools, vibrating machines, concrete saws, pumps, pot tenders, sewer pipelayers, demolition (use of hand tools), driller (except core, diamond, of multiple wagon), mason & plasterers tenders, cement workers, mobile buggy operators, portable power saw operators, scaffold builders, hook-up men, signal men, stripping of flat arch & form work (also cleaning & oiling thereof), tool room attendant, gunite material & rebound workers, and shoring workers	8.35	.90	.50		
Group 3 - Burners & welders, Caisson workers, top men (when excavations for caissons are dug eight feet or more below the natural grade level adjacent to the starting point of the caisson hole, the rate shall apply at the ground level), Driller (core, diamond, or multiple wagon), Gunite industrial fume stack, nozzle, and rod workers, Sandblaster (nozzlemen), Tunnelling, underpinning excavation (when an underpinning excavation is dug eight feet or more below					

DECISION #DE77-3042 - Mod. #3 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
the natural grade, or when an excavation for a pier hole of five feet square or less and eight feet or more deep is dug, the rate shall apply only when a depth of eight feet is reached), working under compressed air	8.60	.90	.50		
Group 4 - Blasters, laborers engaged in unloading, placing, and assisting in the installation of well point systems or deep well systems as long as needed on the job for such work	9.35	.90	.50		
Group 5 - Caisson workers (bottom men)	8.70	.90	.50		
LABORERS - HEAVY & HIGHWAY CONSTRUCTION:					
New Castle County:					
Common laborers, landscapers, planters, seeders, aborists, asphalt tampers, rakers, concrete pitmen, puddlers, rubber magazine tenders, railroad trackmen, signal men	6.10	.90	.50		
Pipelayers	6.25	.90	.50		
Wagon drill, diamond point drill, gunite nozzlemen, form setters, blasters, caisson & coffer dams (open-air, below 8')	6.40	.90	.50		

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Decision # FL77-1028 - Mod. # 4 (42 FR-15262 - March 18, 1977) Alachua County, Florida					
Change:					
Laborers:					
Air tool operator	4.90	.20			.02
Mortar mixers	4.90	.20			.02
Pipelayers (concrete & clay)	4.90	.20			.02
Line Construction:					
Linemen	9.69	.25	3%		1%
Cable splicers	9.89	.25	3%		1%
Winch truck operator	7.76	.25	3%		1%
Heavy equipment operator	9.39	.25	3%		1%
Flat bed pick-up driver	6.84	.25	3%		1%
Groundmen, 1st class	5.69	.25	3%		1%
Groundmen, 2nd class	4.49	.25	3%		1%
Plasterers	7.65	.30	.30		.02
Decision # FL77-1034 - Mod. # 3 (42 FR 17761 - April 1, 1977) Martin & Palm Beach Counties, Florida.					
Change:					
Electricians:					
Electricians	10.33	3.5%	3%+6%	6%	1.5%
Cable splicer	11.36	3.5%	3%+6%	6%	1.5%
Line Construction:					
Linemen	10.92	3.5%	3%		3/8 of 1%
Cable splicers	11.22	3.5%	3%		3/8 of 1%
Winch truck operator	8.70	3.5%	3%		3/8 of 1%
Groundemn	5.94	3.5%	3%		3/8 of 1%
Truck drivers	7.15	3.5%	3%		3/8 of 1%
Heavy equipment operator	10.92	3.5%	3%		3/8 of 1%

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Decision # FL77-1043 - Mod. # 3 (42 FR 17762 - April 1, 1977) Pinellas County, Florida					
Change:					
Air conditioning or refrigeration mechanic	10.38	.55	.95		.08
Electricians:					
Commercial	8.20	5%	7%+3%		3/4 of 1%
Industrial	10.20	5%	7%+3%		3/4 of 1%
Decision # FL77-1044 - Mod. # 3 (42 FR 17764 - March 1, 1977) Volusia County (except Cape Kennedy, Kennedy Space Flight Center and Cape Canaveral Air Force Station), Florida					
Change:					
Bricklayers	8.00	.50	.20		
Electricians:					
Electricians	8.74	.45	3%+.48		1%
Cable splicers	8.99	.45	3%+.48		1%
Stonemasons	8.00	.50	.20		
Sheet metal workers	10.24	.30+c	.30	.50	.04
Add:					
Footnote:					
c. Employer contributes 3% of gross payroll to Stabilization Administration of the Sheet Metal Industry.					

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Decision # FL77-1049 - Mod. # 2 (42 FR 22080 - April 29, 1977) Leon County, Florida					
Change:					
Electricians	9.25		3%		0.5%
Decision # FL77-1065 - Mod. # 4 (42 FR-24575 - May 13, 1977) Brevard & Volusia Counties (Cape Kennedy, Kennedy Space Flight Center, Patrick Air Force Base, and Melabar Radar Site only), Florida.					
Change:					
Electricians:					
Base Zone (within 40 miles of the Union Office, 215 Ridgewood Ave., Daytona Beach):					
Electricians	8.74	.45	3%+.48		1%
Cable splicers	8.99	.45	3%+.48		1%
Zone 1 (beyond 40 miles from the Union Office):					
Electricians	9.19	.45	3%+.48		1%
Cable splicers	9.44	.45	3%+.48		1%
Decision # FL77-1091 - Mod. # 1 (42 FR 35538 - July 8, 1977) Broward County, Florida.					
Change:					
Bricklayers:					
Blocklayers, bricklayers, cement masons, marble setters, plasterers, stone masons, terrazzo mechanic, and tile setters	9.65	.63	.55		.03
Plumbers, pipefitters	10.65	.60	.80		.07

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #IL76-2124 - Mod. #3 (41 FR 44616 - October 8, 1976) Ford, Iroquois & Kankakee, Counties, Illinois					
CHANGE:					
Bricklayers:					
Kankakee County:					
Bricklayers, Stonemasons, Marble Setters, Terrazzo Workers, Tile Setters, Pointers, Cleaners and Caulkers; Cement Masons	$10.80	.80	.75		
Carpenters:					
Iroquois & Kankakee Cos:					
Carpenters, Millwrights; Piledrivermen & Soft Floor Layers	11.04	.65	.80		.01
Plasterers:					
Iroquois & Kankakee Cos.	10.60	.80	.75		
ADD:					
Plumbers & Steamfitters:					
Iroquois & Kankakee Cos.	12.03	.35	1.00		.08
DECISION #IL76-2125 - Mod. #5 (41 FR 44620 - October 8, 1976) Bureau, LaSalle, Livingston, Marshall, Putnam & Woodford Counties, Illinois					
CHANGE:					
Carpenters: LaSalle, Marshall, Bureau Cos; & N.W. Cor. of Livingston Co:					
Carpenters, Piledrivermen & Soft Floor Layers	10.98	.65	.60		.03
Millwrights	11.23	.65	.60		.03

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #IL76-2127 - Mod. #4 (41 FR 44627 - October 8, 1976) McLean County, Illinois					
CHANGE:					
Cement Masons	$11.63	.55			
Electricians:					
Remainder Of County	11.20	.50	3%+.40		.002
Plumbers & Steamfitters	11.20	.50	1.10		.15
Truck Drivers:					
Group 1	9.70	.60	a28.00		
Group 2	10.10	.60	a28.00		
Group 3	10.30	.60	a28.00		
DECISION #IL76-2129 - Mod. #2 (41 FR 44625 - October 8, 1976) Cass, Morgan & Scott Counties, Illinois					
CHANGE:					
Carpenters:					
Carpenters & Soft Floor Layers	9.75	.55	.25		.02
Piledrivermen	10.25	.55	.25		.02
Truck Drivers:					
Group 1	9.70	.60	a28.00		
Group 2	10.10	.60	a28.00		
Group 3	10.30	.60	a28.00		

DECISION #IL76-2141 - Mod. #3
(41 FR 47733 - October 29, 1976)
Boone, DeKalb DuPage, Kane, Kendall, Lake, McHenry & Will Counties, Illinois

OMIT:
Under Laborers:
DuPage, Lake & Will Counties
Lake County

ADD:
Under Laborers:
Lake County

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS: LAKE COUNTY SEWER & WATER MAIN EXTENSIONS					
CLASS 1					
General Laborers; Top Laborers & Flagmen	$8.55	.57	1.10		
CLASS 2					
Second Bottom Men	8.775	.57	1.10		
CLASS 3					
Well Point System-Jackhammer Men (Tampers & Vibrators) Bottom Men, Pipelayers on Drains & Pipelayer Men; All Tunnel Work	8.90	.57	1.10		
LABORERS: STREET PAVING & GRADE SEPARATION					
CLASS 1					
General, Asphalt & Asphalt Plant Laborers; Flagmen	8.55	.57	1.10		
CLASS 2					
Laborers on Apsco, Birch Overman & Similar Spreader Equipment, Machine Screwmen, Mitre B Spreaders	8.825	.57	1.10		
CLASS 3					
Form Setters; Well Point; Jackhammer (Tampers & Vibrators); Bottom Men; Pipelayers on Drains; Catch Basin Diggers & Manhole; Power Driven Concrete Saw	8.90	.57	1.10		

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #IL76-2143 - Mod. #4					
(41 FR 50133 - November 12, 1976)					
Ford, Grundy, Iroquois, Kankakee, LaSalle, Livingston, McLean, Marshall, Putnam & Woodford Counties, Illinois					
CHANGE:					
Carpenters:					
Iroquois & Kankakee Counties; (N. of Garver & Guthrie) in Ford County	$11.04	.65	.80		.01
Marshall & Putnam Cos; (Peru Ottawa & Streator & Vicinities) in LaSalle County	10.98	.65	.60		.03
Grundy County; Marseilles & Vicinity) in LaSalle County	11.965	.65	.53		
Livingston County	11.11	.40	.50		.05
DECISION #IL76-2149 - Mod. #5					
(41 FR 54128 - December 10, 1976)					
Adams, Brown, Cass, Christian, Logan, Mason, Menard, Morgan, Pike, Sangamon, Schuyler & Scott Counties, Illinois					
CHANGE:					
Carpenters & Piledrivermen:					
Sangamon Co; (Illiopolis & Vicinity)	11.015	.45	.90		.08
Logan County	10.75	.45	.55		.06
Remainder of District #6	10.75	.55	.45		.06
Truck Drivers:					
Group 1	9.70	.60	a28.00		
Group 2	10.10	.60	a28.00		
Group 3	10.30	.60	a28.00		

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #IL76-2153 - Mod. #4 (41 FR 52253 - November 26, 1976) Clay, Crawford, Edwards, Effingham, Fayette, Hamilton, Jasper, Jefferson, Lawerence, Marion, Richland, Wabash, Wayne & White Counties, Illinois					
CHANGE:					
Laborers	$8.30	.30	.30		.035
Truck Drivers:					
Group 1	9.70	.60	a28.00		
Group 2	10.10	.60	a28.00		
Group 3	10.30	.60	a28.00		
DECISION #IL77-2030 - Mod. #3 (42 FR 12584 - March 4, 1977) Clark, Clay, Coles, Crawford, Cumberland, Douglas, Edgar, Edwards, Effingham, Fayette, Jasper, Lawerence, Richland, Wabash & Wayne Counties, Illinois					
CHANGE:					
Bricklayers:					
Remainder of Counties:					
Bricklayers, Stonemasons, Blocklayers, Pointers, Caulkers, Cleaners, Marble Tile & Terrazzo Workers	10.60		.50		
Truck Drivers:					
Group 1	9.70	.60	a28.00		
Group 2	10.10	.60	a28.00		
Group 3	10.30	.60	a28.00		
Cement Masons & Plasterers:					
Coles, Cumberland & Effingham Cos; Southern part of Douglas County:					
Cement Masons	11.18				
Plasterers	11.10				

DECISION #IL77-2068 - Mod. #2
(42 FR 30106 - June 10, 1977)
DuPage, Grundy, Kane, Kendall, Lake, McHenry & Will Counties, Illinois

OMIT:
Under Laborers:
DuPage, Grundy, Lake & Will Counties
Lake County

ADD:
Under Laborers:
Lake County

LABORERS: LAKE COUNTY	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1 Building & Plasters Laborers; General Laborers (Wrecking & Demolition) Fireproofing & Fire Shop Laborers	$8.55	.57	1.10		
CLASS 2 Cement Gun Laborers & Hose	8.625	.57	1.10		
CLASS 3 Chimney Laborers (Over 40'); Scaffold Laborers; Wall Men or Wreckers	8.65	.57	1.10		
CLASS 4 Stone Derricknen & Handlers	8.75	.57	1.10		
CLASS 5 Jackhammer Men (Tampers & Vibrators) Power Driven Concrete Saws	8.775	.57	1.10		
CLASS 6 Caisson Diggers, Well Point System; Chimney Laborers (on Firebrick)	8.90	.57	1.10		

DECISION NO. IN76-2005 - Mod. #4
(41 FR 3602 - January 23, 1976)
Marion County, Indiana

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Electricians, not exceed 2½ stories above ground	$6.05	4%	7%		½%
Truck drivers	7.865	$20.00a	$22.00b	c	

DECISION NO. IN77-2008 - Mod. #4
(42 FR 8908 - February 11, 1977)
Decatur County, Indiana

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Electricians	11.50	4%	7%		.5%
Glaziers	12.39				
Ironworkers:					
East ½ of Co.:					
Ornamental; Structural	11.48	.90	1.05		.03
Reinforcing	10.63	.90	1.85		.02
Lathers	10.88	.61	.35		.04
Plumbers; Steamfitters	11.60	.50	.30		.05
Roofers:					
Composition & waterproof	10.78	.50	.50		
Slate, tile, asbestos & precast slab	11.03	.50	.50		
Helpers	9.28	.50	.50		

DECISION NO. IN77-2009 - Mod #3
(42 FR 8910 - February 11, 1977)
Clark, Floyd, & Harrison Counties, Indiana

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Electricians	11.60	.50	3%+.40		½%
Plumbers; Steamfitters	12.05	.50	1.00	a	.02

DECISION NO. IN77-2016 - Mod. #3
(42 FR 8915 - February 11, 1977)
Boone, Hamilton, Hancock, Hendricks, Johnson, Madison, Morgan, & Shelby Counties, Indiana

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Bricklayers:					
Boone, Hancock, Hendricks, Johnson, & Morgan Cos.	$11.14	.40	.35		.06
Carpenters:					
Boone, Hamilton, Hancock, Hendricks, Johnson (excl. city of Edinburgh), Morgan, & Shelby (Twps. of Moral, Van Buren, & Camp Atterbury Area) Cos.:					
Carpenters; Millwrights	11.45	.70	.60		.08
Electricians	11.50	4%	7%		.5%
Glaziers	12.39				
Ironworkers:					
Boone Co. (NW ¼)	10.34	.90	1.25		.02
Lathers:					
Boone (SE ¼), Hamilton, Hendricks, Johnson, Madison, Morgan, & Shelby Cos.	10.88	.61	.35		.04
Plumbers; Steamfitters:					
Madison Co.	11.25	.50	.55	c	.15
Roofers:					
Remaining Cos.:					
Composition & waterproof	10.78	.50	.50		
Slate, tile, asbestos & precast slab	11.03	.50	.50		
Helpers	9.28	.50	.50		
Power equipment operators:					
Remaining Counties:					
Group 1	11.00	.40	.55		.08
Group 2	10.15	.40	.55		.08
Group 3	8.80	.40	.55		.08
Group 4	7.90	.40	.55		.08

MODIFICATIONS P. 15

DECISION NO. IN77-2017 - Mod. #4
(42 FR 8920 - February 11, 1977)
Adams, Blackford, Dekalb, Huntington, Jay, Noble, Steuben, Wabash, Wells, & Whitley Counties, Indiana

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Asbestos workers	$12.30	.50	.75		
Electricians:					
Adams, Dekalb, Huntington, Noble, Steuben, Wells, & Whitley Cos.	11.30	.40	3%+.30		.06
Blackford & Jay Cos.	11.00	.40	3%+.30		.2%
Wabash Co.	10.75	.40	3%+.30		.2%
Ironworkers	11.20	.90	1.20		.02
Lathers:					
Blackford & Jay Cos.	9.15		.35		.01
Painters:					
Adams, Dekalb, Huntington, Noble, Steuben, Wabash, Wells (excl. area to the south city limits of Bluffton), & Whitley Cos.:					
Brush; Paperhangers; Rollers; & Tapers	8.60	.42	.45		.10
Sandblasters; Spray; Steam cleaning & pressure water blasting	9.60	.42	.45		.10
Plasterers:					
Blackford, Huntington, Jay, Wabash, & Wells Cos.	9.65	.75			.01
Plumbers; Steamfitters:					
Adams, Dekalb, Huntington, Noble, Steuben, Wells, & Whitley Cos.	11.35	.45	.75		.07
Jay Co.	11.25	.50	.55	f	.15
Tile setters:					
Wabash Co.	9.60	.75	.80		.04
Power equipment operators:					
Remaining Counties:					
Group 1	11.00	.40	.55		.08
Group 2	10.15	.40	.55		.08
Group 3	8.80	.40	.55		.08
Group 4	7.90	.40	.55		.08

MODIFICATIONS P. 16

DECISION NO. IN77-2082 - Mod. #3
(42 FR 24588 - May 13, 1977)
Lake, LaPorte, Porter, & St. Joseph Counties, Indiana

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Asbestos workers:					
Lake & Porter Cos.	$11.51	.81	.72		.12
Bricklayers:					
Lake, LaPorte, & Porter Cos.:					
Bricklayers; Marble setters & stonemasons	11.85	.75	.55		.05
St. Joseph Co.:					
Bricklayers; Stonemasons	10.76	1.00	.65		.06
Marble setters; Terrazzo workers; & Tile setters	9.10	1.00	.65	a	.01
Carpenters:					
St. Joseph Co.:					
Building construction: Carpenters; Millwrights; Piledrivermen; Soft floor layers	10.25	.55	.65		.08
Cement masons:					
Building construction:					
Lake Co. (Hammond Area)	11.42	.90	.60		.03
LaPorte Co.; Porter Co. (Eastern ½ of Co.)	10.95	.90	1.00		.06
Electricians:					
Lake Co.	11.40	5%	8.3%		.7%
LaPorte & Porter Cos.	11.40	3½%	7½%		.2%
St. Joseph Co.	11.25	4.8%	7%		.2%
Ironworkers:					
LaPorte (Rem. of Co.), & St. Joseph Cos.	10.55	.90	1.33		.03
Lathers:					
Lake & Porter Cos.	11.19		.40		
Plasterers:					
Lake Co. (Hammond Area)	10.21	.90	.60		.01
LaPorte, Porter (Eastern ½ west to, but not incl. Chesterton) Cos.	10.87	.90	1.00		.06
Plumbers:					
LaPorte Co. (Michigan City, Trail Creek, & Long Beach)	12.37	.50	.60		.02

DECISION NO. IN77-2082 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Truck drivers:					
Lake & Porter Cos.:					
2 to 3 axles	$8.70	28.00e	22.00e	.45	
4 axles	8.90	28.00e	22.00e	.45	
5 axles	9.10	28.00e	22.00e	.45	
6 axles	9.30	28.00e	22.00e	.45	
DECISION NO. IN77-2084 - Mod. #3 (42 FR 24555 - May 13, 1977)					
Brown, Crawford, Jackson, Jefferson, Jennings, Lawrence, Orange, Scott, Switzerland, & Washington Counties, Indiana					
Change:					
Asbestos workers:					
Switzerland Co.	$12.46	.60	.85		.02
Bricklayers; Stonemasons:					
Crawford Co.	9.19	.85	.50		
Electricians:					
Brown Co.	10.75	.40	3%+.50		.01
Crawford, Lawrence, & Orange Cos.	11.65	.40	3%		½%
Jackson, Jefferson, Scott, & Washington Cos.	11.60	.50	3%+.40		½%
Jennings Co.	11.50	4%	7%		½%
Switzerland Co.:					
Up to & incl. 18 mi. radius from Hamilton Co. Court House, Cincinnati, Ohio	11.85	.70	3%+.40		.5%
Over 18 mi. radius up to & incl. 21 mi. radius from Hamilton Co. Court House, Cincinnati, Ohio	12.15	.70	3%+.40		.5%
Over 21 mi. radius up to & incl. 25 mi. radius from Hamilton Co. Court House, Cincinnati, Ohio	12.25	.70	3%+.40		.5%
Over 25 mi. radius from Hamilton Co. Court House, Cincinnati, Ohio	12.40	.70	3%+.40		.5%

DECISION NO. IN77-2084 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Glaziers:					
Brown, Jackson (No. of #50), Jennings (Except from North Vernon, s/w to the corner of Jennings Co.), & Lawrence (No. of #54)	$12.39				
Ironworkers:					
Switzerland Co.:					
Ornamental; Structural	11.48	.90	1.05		.03
Reinforcing	10.63	.90	1.85		.02
Lathers:					
Brown, & Jackson Cos.	10.88	.61	.35		.04
Switzerland Co.	12.52		.25		.025
Plumbers; Steamfitters:					
Crawford, Jefferson, Scott, & Switzerland Cos.	12.05	.50	1.00	c	.02
Jennings Co.	11.60	.50	.30		.05
Roofers:					
Brown, Jackson, Jennings, & Lawrence Cos.:					
Composition & waterproof	10.78	.50	.50		
Slate, tile, asbestos & precast slab	11.03	.50	.50		
Helpers	9.28	.50	.50		
Switzerland Co.	12.32		.85		.01
Power equipment operators:					
Brown Co.:					
Group 1	11.00	.40	.55		.08
Group 2	10.15	.40	.55		.08
Group 3	8.80	.40	.55		.08
Group 4	7.90	.40	.55		.08
Omit:					
Laborers' schedule					
Add:					
Laborers' schedule					

DECISION NO. IN77-2084 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
GROUP I	$7.40	.60	.45		.09
GROUP II	7.60	.60	.45		.09
GROUP III	7.70	.60	.45		.09
GROUP IV	8.40	.60	.45		.09

LABORERS

GROUP I: Building & Construction laborers; Scaffold builders (other than for masons or plasterers); Ironworker helpers; Mechanic tenders; Civil engineer helpers & surveyor helpers; Rodmen & Chainmen; Window washers & cleaners; Waterboys & Toolhousemen; Roofer's helpers; Railroad workers; Masonry wall washers (interior & exterior); Cement finisher helpers; Carpenter helpers; Helpers of all other crafts not listed; Mason tenders for Areas I, IA, IB, and Counties of Adams, Allen, DeKalb, Steuben, Huntington, Noble, Wabash, Wells, & Whitley; All portable water pumps with discharge up to 3 inches

GROUP II: Waterproofing; Handling of creosote lumber or like treated material (excluding railroad material); Asphalt rakers & lutmen; Kettlemen; Air tool operators, vibrators, chipping hammer operators and all pneumatic tool operators; Earth compactors; Jackmen & sheetmen working ditches deeper than 6 ft. in depth; Laborers working ditches 6 ft. in depth or deeper; Assembly of Unicrete pump; Chain saw operators; Tile layers (sewer or field) & sewer pipe layers (metallic or non-metallic); Motor driven wheelbarrows & concrete buggies; Hyster operators; Pump crete assemblers; Conveyor assemblers; Core drill operators; Cement, lime or silica Clay handlers (bulk or bag); Handling of toxic materials damaging to clothing; Pneumatic spikers; Deck engine & winch operators; Water main & cable ducking (metallic & non-metallic)

GROUP III: Plasterers' tenders; Mason tenders, except for Areas I, IA, IB, and Counties of Adams, Allen, DeKalb, Steuben, Huntington, Noble, Wabash, Wells, & Whitley; Mortar mixers; Welders (acetylene or electric); Cutting torch or burner; Cement nozzle laborers; Cement gun operators; Scaffold builders when working for plasterers; Scaffold builders when working for masons (except in Areas I, IA, IB, and Counties of Adams, Allen, DeKalb, Steuben, Huntington, Noble, Wabash, Wells, & Whitley)

GROUP IV: Dynamite men

DECISION NO. IN77-2085 - Mod #3
(42 FR 24562 - May 13, 1977)
Fayette, Franklin, Henry, Ohio, Randolph, Ripley, Rush, Union, & Wayne Counties, Indiana

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Asbestos workers:					
Fayette, Franklin, Ohio, Ripley, & Union Cos.	12.46	.60	.85		.02
Electricians:					
Fayette, Franklin, Henry, Randolph, Union, & Wayne Cos.	11.00	.40	3%+.30		.2%
Ohio Co.:					
Up to & incl. 18 mi. radius from Hamilton Co. Court House in Cincinnati, Ohio	11.85	.70	3%+.40		.5%
Over 18 mi. radius up to & incl. 21 mi. radius from Hamilton Co. Court House in Cincinnati, Ohio	12.15	.70	3%+.40		.5%
Over 21 mi. radius up to & incl. 25 mi. radius from Hamilton Co. Court House in Cincinnati, Ohio	12.25	.70	3%+.40		.5%
Over 25 mi. radius from Hamilton Co. Court House in Cincinnati, Ohio	12.40	.70	3%+.40		.5%
Glaziers:					
Fayette, Henry, Randolph, Rush, Union (N/W ¼ of Co.), & Wayne Cos.	12.39				
Ironworkers:					
Fayette (Part of Co.), Franklin, Ohio, & Ripley Cos.:					
Ornamental; Structural	11.48	.90	1.05		.03
Reinforcing	10.63	.90	1.85		.02
Randolph Co. (Rem. of Co.)	11.20	.90	1.20		.02
Lathers:					
Franklin, Ohio, Ripley, & Union Cos.	12.52		.25		.025
Rush Co.	10.88	.61	.35		.04
Plasterers:					
Randolph Co.	9.65	.75			.01

DECISION NO. IN77-2085 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Plumbers; Steamfitters:					
Fayette, Franklin, Henry, Randolph, Rush, Union, & Wayne Cos.	$11.25	.50	.55	c	.15
Roofers:					
Fayette, Franklin, Rush, Union, & Wayne Cos.:					
Composition & waterproof	10.78	.50	.50		
Slate, tile, asbestos & precast slab	11.03	.50	.50		
Helpers	9.28	.50	.50		
Ohio & Ripley Cos.	12.32		.85		.01
Power equipment operators:					
Fayette, Henry, Randolph, Rush, Union, & Wayne Cos.:					
Group 1	11.00	.40	.55		.08
Group 2	10.15	.40	.55		.08
Group 3	8.80	.40	.55		.08
Group 4	7.90	.40	.55		.08

DECISION NO. IN77-2101 - Mod. #1
(42 FR 32460 - June 24, 1977)
Allen, Bartholomew, Benton, Dearborn, Delaware, Grant, Marion, Monroe, Tippecanoe, Vanderburgh, & Vigo Counties, Indiana

Change:

Asbestos workers:					
Allen & Grant Cos.	12.30	.50	.75		
Dearborn Co.	12.46	.60	.85		.02
Bricklayers; Marble setters; Stonemasons; Terrazzo workers; & Tile setters:					
Benton & Tippecanoe Cos.:					
Bricklayers; Marble setters; & Stonemasons	10.19	.48	.60		.02
Terrazzo workers & tile setters	10.19	.48	.60		.02
Marion Co.:					
Bricklayers; Stonemasons	11.14	.40	.35		.06

DECISION NO. IN77-2101 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Vigo Co.:					
Bricklayers; Stonemasons	$11.15	.40	.70		.01
Marble setters; Terrazzo workers; & Tile setters	10.75	.40	.70		.01
Carpenters; Millwrights; Piledrivermen; & Soft floor layers:					
Bartholomew Co. (Camp Atterbury) & Marion Co.:					
Carpenters; Millwrights	11.45	.70	.60		.08
Benton & Tippecanoe Cos.:					
Carpenters; Piledrivermen; & Soft floor layers	9.86	.60	.40		.02
Millwrights	10.21	.60	.40		.02
Vigo Co.:					
Carpenters & Soft floor layers	10.03	.45	.70		.02
Millwrights	11.45	.70	.60		.08
Piledrivermen	10.28	.45	.70		.02
Electricians:					
Allen Co.	11.30	.40	3%+.30		.06
Bartholomew & Marion Cos.	11.50	4%	7%		.5%
Benton & Tippecanoe Cos.	10.80	.40	3%		1%
Dearborn Co.:					
Up to & incl. 18 mi. radius from Hamilton Co., Ohio Court House	11.85	.70	3%+.40		.5%
Over 18 mi. radius up to & incl. 21 mi. radius from Hamilton Co., Ohio Court House	12.15	.70	3%+.40		.5%
Over 21 mi. radius up to & incl. 25 mi. radius from Hamilton Co., Ohio Court House	12.25	.70	3%+.40		.5%
Over 25 mi. radius from Hamilton Co., Ohio Court House	12.40	.70	3%+.40		.5%

MODIFICATIONS P. 23

DECISION NO. IN77-2101 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Delaware					
Delaware Co.	$11.00	.40	3%+.30		.2%
Grant Co.	10.75	.40	3%+.30		.2%
Monroe Co.	10.75	.40	3%+.50		.01
Vanderburgh Co.	11.65	.40	3%		½%
Vigo Co.	11.35	.40	3%+.50		.01
Glaziers:					
Bartholomew, Delaware, M Marion, Monroe, Tippecanoe, & Vigo Cos.	12.39				
Ironworkers:					
Allen, Delaware (North-eastern 1/3 of Co.), Grant (excluding s/w portion) Cos.	11.20	.90	1.20		.02
Benton & Tippecanoe Cos.	10.34	.90	1.25		.02
Dearborn Co.:					
Ornamental; Structural	11.48	.90	1.05		.03
Reinforcing	10.63	.90	1.85		.02
Vigo Co.	10.60	.90	1.90		.10
Lathers:					
Bartholomew, Marion, Monroe, & Vigo Cos.	10.88	.61	.35		.04
Dearborn Co.	12.52		.25		.025
Painters:					
Allen & Grant Cos.:					
Brush; Paperhangers; Rollers; & Tapers	8.60	.42	.45		.10
Sandblasters; Spray	9.60	.42	.45		.10
Benton & Tippecanoe Cos.:					
Brush	9.85				
Structural steel	10.10				
Sandblasting	10.85				
Spray	13.12				
Plasterers:					
Delaware & Grant Cos.	9.65	.75			.01
Plumbers; Steamfitters:					
Allen Co.	11.35	.45	.75		.07
Bartholomew (excluding Camp Atterbury) Co.	11.60	.50	.30		.05
Delaware Co.	11.25	.50	.55	g	.15

MODIFICATIONS P. 24

DECISION NO. IN77-2101 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Roofers:					
Bartholomew, Marion, & Monroe Cos.:					
Composition; Waterproofers	$10.78	.50	.50		
Slate, tile, asbestos, & precast slab	11.03	.50	.50		
Helpers	9.28	.50	.50		
Benton & Tippecanoe Cos.:					
Composition	10.60	.50	.28		
Slate, tile, & asbestos	10.85	.50	.28		
Dearborn Co.	12.32		.85		.01
Vigo Co.:					
Roofers; Kettlemen	9.70	.40	.20		
Power equipment operators:					
Allen, Benton, Delaware, Grant, Marion, & Tippecanoe Counties:					
Group 1	11.00	.40	.55		.08
Group 2	10.15	.40	.55		.08
Group 3	8.80	.40	.55		.08
Group 4	7.90	.40	.55		.08
Line Construction:					
Vanderburgh County:					
Linemen; Line truck ops.; Hole digger; Stool handling cable splicer	11.65	.40	3%		
Groundman	10.29	.40	3%		
Truck driver	10.60	.40	3%		

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #MD77-3021 - Mod. #3 (42 FR-3153 - January 14, 1977) Allegany & Garrett Counties, Maryland					
Change:					
Electricians - Allegany County	$10.15	.50	3% + .25		1%
Electricians - Garrett County	10.55	.50	3% + .25		1%
Truck Drivers - Heavy & Highway Construction:					
Group 1	7.79	.70	.80		
Group 2	7.94	.70	.80		
Group 3	8.14	.70	.80		
Group 4	8.34	.70	.80		
Group 5	8.57	.70	.80		
DECISION #MD77-3077 - Mod. #3 (42 FR-28760 - June 3, 1977) Counties of Anne Arundel (excluding the D.C. Training School), Baltimore, Harford, Howard, and Baltimore City, Maryland					
Omit:					
Harford County for building construction only					

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #MI77-2053 - Mod. #3 (42 FR 23377 - May 6, 1977) Allegan, Berrien, Calhoun, Clinton, Eaton, Ingham, Jackson & Kalamazoo Counties, Michigan					
CHANGE:					
Electricians:					
Calhoun County; Sunfield, Vermontville, Kalamo, Bellevue Eaton & Brookfield Twps, in Eaton County	$11.42	.40	6%		.01
Plumbers:					
Allegan County (Remainder) & Kalamazoo County	11.71	.60	.86		
Calhoun Co; & Bellevue, Olivet, Hastings & Charlotte in Eaton County	11.19	1.30	.63		
Berrien County (except City of Niles & Vicinity)	11.46	.84	.60		
City of Niles & Vicinity in Berrien County	10.60	.48	.80		.10
Jackson County	11.20	.87+.30	.80		.02
Truck Drivers:					
Calhoun County:					
Less Than 8 cubic yards	7.95	a21.00	a12.00	.20	
8 cubic yards & Over - Semi-Tanden	8.05	a21.00	a12.00	.20	

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #MI77-2054 - Mod. #3 (42 FR 23384 - May 6, 1977) Bay, Genesee, Huron, Iosco, Lapeer, Saginaw, St. Clair, Sanilac, Shiawassee & Tuscola Counties, Michigan					
CHANGE:					
Carpenters:					
Remainder of Counties & the West 5 miles of Sanilac County:					
Carpenters & Piledrivermen	$10.24	.60	.60		.01
Soft Floor Layers	9.38	.60	.50		.01
Electricians:					
Bay County & Southern ½ of Iosco County	12.45	.40	3%+.30		.5%
Plumbers & Steamfitters:					
Bay & Iosco Cos; N. ½ of Tuscola & the N.W. ½ of Huron (running from Port Autin south to Sanilac County Line)	10.74	.75	.50	1.60	
Saginaw & S. ½ of Tuscola (incl. Carco, Washjamerga & South to Lapeer County Line)	10.33	.79	1.02		.01
Sheet Metal Workers:					
Bay, Iosco, Huron, Saginaw & Tuscola Counties	11.11	.75	1.00		.03
DECISION #MI77-2055 - Mod. #3 (42 FR 24614 - May 13, 1977) Genesee, Lapeer, Saginaw, St. Clair & Shiawassee Counties, Michigan					
CHANGE:					
Plumbers:					
Saginaw County	10.33	.79	1.02		.01
Sheet Metal Workers:					
Saginaw County	11.11	.75	1.00		.03

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #MI77-2071 - Mod. #3 (42 FR 28763 - June 3, 1977) Macomb, Monroe, Oakland, Washtenaw & Wayne Counties, Michigan					
CHANGE:					
Bricklayers & Stonemasons:					
Washtenaw County	$13.33		1.00		
Cement Masons:					
Washtenaw County	13.13		1.00		
Marble Masons:					
Washtenaw County	13.33		1.00		
Plasterers:					
Washtenaw County	13.33		1.00		
Tile & Terrazzo Workers:					
Washtenaw County	13.33		1.00		
Plumbers & Steamfitters:					
Washtenaw County	10.86	.85+.15	.75		.10
Remainder of Counties:					
Pipefitters	10.55	1.55	1.30	1.35	.05
Roofers:					
Washtenaw County:					
Composition	10.50	.85	.50	1.05	.10
Slate & Tile	11.25	.85	.50	1.05	.10
ADD:					
Under Laborers - Building & Heavy Construction					
Residential Construction					

DECISION NO. #NV77-5072 - Mod. #1
(42 FR 35562 - July 8, 1977)
Nevada Test Site including Tonopah Test Range in Clark and Nye Counties, Nevada

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Brick Tenders	$10.02	.66	$1.35		
Cement Masons:					
Cement Masons	8.85	1.00	.70	2.00	.08
Floor Finishing Machine	9.20	1.00	.70	2.00	.08
Electricians:					
Electricians; Equipment Operators; Linemen	13.22	.73	1% + 1.30		.05
Cable Splicers	13.55	.73	1% + 1.30		.05
Groundman	80%JR	.73	1% + 1.30		.05
Painters:					
Brush; Roller	9.56	.75	.60	1.50	.06
Paperhangers; Spray; Steel; Sandblasters; Swing Stage; Tapers; Buffing; Sandblasters, Steel	9.91	.75	.60	1.50	.06
Power Equipment Operators: (Except Piledriving and Steel Erection)					
Group 7	9.56	.95	2.00	.30	
Group 7-A	9.27	.95	2.00	.30	
Group 7-B	9.16	.95	2.00	.30	
Group 7-C	8.92	.95	2.00	.30	
Roofers	13.25	.65			
Truck Drivers:					
Group 1	10.29	.42	.75		
Group 2	10.40	.42	.75		
Group 3	10.45	.42	.75		
Group 4	10.61	.42	.75		
Group 5	10.79	.42	.75		

DECISION #NV77-5061 - Mod. #3
(42 FR 31074 - June 17, 1977)
Clark County (does not include the Nevada Test Site), Nevada

Change:					
Brick Tenders	$10.02	.66	$1.35		
Roofers	13.25	.65			
Truck Drivers:					
Group 1	9.97	.51	.70		
Group 2	10.08	.51	.70		
Group 3	10.13	.51	.70		
Group 4	10.29	.51	.70		
Group 5	10.47	.51	.70		
Group 6	10.97	.51	.70		

DECISION NO. NM77-4116 - Mod. #4
(42 FR 31094 - June 17, 1977)
Statewide, New Mexico

	Basic[1] Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
LATHERS (ZONE 1)	$9.105	.57			.02

CHANGE - LABORERS CLASSIFICATION DEFINITIONS FOR BUILDING, HEAVY CONSTRUCTION AND RESIDENTIAL CONSTRUCTION GROUP II AND GROUP III TO READ AS FOLLOWS:

GROUP II
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.

GROUP III
Wagon core, diamond drillers

DECISION #NJ77-3093 - Mod. #1	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
(42 FR-35567 - July 8, 1977) Bergen, Essex, Hudson, Hunterdon, Middlesex, Morris, Passaic, Somerset, Sussex, Union, & Warren Counties, New Jersey					
Add:					
Power Equipment Operators:					
Group 9 - Field engineer: Party chief	$11.27	7%	15%	h	3%
Group 15 - Field engineer: transit/instrument man	9.95	7%	15%	h	3%
Group 16 - Field engineer: rodman/chainman	7.97	7%	15%	h	3%
Change:					
Electicians & Cable splicers:					
Zone 3	13.30	6%	3% + .55		.02
Zone 12	13.53	6%	3% + .55		.02
Zone 14	11.20	6%	3% +1.00		.02
Laborers - Building construction:					
Zone 17	8.15	.60	.45		.02
Lathers	10.90	.15	.40		.02
Line Construction:					
Zone 2:					
Linemen & Equipment operators	13.33	6%	8%		
Cable splicers	14.41	6%	8%		
Groundmen	9.33	6%	8%		
Zone 5:					
Linemen, Cable splicers, Line equipment operators, & Groundmen	12.95	6%	3% + .50		
Zone 8:					
Linemen & Equipment operators	13.14	6%	3% + .55		
Groundmen & Winch operators	11.28	6%	3% + .55		
Zone 9:					
Linemen & Equipment operators	13.14	6%	3% + .60		
Groundmen & Line truck operators	11.28	6%	3% + .60		
Zone 11:					
Linemen & Equipment operators	12.85	6%	3% + .55		
Groundmen & Winch operators	12.00	6%	3% + .55		

DECISION #NJ77-3093 - Mod. #1 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Line Construction:					
Zone 13:					
Linemen, Line truck operators, Equipment operators, & Cable splicers	$11.20	6%	3% + 1.00		½ of 1%
Groundmen	6.67	6%	3% + 1.00		½ of 1%
Painters:					
ZONE 3					
Painters on new construction and major alterations	9.85	.70	.55	.30	.05
Painters on repaint work	8.90	.70	.55	.30	.05
Spraying or application of hazardous or dangerous materials on repaint work	9.50	.70	.55	.30	.05
Exterior work exceeding 3 stories in height for painting of open structural steel and tanks under 3 stories in height except flat tanks on the ground and on interior work which requires painting higher than 20' above the ground or floor (this shall not be applicable to machinery or equipment located therein)	10.00	.70	.55	.30	.05
Repaint work as described above	9.05	.70	.55	.30	.05
On bridges, television and radio towers, structural steel and tanks above 3 stories in height (30' or over), smoke stacks, water towers, sandblasting, steam-cleaning, spraying or application of hazardous materials	10.45	.70	.55	.30	.05

DECISION #NJ77-77-3093 - Mod. #1 (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Plumbers:					
Zone 4	$11.51	.65	1.00	.85	.16
Plumbers & Steamfitters:					
Zone 2	11.67	.65	1.00	.75	.10
Zone 8					
Steamfitters	11.25	.78	1.01	1.13	.06
Sprinkler fitters:					
Zone 1	12.58	.65	.95		.07
Marblesetters, Terrazzo workers, & Tilesetters' finishers:					
Zone 1					
Terrazzo workers finishers	9.49	.76	1.95		

DECISION #ND77-5062 - Mod. #2
(42 FR 30125 - June 10, 1977)
Burleigh, Cass, Grand Fork, Morton, Richland, Steele, Walsh and Ward Cos., North Dakota

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
ELECTRICIANS:					
Cass, Grand Forks, Richland and Steele Counties					
Zone mileage from main P.O. in the Cities of Grand Forks, Valley City, Fargo and West Fargo					
Zone (A) Within 0-15 miles of each main P.O.					
Electricians	$9.97	.40	3%	6%	1½%
Cable Splicers	10.45	.40	3%	6%	1½%
Zone (B) Within 15-30 miles of each main P.O.					
Electricians	10.57	.40	3%	6%	1½%
Cable Splicers	11.18	.40	3%	6%	1½%
Zone (C) Over 30 miles of each main P.O.					
Electricians	11.65	.40	3%	6%	1½%
Cable Splicers	11.95	.40	3%	6%	1½%
Burleigh, Morton abd Ward Cos.					
Zone mileage from main P.O. in the Cities of Minot, Bismarck and Mandan					
Zone (A) within 0-25 miles of each main P.O.					
Electricians	10.00	.40	3%	6%	1½%
Cable Splicers	10.40	.40	3%	6%	1½%
Zone (B) Over 25 miles from main P.O.					
Electricians	11.75	.40	3%	6%	1½%
Cable Splicers	12.15	.40	3%	6%	1½%
IRONWORKERS:					
Structural; Ornamental; Reinforcing	10.35	.52	.70		.05
PLUMBERS:					
Burleigh and Morton Counties	11.40	.40	.55		.02

DECISION NO77-5062 (CONT'D)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS:					
Cass and Richland Counties	$8.30				
SHEET METAL WORKERS:					
Burleigh, Grand Fork, Morton, Steele and Ward Counties	10.60		.20		

DECISION NO. OK77-4150 - Mod. #2
(42 FR 34228 - July 1, 1977)
Comanche County, Oklahoma

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
ROOFERS	$ 9.15	.60	.25		.04
IRONWORKERS	10.10	.45	.60		.12
PLUMBERS-PIPEFITTERS	10.97	.50	.85		.10
TERRAZZO WORKERS	10.05		.30		
TILE LAYERS	10.05		.30		
MARBLE SETTERS	10.05		.30		

CHANGE POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS TO READ AS FOLLOWS:

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP I

All crane type equipment with 250' of boom or over (including jib)

GROUP II

All crane type equipment with 200' of boom or over (including jib)

GROUP III

All crane type equipment with 150 - 200' of boom (including jib)

GROUP IV

All crane type equipment with 100 - 150' of boom (including jib), all tower cranes and all crane type equipment of 3 cu. yd. or more (as rated by mfg), sideboom (booms (30' & over), guy derrick

GROUP V

Heavy duty mechanic, welder, crane-hood & overhead monorail, whirley, panel board, batch plant operator, piledriver engineer, dragline, shovel, clamshell, backhoe (3/4 yd & over); sideboom (under 30'), gradeall, hydro crane, cherry picker, hoist while operating 2 or more drums, hoists while doing stacks & chimney work (1 or 2 drums), power driven hole digger (with 30' and longer mast)

GROUP VI

Motor patrol (blade), fork lift (35' & over), dozer (engine h.p. 65 or over) fordson tractor or like equipment with hoe or loader equipment of ditcher, scraper type equipment, tournapull, DW 10, 15, 16, 20, 21 and similar rubber tired equipment, euclid, TS-24 and similar, loader operator or Hi-lift (engine h.p. 65 or over), asphalt lay machine, tail boom, conveyor-multiple, panel board control, powder driven hole digger with less than 30' mast, trenching machine, concrete pump-boom type - Engineers for machine not listed under the above classifications shall receive the scale comparable to these classifications

DECISION NO. OK77-4150

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS (CONT'D)

GROUP VII

Locomotive engineer, boring machine, tug boat, mixer, 18 cu. ft. and over, sand barge, dredging machine, tugger, hoist - when operating one drum, welding machine, 3 to 6, air compressor, 3 to 5, 500 cu. ft. & under, air compressor, over 500 cu. ft. (1) pumps, Battery, 3 to 6, fork-lift, bobcat and similar equipment, generator plant engineer, diesel elec., winch truck with A-frame, roller, all types, outside elevator or building type of personnel, hoist, concrete buster or tamper, heaters under jurisdiction of Operating Engineers, fireman, boiler operator, crushing plants, oiler distributor, pulvimixer, farmer tractor with or without attachments, batch plant operator (portable), conveyor-operator duel, continuous or belt bulk handling, screed operator, concrete pump, form grader, screening plant, well point pump operator, signal man on large whirleys when and if required, operator for rotary drilling machines when operated from console or machines -- Engineers for machines not listed under the above classifications shall receive the scale comparable to those classifications

GROUP VIII

Greaser, tilt top trailer operator

GROUP IX

Permanent elevator - building type (automatic), concrete mixer, with hopper less than 18 cu. ft., air compressor, 500 cu. ft., and under (1 or 2), welding machine (1 or 2) pump (1 or 2), fuelman, conveyor operator-single-continuous belt bulk handling

GROUP X

Asphalt lay machine back end man, mechanic helper and welder helper

GROUP XI

Truck crane oiler driver or track crane oiler

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
POWER EQUIPMENT OPERATORS:					
Group I	$10.75	.45	.50		.12
Group II	10.50	.45	.50		.12
Group III	10.25	.45	.50		.12
Group IV	10.00	.45	.50		.12
Group V	9.75	.45	.50		.12
Group VI	9.50	.45	.50		.12
Group VII	9.25	.45	.50		.12
Group VIII	8.85	.45	.50		.12
Group IX	8.50	.45	.50		.12
Group X	8.50	.45	.50		.12
ADD:					
POWER EQUIPMENT OPERATORS:					
Group XI	8.25	.45	.50		.12

DECISION NO. OK77-4163 - Mod. #1
(42 FR 36764 - July 15, 1977)
Garfield County, Oklahoma

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
ELECTRICIANS:					
Zone I	$10.05	.50	3%+.50		1/2%
Zone II	10.30	.50	3%+.50		1/2%
Zone III	10.55	.50	3%+.50		1/2%
CABLE SPLICERS:					
Zone I	10.30	.50	3%+.50		1/2%
Zone II	10.55	.50	3%+.50		1/2%
Zone III	10.80	.50	3%+.50		1/2%
IRONWORKERS	10.10	.45	.65		.12
ROOFERS	9.15	.60	.25		.04
SHEET METAL WORKERS	10.38	.45	.40		.05

CHANGE POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS TO READ AS FOLLOWS:

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP I

All crane type equipment with 250' of boom or over (including jib)

GROUP II

All crane type equipment with 200' of boom or over (including jib)

GROUP III

All crane type equipment with 150 - 200' of boom (including jib)

GROUP IV

All crane type equipment with 100 - 150' of boom (including jib), all tower cranes and all crane type equipment of 3 cu. yd. or more (as rated by mfg), sideboom (booms (30' & over), guy derrick

GROUP V

Heavy duty mechanic, welder, crane-hood & overhead monorail, whirley, panel board, batch plant operator, piledriver engineer, dragline, shovel, clamshell, backhoe (3/4 yd & over); sideboom (under 30'), gradeall, hydro crane, cherry picker, hoist while operating 2 or more drums, hoists while doing stacks & chimney work (1 or 2 drums), power driven hole digger (with 30' and longer mast)

GROUP VI

Motor patrol (blade), fork lift (35' & over), dozer (engine h.p. 65 or over) fordson tractor or like equipment with hoe or loader equipment of ditcher, scraper type equipment, tournapull, DW 10, 15, 16, 20, 21 and similar rubber tired equipment, euclid, TS-24 and similar, loader operator or Hi-lift (engine h.p. 65 or over), asphalt lay machine, tail boom, conveyor-multiple, panel board control, powder driven hole digger with less than 30' mast, trenching machine, concrete pump-boom type - Engineers for machine not listed under the above classifications shall receive the scale comparable to these classifications

DECISION NO. OK77-4163 - Mod. #1

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS (CONT'D)

GROUP VII
Locomotive engineer, boring machine, tug boat, mixer, 18 cu. ft. and over, sand barge, dredging machine, tugger, hoist - when operating one drum, welding machine, 3 to 6, air compressor, 3 to 5, 500 cu. ft. & under, air compressor, over 500 cu. ft. (1) pumps, Battery, 3 to 6, fork-lift, bobcat and similar equipment, generator plant engineer, diesel elec., winch truck with A-frame, roller, all types, outside elevator or building type of personnel, hoist, concrete buster or tamper, heaters under jurisdiction of Operating Engineers, fireman, boiler operator, crushing plants, oiler distributor, pulvimixer, farmer tractor with or without attachments, batch plant operator (portable), conveyor-operator duel, continuous or belt bulk handling, screed operator, concrete pump, form grader, screening plant, well point pump operator, signal man on large whirleys when and if required, operator for rotary drilling machines when operated from console or machines -- Engineers for machines not listed under the above classifications shall receive the scale comparable to those classifications

GROUP VIII
Greaser, tilt top trailer operator

GROUP IX
Permanent elevator - building type (automatic), concrete mixer, with bopper less than 18 cu. ft., air compressor, 500 cu. ft., and under (1 or 2), welding machine (1 or 2) pump (1 or 2), fuelman, conveyor operator-single-continuous belt bulk handling

GROUP X
Asphalt lay machine back end man, mechanic helper and welder helper

GROUP XI
Truck crane oiler driver or track crane oiler

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
POWER EQUIPMENT OPERATORS:					
Group I	$10.75	.45	.50		.12
Group II	10.50	.45	.50		.12
Group III	10.25	.45	.50		.12
Group IV	10.00	.45	.50		.12
Group V	9.75	.45	.50		.12
Group VI	9.50	.45	.50		.12
Group VII	9.25	.45	.50		.12
Group VIII	8.85	.45	.50		.12
Group IX	8.50	.45	.50		.12
Group X	8.50	.45	.50		.12
MARBLE SETTERS	10.05		.30		
TERRAZZO WORKERS	10.05		.30		
TILE LAYERS	10.05		.30		
ADD:					
POWER EQUIPMENT OPERATORS: Group XI	8.25	.45	.50		.12

DECISION NO. OK77-4164 - Mod. #1
(42 FR 36766 July 15, 1977)
Muskogee, Adair and Cherokee Counties, Oklahoma

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
TERRAZZO WORKERS	$ 9.90		.30		
TILE LAYERS	9.90		.30		
ROOFERS	9.15	.60	.25		.04
IRONWORKERS	10.10	.45	.65		.12

CHANGE POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS TO READ AS FOLLOWS:

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP I
All crane type equipment with 250' of boom or over (including jib)

GROUP II
All crane type equipment with 200' of boom or over (including jib)

GROUP III
All crane type equipment with 150 - 200' of boom (including jib)

GROUP IV
All crane type equipment with 100 - 150' of boom (including jib), all tower cranes and all crane type equipment of 3 cu. yd. or more (as rated by mfg), sideboom (booms (30' & over), guy derrick

GROUP V
Heavy duty mechanic, welder, crane-hood & overhead monorail, whirley, panel board, batch plant operator, piledriver engineer, dragline, shovel, clamshell, backhoe (3/4 yd & over); sideboom (under 30'), gradeall, hydro crane, cherry picker, hoist while operating 2 or more drums, hoists while doing stacks & chimney work (1 or 2 drums), power driven hole digger (with 30' and longer mast)

GROUP VI
Motor patrol (blade), fork lift (35' & over), dozer (engine h.p. 65 or over) fordson tractor or like equipment with hoe or loader equipment or ditcher, scraper type equipment, tourmapull, DW 10, 15, 16, 20, 21 and similar rubber tired equipment, euclid, TS-24 and similar, loader operator or Hi-lift (engine h.p. 65 or over), asphalt lay machine, tail boom, conveyor-multiple, panel board control, powder driven hole digger with less than 30' mast, trenching machine, concrete pump-boom type - Engineers for machine not listed under the above classifications shall receive the scale comparable to these classifications

DECISION NO. OK77-4164

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS (CONT'D)

GROUP VII

Locomotive engineer, boring machine, tug boat, mixer, 18 cu. ft. and over, sand barge, dredging machine, tugger, hoist - when operating one drum, welding machine, 3 to 6, air compressor, 3 to 5, 500 cu. ft. & under, air compressor, over 500 cu. ft. (1) pumps, Battery, 3 to 6, fork-lift, bobcat and similar equipment, generator plant engineer, diesel elec., winch truck with A-frame, roller, all types, outside elevator or building type of personnel, hoist, concrete buster or tamper, heaters under jurisdiction of Operating Engineers, fireman, boiler operator, crushing plants, oiler distributor, pulvimixer, farmer tractor with or without attachments, batch plant operator (portable), conveyor-operator duel, continuous or belt bulk handling, screed operator, concrete pump, form grader, screening plant, well point pump operator, signal man on large whirleys when and if required, operator for rotary drilling machines when operated from console or machines -- Engineers for machines not listed under the above classifications shall receive the scale comparable to those classifications

GROUP VIII

Greaser, tilt top trailer operator

GROUP IX

Permanent elevator - building type (automatic), concrete mixer, with hopper less than 18 cu. ft., air compressor, 500 cu. ft., and under (1 or 2), welding machine (1 or 2) pump (1 or 2), fuelman, conveyor operator-single-continuous belt bulk handling

GROUP X

Asphalt lay machine back end man, mechanic helper and welder helper

GROUP XI

Truck crane oiler driver or track crane oiler

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
POWER EQUIPMENT OPERATORS:					
Group I	$10.75	.45	.50		.12
Group II	10.50	.45	.50		.12
Group III	10.25	.45	.50		.12
Group IV	10.00	.45	.50		.12
Group V	9.75	.45	.50		.12
Group VI	9.50	.45	.50		.12
Group VII	9.25	.45	.50		.12
Group VIII	8.85	.45	.50		.12
Group IX	8.50	.45	.50		.12
Group X	8.50	.45	.50		.12
ADD:					
POWER EQUIPMENT OPERATORS:					
Group XI	8.25	.45	.50		.12

DECISION NO. OK77-4165 - Mod. #1
(42 FR 36769 - July 15, 1977)
Wagoner County, Oklahoma

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
IRONWORKERS	$10.10	.45	.65		.12
ROOFERS	9.15	.60	.25		.04

CHANGE POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS TO READ AS FOLLOWS:

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP I

All crane type equipment with 250' of boom or over (including jib)

GROUP II

All crane type equipment with 200' of boom or over (including jib)

GROUP III

All crane type equipment with 150 - 200' of boom (including jib)

GROUP IV

All crane type equipment with 100 - 150' of boom (including jib), all tower cranes and all crane type equipment of 3 cu. yd. or more (as rated by mfg), sideboom (booms (30' & over), guy derrick

GROUP V

Heavy duty mechanic, welder, crane-hood & overhead monorail, whirley, panel board, batch plant operator, piledriver engineer, dragline, shovel, clamshell, backhoe (3/4 yd & over); sideboom (under 30'), gradeall, hydro crane, cherry picker, hoist while operating 2 or more drums, hoists while doing stacks & chimney work (1 or 2 drums), power driven hole digger (with 30' and longer mast)

GROUP VI

Motor patrol (blade), fork lift (35' & over), dozer (engine h.p. 65 or over) fordson tractor or like equipment with boe or loader equipment or ditcher, scraper type equipment, tournapull, DW 10, 15, 16, 20, 21 and similar rubber tired equipment, euclid, TS-24 and similar, loader operator or Hi-lift (engine h.p. 65 or over), asphalt lay machine, tail boom, conveyor-multiple, panel board control, powder driven hole digger with less than 30' mast, trenching machine, concrete pump-boom type - Engineers for machine not listed under the above classifications shall receive the scale comparable to these classifications

DECISION NO. OK77-4165

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS (CONT'D)

GROUP VII

Locomotive engineer, boring machine, tug boat, mixer, 18 cu. ft. and over, sand barge, dredging machine, tugger, hoist - when operating one drum, welding machine, 3 to 6, air compressor, 3 to 5, 500 cu. ft. & under, air compressor, over 500 cu. ft. (1) pumps, Battery, 3 to 6, fork-lift, bobcat and similar equipment, generator plant engineer, diesel elec., winch truck with A-frame, roller, all types, outside elevator or building type of personnel, hoist, concrete buster or tamper, heaters under jurisdiction of Operating Engineers, fireman, boiler operator, crushing plants, oiler distributor, pulvimixer, farmer tractor with or without attachments, batch plant operator (portable), conveyor-operator duel, continuous or belt bulk handling, screed operator, concrete pump, form grader, screening plant, well point pump operator, signal man on large whirleys when and if required, operator for rotary drilling machines when operated from console or machines -- Engineers for machines not listed under the above classifications shall receive the scale comparable to those classifications

GROUP VIII

Greaser, tilt top trailer operator

GROUP IX

Permanent elevator - building type (automatic), concrete mixer, with hopper less than 18 cu. ft., air compressor, 500 cu. ft., and under (1 or 2), welding machine (1 or 2) pump (1 or 2), fuelman, conveyor operator-single-continuous belt bulk handling

GROUP X

Asphalt lay machine back end man, mechanic helper and welder helper

GROUP XI

Truck crane oiler driver or track crane oiler

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
POWER EQUIPMENT OPERATORS:					
Group I	$10.75	.45	.50		.12
Group II	10.50	.45	.50		.12
Group III	10.25	.45	.50		.12
Group IV	10.00	.45	.50		.12
Group V	9.75	.45	.50		.12
Group VI	9.50	.45	.50		.12
Group VII	9.25	.45	.50		.12
Group VIII	8.85	.45	.50		.12
Group IX	8.50	.45	.50		.12
Group X	8.50	.45	.50		.12
ADD:					
POWER EQUIPMENT OPERATORS:					
Group XI	8.25	.45	.50		.12

DECISION NO. OK77-4166 - Mod. #1
(42 FR 36771 July 15, 1977)
McIntosh County, Oklahoma

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
IRONWORKERS	10.10	.45	.65		.12
ROOFERS	9.15	.60	.25		.04
TERRAZZO WORKERS	9.90		.30		
TILE LAYERS	9.90		.30		

CHANGE POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS TO READ AS FOLLOWS:

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP I

All crane type equipment with 250' of boom or over (including jib)

GROUP II

All crane type equipment with 200' of boom or over (including jib)

GROUP III

All crane type equipment with 150 - 200' of boom (including jib)

GROUP IV

All crane type equipment with 100 - 150' of boom (including jib), all tower cranes and all crane type equipment of 3 cu. yd. or more (as rated by mfg), sideboom (booms (30' & over), guy derrick

GROUP V

Heavy duty mechanic, welder, crane-hood & overhead monorail, whirley, panel board, batch plant operator, piledriver engineer, dragline, shovel, clamshell, backhoe (3/4 yd & over); sideboom (under 30'), gradeall, hydro crane, cherry picker, hoist while operating 2 or more drums, hoists while doing stacks & chimney work (1 or 2 drums), power driven hole digger (with 30' and longer mast)

GROUP VI

Motor patrol (blade), fork lift (35' & over), dozer (engine h.p. 65 or over) fordson tractor or like equipment with hoe or loader equipment or ditcher, scraper type equipment, tournapull, DW 10, 15, 16, 20, 21 and similar rubber tired equipment, euclid, TS-24 and similar, loader operator or Hi-lift (engine h.p. 65 or over), asphalt lay machine, tail boom, conveyor-multiple, panel board control, powder driven hole digger with less than 30' mast, trenching machine, concrete pump-boom type - Engineers for machine not listed under the above classifications shall receive the scale comparable to these classifications

DECISION NO. OK77-4166

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS (CONT'D)

GROUP VII

Locomotive engineer, boring machine, tug boat, mixer, 18 cu. ft. and over, sand barge, dredging machine, tugger, hoist - when operating one drum, welding machine, 3 to 6, air compressor, 3 to 5, 500 cu. ft. & under, air compressor, over 500 cu. ft. (1) pumps, Battery, 3 to 6, fork-lift, bobcat and similar equipment, generator plant engineer, diesel elec., winch truck with A-frame, roller, all types, outside elevator or building type of personnel, hoist, concrete buster or tamper, heaters under jurisdiction of Operating Engineers, fireman, boiler operator, crushing plants, oiler distributor, pulvimixer, farmer tractor with or without attachiments, batch plant operator (portable), conveyor-operator duel, continuous or belt bulk handling, screed operator, concrete pump, form grader, screening plant, well point pump operator, signal man on large whirleys when and if required, operator for rotary drilling machines when operated from console or machines -- Engineers for machines not listed under the above classifications shall receive the scale comparable to those classifications

GROUP VIII

Greaser, tilt top trailer operator

GROUP IX

Permanent elevator - building type (automatic), concrete mixer, with hopper less than 18 cu. ft., air compressor, 500 cu. ft., and under (1 or 2), welding machine (1 or 2) pump (1 or 2), fuelman, conveyor operator-single-continuous belt bulk handling

GROUP X

Asphalt lay machine back end man, mechanic helper and welder helper

GROUP XI

Truck crane oiler driver or track crane oiler

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
POWER EQUIPMENT OPERATORS:					
Group I	$10.75	.45	.50		.12
Group II	10.50	.45	.50		.12
Group III	10.25	.45	.50		.12
Group IV	10.00	.45	.50		.12
Group V	9.75	.45	.50		.12
Group VI	9.50	.45	.50		.12
Group VII	9.25	.45	.50		.12
Group VIII	8.85	.45	.50		.12
Group IX	8.50	.45	.50		.12
Group X	8.50	.45	.50		.12
ADD:					
POWER EQUIPMENT OPERATORS:					
Group XI	8.25	.45	.50		.12

DECISION NO. OK77-4167 - Mod. #1
(42 FR 36773 July 15, 1977)
Pittsburg County, Oklahoma

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
IRONWORKERS	$10.10	.45	.65		.12
ROOFERS	9.15	.60	.25		.04
CEMENT MASONS	7.00				
TERRAZZO WORKERS	9.90		.30		
TILE SETTERS	9.90		.30		

CHANGE POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS TO READ AS FOLLOWS:

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

GROUP I

All crane type equipment with 250' of boom or over (including jib)

GROUP II

All crane type equipment with 200' of boom or over (including jib)

GROUP III

All crane type equipment with 150 - 200' of boom (including jib)

GROUP IV

All crane type equipment with 100 - 150' of boom (including jib), all tower cranes and all crane type equipment of 3 cu. yd. or more (as rated by mfg), sideboom (booms (30' & over), guy derrick

GROUP V

Heavy duty mechanic, welder, crane-hood & overhead monorail, whirley, panel board, batch plant operator, piledriver engineer, dragline, shovel, clamshell, backhoe (3/4 yd & over); sideboom (under 30'), gradeall, hydro crane, cherry picker, hoist while operating 2 or more drums, hoists while doing stacks & chimney work (1 or 2 drums), power driven hole digger (with 30' and longer mast)

GROUP VI

Motor patrol (blade), fork lift (35' & over), dozer (engine h.p. 65 or over) fordson tractor or like equipment with boe or loader equipment or ditcher, scraper type equipment, tournapull, DW 10, 15, 16, 20, 21 and similar rubber tired equipment, euclid, TS-24 and similar, loader operator or Hi-lift (engine h.p. 65 or over), asphalt lay machine, tail boom, conveyor-multiple, panel board control, powder driven hole digger with less than 30' mast, trenching machine, concrete pump-boom type - Engineers for machine not listed under the above classifications shall receive the scale comparable to these classifications

DECISION NO. OK77-4167

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS (CONT'D)

GROUP VII

Locomotive engineer, boring machine, tug boat, mixer, 18 cu. ft. and over, sand barge, dredging machine, tugger, hoist - when operating one drum, welding machine, 3 to 6, air compressor, 3 to 5, 500 cu. ft. & under, air compressor, over 500 cu. ft. (1) pumps, Battery, 3 to 6, fork-lift, bobcat and similar equipment, generator plant engineer, diesel elec., winch truck with A-frame, roller, all types, outside elevator or building type of personnel, hoist, concrete buster or tamper, heaters under jurisdiction of Operating Engineers, fireman, boiler operator, crushing plants, oiler distributor, pulvimixer, farmer tractor with or without attachments, batch plant operator (portable), conveyor-operator duel, continuous or belt bulk handling, screed operator, concrete pump, form grader, screening plant, well point pump operator, signal man on large whirleys when and if required, operator for rotary drilling machines when operated from console or machines -- Engineers for machines not listed under the above classifications shall receive the scale comparable to those classifications

GROUP VIII

Greaser, tilt top trailer operator

GROUP IX

Permanent elevator - building type (automatic), concrete mixer, with hopper less than 18 cu. ft., air compressor, 500 cu. ft., and under (1 or 2), welding machine (1 or 2) pump (1 or 2), fuelman, conveyor operator-single-continuous belt bulk handling

GROUP X

Asphalt lay machine back end man, mechanic helper and welder helper

GROUP XI

Truck crane oiler driver or track crane oiler

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
POWER EQUIPMENT OPERATORS:					
Group I	$10.75	.45	.50		.12
Group II	10.50	.45	.50		.12
Group III	10.25	.45	.50		.12
Group IV	10.00	.45	.50		.12
Group V	9.75	.45	.50		.12
Group VI	9.50	.45	.50		.12
Group VII	9.25	.45	.50		.12
Group VIII	8.85	.45	.50		.12
Group IX	8.50	.45	.50		.12
Group X	8.50	.45	.50		.12
ADD:					
POWER EQUIPMENT OPERATORS:					
Group XI	8.25	.45	.50		.12

DECISION NO. OK77-4168 - Mod. #1
(42 FR 38884 July 29, 1977)
Tulsa, Creek, Craig, Ottawa, Delaware, Mayes & Rogers Counties, Oklahoma

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
CEMENT MASONS:					
Cement masons	$9.67		.40		.16
Power tool operators	8.92		.40		.16
ROOFERS	9.15	.60	.25		.04

DECISION NO. OK77-4171 - Mod. #1 (42 FR 38887 July 29, 1977) Oklahoma, Cleveland, Caddo, Kingfisher, Canadian, Grady, Logan, Lincoln, McClain, Seminole and Pottawatomie Counties, Oklahoma	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CHANGE:					
MARBLE MASONS	$10.05		.30		
TERRAZZO WORKERS	10.05		.30		
TILE SETTERS	10.05		.30		
POWER EQUIPMENT OPERATORS:					
Group XI	8.25	.45	.50		.12
Decision # TN77-1036, Mod. # 1. (42FR 16315 - March 25, 1977) Davidson County, Tennessee.					
Add:					
POWER EQUIPMENT OPERATORS					
Backhoe	5.93				
Bulldozer	5.55				
Driller	5.65				
Front End Loader	5.93				
Mixer	5.15				
Oiler	6.12				

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION #TX77-4070 - Mod. #4 (42 FR 17785 - April 1, 1977) Bowie County, Texas					
Change:					
Carpenters:					
Carpenters	$ 8.20				.01
Millwrights	10.35				.04
Piledrivermen	8.85				.01
Plumbers & pipefitters	10.25	.50	.55		.05
Soft floor layers	8.20				.01
DECISION #TX77-4101 - Mod. #6 (42 FR 24705 - May 13, 1977) Bexar County, Texas					
Change:					
Plasterers	9.76				.01
DECISION #TX77-4111 - Mod. #3 (42 FR 30141 - June 10, 1977) Bee, Kleberg & Nueces Cos., Texas					
Change:					
Plumbers & steamfitters	8.565	.335	.35		.035

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. VATT-3088-Mod. #1 (42 FR 34261-July 1, 1977) RADFORD ARMY AMMUNITION PLANT, VIRGINIA					
CHANGE:					
BOILERMAKERS	10.30	.90	.90		.02
DECISION NO. VATT-3090-Mod. #1 (42 FR 34264-July 1, 1977) THE INDEPENDENT CITIES OF NORFOLK, CHESAPEAKE, PORTSMOUTH, AND VIRGINIA BEACH, VIRGINIA					
CHANGE:					
IRONWORKERS: REINFORCING, ORNAMENTAL, STRUCTURAL, RIGGERS, FENCE ERECTORS, MACHINERY MOVERS	9.60	.60	.85		.08
LINE CONSTRUCTION:					
LINEMEN AND CABLE SPLICERS	9.35	8%	8%		1%
DECISION NO. VATT-3089-Mod. #1 (42 FR 34261-July 1, 1977) HENRICO COUNTY AND THE INDEPENDENT CITY OF RICHMOND, VIRGINIA					
CHANGE:					
BOILERMAKERS	10.30	.90	.90		.02
ELECTRICIANS:					
ZONE I-within a 12 air mile radius of Staples Mills Road and Broad Street in the City of Richmond	10.49	5%	3%		½%
ZONE II- remainder of City of Richmond and the County of Henrico	11.24	5%	3%		½%
LATHERS:					
PLASTER AND DRYWALL FINISH	9.24		.20		.01
SHEET ROCK APPLICATOR	7.54		.20		.01

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION NO. VATT-3089-Mod. #1 (Cont'd) (42 FR 34261-July 1, 1977) HENRICO COUNTY AND THE INDEPENDENT CITY OF RICHMOND, VIRGINIA					
Change:					
LINEMEN AND CABLE SPLICERS:					
ZONE I-within a 12 air mile radius of Staples Mills Road and Broad Street in the City of Richmond	10.49	5%	3%		½%
ZONE II-remainder of City of Richmond and the County of Henrico	11.24	5%	3%		½%
DECISION NO. VATT-3091-Mod. #1 (42 FR 34266-July 1, 1977) YORK COUNTY AND THE CITIES OF HAMPTON AND NEWPORT NEWS (including Langley AFB, Fort Eustis and Fort Monroe), Virginia					
Change:					
BOILERMAKERS	10.30	.90	.90		.02
IRONWORKERS: STRUCTURAL, ORNAMENTAL, REINFORCING, FENCE ERECTORS, AND MACHINERY MOVERS	9.60	.60	.85		.08
PLUMBERS AND STEAMFITTERS	9.60	.45	.45		.02

MODIFICATIONS P. 53

DECISION #WY77-5054 - Mod. #3
(42 FR 26188 - May 20, 1977)
Converse, Goshen, Laramie, Natrona, Niobrara and Platte Counties, Wyoming

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
ELECTRICIANS:					
Converse and Natrona Counties					
Contracts over $150,000:					
Electricians	$10.15	.62	3%+.35		3/4of1%
IRONWORKERS:					
Structural; Ornamental;					
Reinforcing	10.60	.65	1.15		.10
PLUMBERS; STEAMFITTERS:					
Goshen, Laramie and Platte					
Counties					
Zone 1 (15 miles radius from					
Cheyenne Post Office)	9.32	.75	.60	1.00	.18
Zone 2 (10 miles radius					
beyond zone 1)	10.17	.75	.60	1.00	.18
Zone 3 (15 miles radius					
beyond zone 2)	11.09	.75	.60	1.00	.18
Zone 4 (Jurisdiction beyond					
zone 3)	12.31	.75	.60	1.00	.18
Zone 5 (Footnote "b")					
General Contracts $700,000.00					
or less	9.32	.75	.60	1.00	.18
General Contracts over					
$700,000.00	9.82	.75	.60	1.00	.18

SUPERSEDEAS DECISION

STATE: Alabama COUNTIES: *See below
DECISION NUMBER: AL77-1079 DATE: Date of Publication
Supersedes Decision No.: AL77-1027 dated March 18, 1977 in 42 FR-15260
DESCRIPTION OF WORK: Building Construction (does not include single family homes and garden type apartments up to and including 4 stories).

*Counties: Colbert & Lauderdale

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asbestos workers	10.16	.45	.40		.05
Boilermakers	9.50	.75	1.00		.02
Bricklayers:					
Bricklayers, blocklayers, stonemasons	9.455				
Saw operator	9.705				
Carpenters:					
Carpenters, soft floor layers	8.90		.25		.10
Piledrivermen	9.05		.25		.10
Millwrights	9.15		.25		.10
Cement masons:					
Cement masons	8.06				
Power tool operators	8.21				
Electricians:					
Electricians	10.05	.40	3%+.30		1%
Cable splicers	10.30	.40	3%+.30		1%
Elevator constructors	9.14	.495	.32	4%+a+b	.02
Elevator constructors' helpers	70%JR	.495	.32	4%+a+b	.02
Elevator constructors' helpers (prob.)	50%JR				
Ironworkers	8.855	.50	.50		.03
Laborers:					
Common	5.50	.25	.40		
Air tool operator (jackhammer, vibrator)	5.70	.25	.40		
Plasterers' tenders	5.50	.25	.40		
Mason tenders	5.50	.25	.40		
Mortar mixers	5.50	.25	.40		
Pipelayers	5.70	.25	.40		
Painters:					
Commercial	8.00		.25		.05
Industrial	8.75		.25		.05
Plasterers	8.31				
Plumbers, steamfitters	10.40	.40	.50		.05
Roofers	6.10		.20		.10
Sheet metal workers	9.50	.55	.60		.05
Sprinkler fitters	10.35	.65	.95		.08

AL77-1079 - (Cont'd)

POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP A	9.38	.35	.35		
GROUP B	8.04	.35	.35		
GROUP C	7.34	.35	.35		

GROUP A - Backhoe, bulldozer, crane, crane car, central mixing plant, concrete pump, derrick, dragline, dredge, drill, elevating grader, finishing machine (concrete), forklift, front end loader, gradall, grout pump, helicopter pilot, hoist, locomotive engineer, mechanic, motor patrol, mucking machine, piledriver, post hole digger, scraper (pull type & self prop.) shovel, sweeper, tractor (spec. equip.), trenching machine, well point & winch truck operators

GROUP B - Bituminous dist., central air comp., concrete mixer (port.) fireman floating equip., front end loader, rubber tire, ½ cu. yd. & under, locomotive brakeman, locomotive flagman, locomotive switchman, oiler-driver (35 ton crane & over) outboard motor boat (when used for towing), paving machine, portable hoist "Buck hoist type", post hole digger mounted on farm type tractor & walk behind type trenching machine operators

GROUP C - Air compressor (port.), conveyor, fireman stationary equip., mechanic helper, oiler, outboard motor boat & pump operators

Oiler driver - additional $ .10 per hour

All cranes, derricks & gantry operators operating such equipment with an overall height of 150', including jibs; all scraper operators - additional $.25 per hour.

STATE: Florida COUNTY: Orange
DECISION NUMBER: FL77-1098 DATE: Date of Publication
Supersedes Decision No.: FL77-1024 dated February 25, 1977 in 42 FR-28738
DESCRIPTION OF WORK: Building construction (excluding single family homes and garden type apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asbestos workers	9.26	.35	.35		.06
Boilermakers	9.50	.75	1.00		.02
Bricklayers:					
Bricklayers	8.45	.50	.40		.03
Stonemasons	8.45	.50	.40		.03
Marble masons	8.45	.50	.40		.03
Plasterers	8.45	.50	.40		.03
Cement masons	8.45	.50	.40		.03
Carpenters:					
Carpenters	8.55	.50	.40		.05
Piledrivermen	8.85	.50	.40		.05
Soft floor layers	8.55	.50	.40		.05
Electicians:					
Electrical contracts less than 20,000	7.50	.55	3%		1%
All other work	9.80	.55	3%		1%
Elevator constructors	8.88	.545	.35	4%+a&b	.02
Elevator constructors' helpers	70%JR	.545	.35	4%+a&b	.02
Elevator constructors' helpers (prob.)	50%JR				
Glaziers	7.60	.25	.20		.01
Ironworkers:					
Structural & ornamental	9.33	.65	.60	.65	.05
Reinforcing	9.33	.65	.60	.65	.05
Laborers:					
Air tool operators	6.45	.25	.10		
Laborers	6.30	.25	.10		
Mason tenders	6.45	.25	.10		
Mortar mixers	6.45	.25	.10		
Pipelayers (concrete & clay)	6.45	.25	.10		
Plasterers tenders	6.45	.25	.10		
Lathers	8.35	.35	.25		.15
Linemen:					
Linemen	9.61	.40	1%		¼ of 1%
Cable splicers	10.31	.40	1%		¼ of 1%
Groundmen:					
Up to 1 year experience	3.92	.40	1%		¼ of 1%
Over 1 year experience	5.55	.40	1%		¼ of 1%

FL77-1098 - (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Linemen (Cont'd):					
Heavy equipment operator	9.61	.40	1%		¼ of 1%
Winch truck operator	7.68	.40	1%		¼ of 1%
Pick up or flat bed operator	6.28	.40	1%		¼ of 1%
Painters:					
Brush	7.65	.40	.40		.06
Spray	8.15	.40	.40		.06
Paperhangers	8.15	.40	.40		.06
Sandblasters	8.15	.40	.40		.06
Plumbers	9.18	.35	.40	.50	.10
ROOFERS:					
Roofers	7.40	.35	.25		.15
Kettlemen	5.95	.35	.25		.15
Roofers' helpers	5.30	.35	.25		.15
Sheet metal workers	10.24	.30	.30	.50	.04
Sprinkler fitters	10.16	.60	.90		.10
Terrazzo workers	8.45	.25	.40		.03
Tile setters	8.45	.25	.40		.03
Welders - receive rate prescribed for craft performing operation to which welding is incidental.					

FOOTNOTES:

a. Six paid holidays: A through F.

b. Employer contributes 4% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years. Employer contributes 2% of regular hourly rate to vacation pay credit for employee who has worked in business less than 5 years.

PAID HOLIDAYS (WHERE APPLICABLE):

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FL77-1098 - (Cont'd)

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	9.48	.50	.35		.05
GROUP II	8.30	.50	.35		.05
GROUP III	7.32	.50	.35		.05
GROUP IV	6.21	.50	.35		.05

GROUP I: Cranes, derricks. clam shells, draglines, piledriver (including augor & boring machines for drilling in piling), backhoes, hydra cranes, grade all, shovels, patrols. cableways, tug boat captain (150 H.P. or more), multi-bowl operator (similar to R.G. LeTourneau Model L-60 2 or 3 twenty cu. yd. scrapers), front end loaders, (over 4 cy cap.), side boom cats, multi-drum hoist (for rigging). mechanic (heavy equip.) tower crane (stationary, climbing & traveling), gantry cranes, locomotive cranes, bridge cranes (over 20 tons cap.), concrete pump with boom (mobile), high lift or fork lift (second floor & higher) Locomotive engineer (jobs not covered by railroad unions)

GROUP II: Bulldozers. bridge cranes (20 tons & under), highlift or fork-lift (up to 2nd floor), straddle buggys, hoists (other than rigging) including winch truck not mobile & used as a hoist, front end loader (over 2 cy & up to & incl., 4 cy cap.), trenching machine (ladder & wheel type) over 6' cut & over 24" width. concrete paver & scrapers

GROUP III: Concrete pumps, front end loader (2cy or less not used as hoist) mobile winch trucks. self-propelled sub-grader asphalt paving machine concrete mixer, tractors. air compressor plant (2 or more compressors on a common manifold), lubricating engineer (mobile plant), pavement breakers street sweeping machines

GROUP IV: Tractor operated sweeper. trenching machine (ladder & wheel type maximum cut 6' & maximum width 24"), firemen, self-propelled rollers, wellpoint pump, asphalt distributor, water truck drivers, motor boat operator, oiler, mechanics' helpers. pumpman (other than well point up to & incl., 5 pumps within 300 ft. radius), self-propelled sweepers., combination pump, compressor & combustion type welding machine, conveyor (motor operated), welding machine op (3 or more combustion type, pulver mixer, compressor (1 to and including 3 compressors within 3 cu. ft. radius).

SUPERSEDEAS DECISION

STATE: ILLINOIS COUNTIES: Peoria and Tazewell
DECISION NUMBER: IL77-2112 DATE: Date of Publications
Supersedes Decision No. IL76-2015, dated Febroary 27, 1976 in 41 FR 8643
DESCRIPTION OF WORK: Building (Including Residential) and Dredging Consruction

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$11.51	.81	.72		.12
BOILERMAKERS	10.95	.65	.95		.03
BRICKLAYERS AND STONEMASONS	11.06	.45	.55		.10
CARPENTERS:					
Residential					
Peoria County:					
Chillicothe & Vicinity	9.78	.55	.50		.03
Tazewell County & Remainder of Peoria County	11.11	.40	.50		.05
Commerical					
Peoria County:					
Chillicothe & Vicinity:					
Carpenters, Piledrivermen & Soft Floor Layers	10.98	.65	.60		.03
Millwrights	11.23	.65	.60		.03
Tazewell County & Remainder of Peoria County:					
Carpenters & Soft Floor Layers	11.11	.40	.50		.05
Millwrights & Piledrivermen	11.61	.40	.50		.05
CEMENT MASONS	10.60	.70	.80		.05
ELECTRICIANS	10.77	.40	3%+.50		1%
ELEVATOR CONSTRUCTORS:					
Constructors	10.445	.545	.35	4%+a+b	.02
Helpers	70%JR	.545	.35	4%+a+b	.02
Helpers (Prob.)	50%JR				
GLAZIERS	10.73	.55	.45		
IRONWORKERS	11.075	.65	.925		.025
LATHERS	11.12	.40	.40		.01
LEAD BURNERS	9.25	.35		c	.01
MARBLE-TILE & TERRAZZO WORKERS	10.16	.50	.60		.01
MARBLE & TILE HELPERS	9.44	.50			
TERRAZZO HELPERS:					
Terrazzo Helpers & Floor machine Operator	9.57	.50			
Base Machine Operator	9.57	.50			

DECISION NO. IL77-2112

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS:					
Brush	10.30	.55	.30		.03
Structural Steel & Spray	10.80	.55	.30		.03
PLASTERERS	10.60	.70	.80		.01
PLUMBERS & STEAMFITTERS:					
Peoria County & North of Highway #98 in tazewell Co.	11.84	.505	1.02		.15
Remainder of Tazewell County	10.72	.40	.85		.11
ROOFERS	11.10	.70	.40		.025
SHEET METAL WORKERS	11.22	.50	.75		.08
SPRINKLER FITTERS	11.65	.65	.95		.08
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. Six Paid Holidays; A throogh F.

b. Employer contributes 4% of regulsr hourly rate to vacation Pay credit for employer 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. Nine paid holidays, A throogh F plus Washington's Birthday and Good Friday and Christmas Eve Providing employee has worked 45 full days during the 120 calendar days prior to the holiday, and the regular scbedule work days immediately preceding and following the holiday.

DECISION NO. IL77-2112

ILL-28-LAB-1

LABORERS: PEORIA COUNTY & THE CITY OF EAST PEORIA (TAZEWELL COUNTY)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS 1	9.85	.40	.60		.035
CLASS 2	9.975	.40	.60		.035
CLASS 3	10.10	.40	.60		.035
CLASS 4	10.025	.40	.60		.035
CLASS 5	10.225	.40	.60		.035
CLASS 6	9.975	.40	.60		.035
CLASS 7	10.10	.40	.60		.035

CLASS 1 - Bricklayers tenders, Common Laborers, carpenter tenders, cement mason tenders, concrete form dismantler, Stone & tile derrickmen, Tool Crib men, Window washers, Wrecking & dismantling Old Buildings, wall men & house movers, Curing concrete

CLASS 2 - Cement men & sack shakers, concrete saw, drill operator, jackhammer, Kettlemen & carriers, men handling hot stuff, singalling & spotting of buckets on rig or rig men paving breaker, plasterers tenders, air tamper chain saw,

CLASS 3 - Gunnite pumpmen, sandblasting pump men, tile layers or laterial sewer, Unloading & handling of creosote materials.

CLASS 4 - Power wheel barrow or buggies

CLASS 5 - Cutting & Acetylene torch, gunnite nozzle men, sandblasting nozzle men, woodblock setters

CLASS 6 - Concrete form dismatler in composite crew with carpenters, compactor rammer type, setting up and using laser beam equipment

CLASS 7 - Setting up and using concrete burning bars, underpinning & shoring of existing buildings.

DECISION NO. IL77-2112

ILL-34-LAB-1

LABORERS: REMAINDER OF TAZEWELL COUNTY	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
UNSKILLED	$9.65	.60	.60		.035
SEMI-SKILLED	9.85	.60	.60		.035
SKILLED	10.05	.60	.60		.035

UNSKILLED:
Carpenter Tender, Tool Cribmen, Cleaning & Oiling of Machinery, Firemen or Salamander Tenders, Flagmen, Gravel Box Men, Form Handlers, Material Handlers, Fencing Laborers, Cleaning Lumber, Pit Men, Material Checkers, Dispatchers, Landscapers, Unloading Explosives, Laying of Sod, Planting of Trees, Removal of Trees, Pile Driver Helpers, Asphalt Plant Helpers, Wrecking Laborers, Fireproofing Laborers, Surveyors & Instrument Men Helpers, Janitors, Driving of Stakes, String Lines for all Machinery, Unloading & Laborers w/Steel Workers & Re-Bars, Mason Tenders, Scaffold Workers, Laborers with De-Watering Systems, Plaster Tenders

SEMI-SKILLED:
Handling of materials treated w/oil, crosote & asphalt, Track Laborers, Cement Handlers, Concrete Workers (Wet), Cloride Handlers, Tunnel Helpers in Free Air, Batch Dumpers, Kettle & Tar Men, Tank Cleaners, Plastic Installers, Motorized Buggies, Sewer Workers, Vibrator Operators, Mortar Mixer Operators, Cement Silica, Clay, Fly Ash, Lime & Plaster Handlers (Bulk or Bag), Cofferdam Workers, Concrete Paving, Placing, Cutting & Tying of Reinforcing, Deck Hand, Dredge Hand & Shore Laborers, Bank Men on Floating Plant, Asphalt Workers & Layers w/ Machine, Grade Checker, Dumpmen, Spotter where grade is to be established, Power Tools, Chain Saw Operators, Jackhammer & Drill Operators, Air Tamping Hammermen, Tree Topping, Signalling & Spotting of Rigs & Equipment.

SKILLED:
Caisson Workers plus depth, Gunnite Nozzle Men, Leadman on Sewer Work, Welders, Cutters, Burners & Torchmen, Layout Man and/or Tile Layer, Steel Form Setters-Street & Highway, Concrete Saw Operator, Screenman on Asphalt Pavers, Front end man on Chip Spreader, Laborers tending Masons w/hot materials or foreign materials are used, Multiple Concrete Duct-Leadman, Lutenman, Curb Asphalt Machine Operator, Ready-Mix Scalemen, Permanent, Portable or Temporary Plant, Laser Beam Operator, Concrete Burning Machine & Coring Machine Operators, Underpinning and Shoring or Buildings, Dynamite Shooter.

DECISION NO. IL77-2112

ILL-6-PEO-1

POWER EQUIPMENT OPERATORS

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	11.57	.45	.55		.05
GROUP 2	11.37	.45	.55		.05
GROUP 3	10.995	.45	.55		.05
GROUP 4	10.72	.45	.55		.05
GROUP 5	10.11	.45	.55		.05

GROUP 1 - Cranes, escalated rate on crane, derricks, booms, $.01 per hour, per foot, after 80 feet or boom including jib overhead cranes, gradall, cherry pickers (and similar types, over 15 ton lifting capacity (require oiler), mechanic, central concrete mixing plant operator, road pavers (27E-dual drum-tri batchers), blacktop plant opeators and plant engineers, 3 drum joist, derricks, hydro cranes, shovels skimmer scoops, koehring scoopers, draglines, backhoe, hoptoes-crane-type that require oiler, derrick boats, pile drivers and skid rigs, clamshells, locomotive cranes, dredge (all types). motor patrol, power blades dumore-elevating and similar types tower cranes (crawler mobile) and stationary, crane-type backfiller, drott yumbo and similar types considered as cranes, caisson rigs (require oilers) dozer, tourna-dozer, work boats, ross carrier and helicopter

GROUP 2 - Trench machine pumpcrete-belt crete-squeeze cretes-screw-type pumps and gypsum bulker and pump, dinkeys, power launches, tournapulls (all), multiple unit, earth movers, $.25 per hour for each scoop over one, scoops (all sizes), push cats, endloaders (all types), side boom, P-H one pass soil-cement machine (all similar types), wheel tractors (industrial or farm type w/dozer-hoe-end-loader or other attachments), pugmill with pump backfillers, asphalt surfacing machine, euclid loader, forklifts, form-less finishing machine, jeeps w/ditching machine, or other attachments, tune-luger, rock crushers, automatic cement and gravel batching plants, mobile drills (soil and similar types), require oiler), flaherty spreader or similar types (require oiler), heavy equipment greaser (top greaser on spread), gurries and similar type), 1 and 2 drum hoists (buck hoists and similar types freight and passenger elevators chicago boom, boring machine and pipe jacking, machine, hydro boom, starting engineer on pipeline, C.M.I. and similar types (require oiler) straw blower, hydro seeder and F.W.D and similar types

DECISION NO. IL77-2112

POWER EQUIPMENT OPERATOR (CONT'D)

GROUP 3 - Tractor (track type) without power unit pulling rollers, rollers on asphalt, brick or macadam, concrete breakers, concrete spreaders, mule pulling rollers, center stripper, cement finishing machines, barger greene or similar laoders, vibro tamper (all similar types), self-propelled, winch or boom truck, mechanical bull floats, mixer over 3 bags to 27E, tractor pullign power blade or elevating grader, porter rex rail, clary screed, pugmill (without pump) screed man on laydown machine, firemen and spray machine on paving

GROUP 4 - air compressor, all air and steam valves, power subgrader, oil distributor, straight tractor, trac-are without attachments, curb machine, truck cranes oiler, and truck type hoptoe oilers

GROUP 5 - Herman Nelson heater, Dravo, Warner, Silent glo, & similar types, one engineer will operate 1-5 and after 5, two operators will be required, self-propelled concrete saws, assistant heavy equipment greaser on spreed, roller, 5 tons and under on earth or gravel, form grader, pump 1 or 2, generator (1) or (2), welding machine (1) or (2) - 300 amp. or over, mixer (3) bag and under (standard capacity) bulk cement plant, crawler crane and skid rig oilers

DECISION NO. IL67-2112 ILL-82-TD-1-2-3

TRUCK DRIVERS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	9.70	.60	a28.00		
GROUP II	10.10	.60	a28.00		
GROUP III	10.30	.60	a28.00		

GROUP I - Drivers on axle trucks hauling less than 9 tons, air compressors and welding machine including those pulled by separate units, truck driver helpers, warehouseman, mechanic helpers, greasers & tiremen, pick-up trucks when hauling materials, tools, or men to and from and on the jobs site; fork lifts up to 6,000 lbs. capacity

GROUP II - 2 or 3 axle trucks hauling more than 9 ton, but hauling less than 16 tons; A-frame winch truck, hydrolifts trucks, or similar equipment when used for transportation purposes; fork lifts over 6,000 lb. capacity; winch truck; 4-axle combination units; ticket writers

GROUP III - 2-3 or 4 axle truck hauling 16 ton or more, drivers on oil distributors, water pulls, mehcanics & working foreman; 5-axle or more combination units; dispatchers

FOOTNOTES:
a- Per Week Per Employee

DREDGING CONSTRUCTION:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP 1	11.57	.45	.55		.05
GROUP 2	11.37	.45	.55		.05
GROUP 3	10.995	.45	.55		.05
GROUP 4	10.72	.45	.55		.05
GROUP 5	10.11	.45	.55		.05

GROUP 1 - Operators on hydraulic dipper or clamshell dredges, Engineers and Repairemen, Operators on work boats,
GROUP 2 - Power Winches 1-2-3 Drums
GROUP 3 - Security Engineer
GROUP 4 - cranemen on dipper dredges, operators on launches or power boats
GROUP 5 - Firemen & Oilers

STATE: Illinois COUNTIES: Champaign & Vermillion
DECISION NUMBER: IL77-2113 DATE: Date of Publication
Supersedes Decision No. IL76-2121, dated October 11, 1976, in 41 FR 43573
DESCRIPTION OF WORK: Building Construction (excluding single family homes and garden type apartments up to and including 4 stories)

DECISION NO. IL77-2113

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$12.00	.55	.50		.01
BOILERMAKERS	10.95	.65	.95		.03
BRICKLAYERS:					
Champaign County:					
Bricklayers; Stonemasons	10.62	.35			.03
Marble, Tile, Terrazzo Workers	10.85				
Vermilion County:					
Bricklayers; Stonemasons; Marble, Terrazzo Workers	9.35	.30	.50		
Tile Setters	9.10	.30	.50		
CARPENTERS:					
Champaign county:					
Carpenters & Soft Floor Layers	11.015	.45	.90		.08
Millwrights & Piledrivermen	11.515	.45	.90		.08
Vermillion County:					
North of Rossvile					
Carpenters; Soft Floor Layers					
Millwrights & Piledrivermen	10.50	.50	.70		.01
Remainder of County					
Carpenters & Soft Floor Layers	10.845	.75	.80		.05
Millwrights & Piledrivermen	11.345	.75	.80		.05
CEMENT MASONS & PLASTERERS:					
Champaign County:					
Cement Masons	10.975	.35	.25		.025
Plasterers	10.365	.35			.025
Vermillion County:					
Cement Masons & Plasterers	7.75				
ELECTRICIANS:					
Champaign County	12.00	.40	3%+.30		.3%
Vermillion County	11.52	.40	3%+.50		.25%
ELEVATOR CONSTRUCTORS:					
Constructors	10.30	.545	.35	4%+a+b	.02
Helpers	70%JR	.545	.35	4%+a+b	.02
Helpers (Prob.)	50%JR				
GLAZIERS:					
Champaign County	9.94	.45	.15		
IRONWORKERS	10.05	.50	1.00		.08
LATHERS	10.14	.35	.20		.01
LEAD BURNERS	9.25	.35		c	.01
PAINTERS:					
CHAMPAIGN COUNTY:					
Brush	10.77	.55	.40		.04
Open and Erected Steel	11.77	.55	.40		.04
Vermillion County:					
Brush	10.80				
Spray	11.80				
PLUMBERS & STEAMFITTERS:					
Champaign County	11.40	.35	1.15		.12
Vermillion County	10.62	.35	1.05		.25
ROOFERS:					
Champaign county:					
Roofers	10.90	.55	.30		.03
Helpers	80%JR				
Vermillion County	9.35				
SHEET METAL WORKERS	11.39	3%+.60	.67		.12
SPRINKLER FITTERS	11.65	.65	.95		.08

WELDERS: receive rate prescribed for craft performing opeation to which welding is incidental.

PAID HOLIDAYS: (WHERE APPLICABLE)
a-New Year's Day; B-Memorial Day; C-Independnece Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:
a. Six paid holidays: A through F
b. Employer contibutes 4% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years. Employer contributes 2% regular hourly rate to vacation pay credit for employee who has worked in business less than 5 years.
c. Nine paid holidays. A through 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 regular scheduled work days immediately preceding and following the holiday.

DECISION NO. IL77-2113

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
Champaign County:					
Unskilled	9.95	.30	.30		.035
Semi-skilled	10.15	.30	.30		.035
Skilled	10.30	.30	.30		.035
Vermillion County:					
Unskilled	9.50	.45	.60		.035
Semi-skilled	9.70	.45	.60		.035
Skilled	9.85	.45	.60		.035

UNSKILLED - All sewer workers plus depth pay, Asphlat plant laborers, Bankmen on floating plant, Barch dumpers, Carpenters tenders, Cleaning lumber, Cofferdam workers plus depth pay, Deck hand, Dredge hand and shore laborer, Dispatchers, Driving of stakes, Stringlines for all machinery, Fencing laborers, Firemen or Salamander tenders; Fireproofing laborers; Fire shop laborers; Flagmen; Form handlers, Gravel box men, Dumpmen and Spotters; Janitors, Laborers with de-watering systems; Landscapers, Laying of sod, Material checkers, Material handlers, Pit men, Plaster installers, Planting of trees, Removal of trees, Rip rap men, Rod and chairemen, Scaffold workers, Tool cribmen, Tractor laborers, Unloading explosives, Unloading and carrying Lath, Unloading and carrying re-bars, wrecking, dismanteling building, Wallmen and housemovers, Wrecking laborers, Writer or scale tickets

SEMI-SKILLED - Asphalt workers with machine, asphalt raker and layers, Cement handlers, cement silica, clay, Fly ash, line and plasters handler (bulk or bay) Chain saw; Chloride handlers, concrete workers (wet); Grade checker; Handling of materials treated with oil, creosote, asphalt and/or any foreign material harmful to skin or clothing; Kettle and Tar men; Mason tenders; Mortar mixer operators; Motorized buggies or motorized unit used for wet concrete or handling of building materials, On concrete paving, placing, Cutting and Typing or Reinfocing, Signal man on crane tank cleaning, Tunnel helpers in free, air, Vibrator operators

SKILLED: - Air tamping hammerman, Caisson workers plus depth, Concrete burning machine operator, Concrete saw operator, corning machine operator, Gunnite nozzle men, Jackhammer and drill operators, Laborers handling masterplate or similar materials, Laborers tending masons with hot material or where foreign material are used, Laser beam operator, Layout man and/or tile Layer leadman on sewer work lutemen, Multiple concrete duct - Leadman, Plasterer tenders, ready mix scalemen, portable or temporary plant, Screenman on asphalt pavers, Steel form setters - street and highway, Welders, cutters, burners and torchmen

DECISION NO. IL77-2113 ILL-1-PEO-1-2-3

POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CLASS I	11.00	.40	.75		.13
CLASS II	10.95	.40	.75		.13
CLASS III	10.75	.40	.75		.13
CLASS IV	7.25	.40	.75		.13

CLASS I - Master Mechanic

CLASS II - Utility Operator

CLASS III - Power cranes, Draglines, Electric overhead cranes, Shovels, Gradall, Mehcanics, Repair and Maintenance of all equipment, Tractor highlift shovel, Forklifts, Tournamixer, 2 drums machine or 2 cage hoist, Cableways, Tower machines, Motor Patrol, Boom tractor, Boom or winch truck, Truck Crane, Tournapull, Tractor operating scoops, Bulldozer, Push Tractor, Finishing machine on asphalt, Large rollers & rollers on asphalt, Geavel Macadam & brick surface, Ross carrier or similar machine, Asphalt Plant Engineer or Pug Mill, Two (2) air compressors, Betherington paver operator, farm tractor with ½ yard bucket and/oc backhoe attachment, Trench machine cutting over 24" Dredging equipment, Central mix plant engineer, concrete spreader, Air compressors 200 cu. ft. or over, Standard or Dinkey locomotives, Scoopmobiles, Euclid loader, Soil cement machine, Mixers 14S capacity or less, trench Machine cutting 24" & under, backfiller, Elevating machine, Power Blade, asphalt Plant Engineer, Well drilling machines, Paint Machine, Pipe cleaning machine, Pipe wrapping machine, Pipe bending machine, Apsco paver, Boring machine, w/o winch, Head equipment, Greasers, Barger Green Loaders, Formless paver, farm Tractor with less than half-yard bucket and other attachments except backhow, Well point System

CLASS IV - Power Sub-Grader, Bull Float, Form grader, finishing machine, Pavement breaker, Rock Crushers, One drum machine, air compressor less than 20 cu. ft. capacity, Concrete pump, Gunnite machine, Air tuggers, Truck crane drivers, Bouse Elevators when used for temporary heat, Samll rollers on earth, Engine tenders, Fireman on pain pots, Fireman, Wagon Drill Flexaplane, Conveyor, 2 to 4 Water Pumps, Siphon & Pulsometer, Switchman, Fireman on Asphalt plants, Distributor operator on trucks, Tampers, Power Broom, Post Hole Digger, Self propelled concrete saw, Striping machine (Motor driven), Form tamper, seaman tiller, Bulk cement Plant Equipment Greaser

DECISION NO. IL77-2113

ILL-82-TD-1-2-3

TRUCK DRIVERS

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP I	9.70	.60	a28.00		
GROUP II	10.10	.60	a28.00		
GROUP III	10.30	.60	a28.00		

GROUP I - Drivers on 2 axle trucks hauling less than 9 tons, air compressor and welding machine including pulled by separate units, truck drirer helpers, warehouseman, mechanic helpers, greasers & tiremen, pick-up trucks when hauling materials, tolls, or men to and from and on the jobs site; Fork lifts up to 6,000 lbs., capacity.

GROUP II - 2 or 3 axle truckd hauling more than 9 ton, but hauling less than 16 tons; A-frame winch trucks, hydrolifts trucks, or similar equipment when used for transportation purposes; Fork lifts over 6,000 lb. capacity; winch trucks; 4-axle combination units; ticket writers

GROUP III - 2, 3 or 4 axle trucks hauling 16 ton or more, drivers on oil distributors, water pulls, mechanics & working foreman; 5-axle or more combination units; dispatchers

FOOTNOTES

a. Per week Per Employee

SUPERSEDEAS DECISION

STATE: Maryland COUNTIES: Allegany and Garrett

DECISION NO.: MD77-3086 DATE: Date of Publication

Supersedes Decision No. MD77-3020 dated January 14, 1977 in 42 FR 3151

DESCRIPTION OF WORK: Building Construction (does not include single family homes and garden type apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$11.10	.60	.70		
BOILERMAKERS	11.15	.70	1.00		.02
BRICKLAYERS	10.34		.40		
CARPENTERS	10.45	.45	.25		.02
CEMENT MASONS	10.59	.45			
ELECTRICIANS:					
Allegany County	10.15	.50	3%+.25		1%
Garrett County	10.55	.50	3%+.25		1%
ELEVATOR CONSTRUCTORS	11.235	.545	.35	4%+a+b	.02
ELEVATOR CONSTRUCTORS' HELPERS	70%JR	.545	.35	4%+a+b	.02
ELEVATOR CONSTRUCTORS' HELPERS (PROBATIONARY)	50%JR				
IRONWORKERS:					
Structural, Ornamental and Reinforcing	10.24	.60	.90		
LATHERS	9.25		.35		.01
LINEMEN - Allegany County:					
Linemen	10.15	.50	3%+.25		1%
Equipment Operator	9.64	.50	3%+.25		1%
Truck driver	6.60	.50	3%+.25		1%
Groundmen	6.60	.50	3%+.25		1%
LINEMEN _ Garrett County:					
Linemen	10.55	.50	3%+.25		1%
Equipment operator	10.04	.50	3%+.25		1%
Truck driver	7.00	.50	3%+.25		1%
Groundmen	7.00	.50	3%+.25		1%
MARBLE MASONS	10.34		.40		
MILLWRIGHTS	10.81	.45	.25		.02
PAINTERS:					
Brush, rollers, wall covering hangers	7.95		.50		
Spray, sandblasting & use of toxic materials	8.45		.50		
PILEDRIVERMEN	10.75	.45	.25		.02
PLASTERERS	10.59	.45			
PLUMBERS & STEAMFITTERS	9.25	.50	.50	1.00	.05

DECISION NO. MD77-3086

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS:					
Composition	9.05	.45	.40		
Mopmen - composition	9.30	.45	.40		
Helpers - composition (1st year)	3.50	.45	.40		
Helpers - composition (2 year)	5.60	.45	.40		
Slaters	9.20	.45	.40		
SHEET METAL WORKERS	10.20		.25	1.80	.02
SPRINKLER FITTERS	11.31	.65	.95		.08
STONE MASONS	10.34		.40		
TERRAZZO WORKERS	10.34		.40		
TILE SETTERS	10.34		.40		

FOOTNOTES:

a-Paid Holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day.

b-Employer contributes 4% of basic hourly rate for 5 years of service or more and 2% of basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.

DECISION NO. MD77-3086

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
Group I	7.71	.80	.90		
Group II	7.74	.80	.90		
Group III	7.85	.80	.90		
Group IV	7.91	.80	.90		
Group V	7.96	.80	.90		
Group VI	8.05	.80	.90		
Group VII	8.54	.80	.90		
Group VIII	8.16	.80	.90		
Group IX	8.16	.80	.90		

LABORERS CLASSIFICATION DEFINITIONS

Group I - Unskilled & landscape workers
Group II - Handy man, tool checker, dump men & spotter
Group III - Power tool operators, mortar mixer by hand, scaffold builder, hod carrier, concrete puddler, rammer, pipelayer, chainman - rodman, & grade checker
Group IV - Mortar mixer by machine
Group V - Large wacker
Group VI - Blaster/dynamite, & wagon drill operators (air track)
Group VII - Tunnel workers: caisson, driller, & mucker
Group VIII - Tunnel workers: unskilled laborers
Group IX - Gunnite workers: Nozzlemen & gun operators

DECISION NO. MD77-3086

BUILDING CONSTRUCTION

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS					
Group 1	9.83	.75	.85		.10
Hourly additional pay for long boom cranes (including jibs), pile driver machines with leads:					
130' to 169' plus	$ .40				
170' to 209' "	.60				
210' to 249' "	.80				
250' to 299' "	1.00				
300' and over "	1.25				
Group 2	9.40	.75	.85		.10
Group 3	9.06	.75	.85		.10
Group 4	8.82	.75	.85		.10
Group 5	8.70	.75	.85		.10
Group 6	8.35	.75	.85		.10
Group 7	10.23	.75	.85		.10

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

Group 1 - Backfiller, backhoe, concrete mixing plants, batching plants, cable way, derrick, derrick boat, dragline, elevating grader, compressors (2 or more), space heaters, hoist (2 active drums or more), pile driving machine, power crane, power shovel, standard gauge locomotive, trenching machine, tunnel mucking machine, whirley rig, certified welders, concrete paver, double concrete pump, front end loader (over 2 yds.), over 4 welders top scale (more than 6, another man), Eimco type overhead loader, wellpoint system, mighty midget with compressor, twin engine scraper (25 yds. and over), mechanic, mechanic's welder, grader
Group 2 - Tractor with attachments (2 or more), bulldozer
Group 3 - Concrete mixer, concrete pump, one drum hoist, narrow gauge locomotive, power roller, asphalt spreader, pumps (not exceeding 4), well drill, engine driven welders (not exceeding 4) single compressors (over 210 C.F.M.), steam hammer, pile extractor, conveyor, stone crusher, hi-lift, front end loader (up to and including 2 yds.), excavating scoop
Group 4 - Finishing machine, bull float, longitudinal float, screeding machine, concrete spreader, sub grader
Group 5 - Fireman, truck crane oiler, wheel tractor, grease truck operator
Group 6 - Oiler, greaser, mechanic's helper, single compressor (up to 210 C.F.M.)
Group 7 - Operators handling or setting steel, stone, prestressed concrete or machinery, tower cranes

DECISION NO. MD77-3086

BUILDING CONSTRUCTION:

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS					
Group 1	7.91	.70	.80		
Group 2	8.06	.70	.80		
Group 3	8.26	.70	.80		
Group 4	8.45	.70	.80		
Group 5	8.69	.70	.80		

TRUCK DRIVERS CLASSIFICATION DEFINITIONS

Group 1 - Dumpmen and flagmen
Group 2 - Pick-ups, dumps (under 5 yds., capacity), straight trucks
Group 3 - Helpers, panel trucks, straight trucks with multiple axle, dumpsters (under 5 yds., capacity), transit mix, dumps (5 to 9 yd., capacity), flatbody material trucks (straight jobs), greasers, tiremen, mechanics' helpers, rubber-tired (towing & pushing flatbody vehicles), form trucks
Group 4 - Dump trucks (10 to 15 yds., capacity)
Group 5 - Dump trucks (over 15 yd., capacity), bottom and end dump euclids, all other euclid type trucks, turnarockers, ross carriers, athey wagons, A-frames, mechanics, semi-trailers or tractor-trailers, low boys, asphalt distributors, agitator mixer, dumpcretes or batch trucks, specialized earth moving equipment, off-highway tandem back-dump, twin engine equipment and double hitched eqiupment (where not self-loaded)

SUPERSEDEAS DECISION

STATE: Texas COUNTY: Bexar
DECISION NO.: TX77-4172 DATE: Date of Publication
Supersedes Decision No. TX76-4172, dated May 7, 1976, in 41 FR 19037.
DESCRIPTION OF WORK: Residential construction consisting of single family homes and garden type apartments up to and including 4 stories.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
AIR CONDITIONING INSTALLERS	$ 3.50				
BRICKLAYERS	7.27	.30	.30		.05
CARPENTERS	4.89				
CEMENT MASONS	4.00				
DUCT INSTALLERS	4.60				
ELECTRICIANS:					
Single or multiple family dwellings or apartments up to and including 8 units not exceeding 2 stories	6.35	.30	1%		1/2%
Over 8 units or over 2 stories	9.23	.30	1%		1/2%
FORM SETTERS	4.50				
GLAZIERS	5.60				
INSULATION INSTALLERS	4.50				
LABORERS	2.89				
LATHERS	7.955				
PAINTERS	4.63				
PLASTERERS	6.65				
PLUMBERS & PIPEFITTERS	7.70				
ROOFERS	4.53				
SHEETROCK INSTALLERS	5.00				
SOFT FLOOR LAYERS	5.00				
TAPERS	4.00				
TILE SETTERS	4.73				
TRUCK DRIVERS	3.00				
POWER EQUIPMENT OPERATORS:					
Foundation drill operator (crawler mounted)	3.25				
Front end loader	3.60				
Tractor	3.75				

SUPERSEDEAS DECISION

STATE: Utah
COUNTIES: Statewide
DECISION NUMBER: UT77-5075
DATE: Date of Publication
Supersedes Decision No. UT77-5006 dated January 28, 1977, in 42 FR 5668.
DESCRIPTION OF WORK: Building Construction (does not include single family homes and garden type apartments up to and including 4 stories), heavy and highway construction.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ASBESTOS WORKERS	$ 10.56	.52	$ 1.17		
BOILERMAKERS	11.575	.775	1.00	.50	.02
BRICKLAYERS	10.96	.45	.32+.10		.09
BRICK TENDERS	8.30	.35	.35		
CARPENTERS:					
Building Construction:					
Carpenters	9.75	.55	.60		.03
Saw Operators; Carpenters handling creosote materials	10.00	.55	.60		.03
Millwrights	10.35	.55	.60		.03
Piledrivermen	11.98	.55	.60		.03
Heavy and Highway Construction:					
Zone 1: Area 0 to 40 miles from the following Cities: Brigham City, Cedar City, Kanab, Logan, Moab, Monticello, Ogden, Price, Provo, Richfield, St. George, Salt Lake City, Vernal:					
Carpenters	9.75	.55	.60		.03
Saw Operators; Carpenters handling creosote materials	10.00	.55	.60		.03
Millwrights	9.85	.55	.60		.03
Piledrivermen	11.63	.55	.60		.03
Zone 2: Area 40 to 60 miles from the above-named Cities:					
Carpenters	10.75	.55	.60		.03
Saw Operators; Carpenters handling creosote materials	11.00	.55	.60		.03
Millwrights	9.85	.55	.60		.03
Piledrivermen	11.63	.55	.60		.03

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CARPENTERS: (Cont'd)					
Heavy & Highway Construction (Cont'd)					
Zone 3: Area over 60 miles from the above-named Cities:					
Carpenters	$ 11.75	.55	.60		.03
Saw Operators; Carpenters handling creosote materials	12.00	.55	.60		.03
Millwrights	9.85	.55	.60		.03
Piledrivermen	11.63	.55	.60		.03
CEMENT MASONS:					
Building Construction:					
Cement Masons	9.50	.55	.60		.03
Machine Operator; Mastic Floor Materials	9.63	.55	.60		.03
Swing Scaffold; Swing Stage	9.75	.55	.60		.03
Heavy and Highway Construction:					
Zone 1: Area 0 to 40 miles from the following Cities: Brigham City, Cedar City, Kanab, Logan, Moab, Monticello, Ogden, Price, Provo, Richfield, St. George, Salt Lake City, Vernal:					
Cement Masons	9.50	.55	.60		.03
Machine Operator; Mastic Floor Materials	9.63	.55	.60		.03
Swing Scaffold, Swing Stage	9.75	.55	.60		.03
Zone 2: Area 40 to 60 miles from the above-named Cities:					
Cement Masons	10.50	.55	.60		.03
Machine Operator; Mastic Floor Materials	10.63	.55	.60		.03
Swing Scaffold; Swing Stage	10.75	.55	.60		.03
Zone 3: Area over 60 miles from the above-named Cities:					
Cement Masons	11.50	.55	.60		.03
Machine Operator; Mastic Floor Materials	11.63	.55	.60		.03
Swing Scaffold; Swing Stage	11.75	.55	.60		.03

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DRYWALL INSTALLERS:					
Taping, finishing and texturing (hand or machine)	$ 10.09	.51	.30		.03
ELECTRICIANS:					
North section of Utah - Box Elder, Cache, Davis County (north of 41st Parallel), Morgan, Rich, Weber Counties:					
Zone 1: That area 10 miles on either side of Interstate Hwy. #15, commencing on the south at the 41st Parallel in Davis County, continuing north to Hwy. #91 - Interstate 15 junction south of Brigham City; at this point go east and north through Logan and continue north to the 42nd Parallel in Cache County on Hwy #91:					
Electricians; Technicians	11.00	.70	3%+.50		8/10%
Cable Splicers	11.25	.70	3%+.50		8/10%
Zone 2: That area not included in Zone 1 that lies east of 112°20' longitude in Box Elder County and that area lying west of 111°35', north of the 41st Parallel and south of the 40th Parallel in Cache, Morgan, Weber Cos.:					
Electricians; Technicians	11.50	.70	3%+.50		8/10%
Cable Splicers	11.75	.70	3%+.50		8/10%

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS: (Cont'd)					
North Section of Utah (Cont'd)					
Zone 3: That area lying east of 111°35' longitude and north of the 41st Parallel in Cache, Morgan, Rich, Weber Counties; also the area in Box Elder County lying west of 112°20' longitude and north and east of Utah Hwy. #87:					
Electricians; Technicians	$ 12.00	.70	3%+.50		8/10%
Cable Splicers	12.25	.70	3%+.50		8/10%
Electricians; Technicians point 2 miles north of Center Street in Smithfield to the Utah-Idaho State Line and 10 miles east and west from Highway #91:					
Electricians; Technicians	12.00	.70	3%+.50		8/10%
Cable Splicers	12.25	.70	3%+.50		8/10%
Zone 4: All other area west of Zones 3 and 3-A in Box Elder County:					
Electricians; Technicians	13.75	.70	3%+.50		8/10%
Cable Splicers	14.00	.70	3%+.50		8/10%
In the above areas on any job or project not exceeding $35,000 electrical, labor and material including, Zone 1 rates shall apply.					

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS: Cont'd)					
South section of Utah (Remaining Counties):					
Zone 1: Davis County (south of 41st Parallel); Salt Lake Co.; Topele County (northeast corner beginning at a point where the township line between Township 3 south and Township 4 south, Salt Lake Base Meridian, intersects the east boundary line of Tooele County and thence west along said township line to the southwest corner of Section 32, Township 3 south, Range 4 west, Salt Lake Base Meridian, thence north to the northwest corner of Section 17 of Township 3 south, Range 4 west, thence west to longitude 112.5°, thence north along the line of longitude 112.5° to the north line of Tooele County); Utah County (north of 40th Parallel)					
Area A: Ten miles either direction (east or west) from Interstate Hwy. #15), bounded on the north by the 41st Parallel and on the south by the 40th Parallel:					
Electricians; Technicians	$ 11.00	.70	3%+.50		8/10%
Cable Splicers	11.50	.70	3%+.50		8/10%
Area B: The balance of Zone 1 that lies in Davis, Salt Lake, Utah Counties:					
Electricians; Technicians	11.75	.70	3%+.50		8/10%
Cable Splicers	12.25	.70	3%+.50		8/10%

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ELECTRICIANS: (Cont'd)					
South section of Utah (Remaining Counties): (Cont'd)					
Area C: That portion of the remainder of Zone 1 that lies in Tooele County:					
Electricians; Technicians	$ 12.50	.70	3%+.50		8/10%
Cable Splicers	13.00	.70	3%+.50		8/10%
Zone 2: Remainder of Counties and all portions of Counties not included in Zones 1 and 2 of south section of Utah:					
Electricians; Technicians	13.75	.70	3%+.50		8/10%
Cable Splicers	14.25	.70	3%+.50		8/10%
ELEVATOR CONSTRUCTORS	10.03	.545	.35	3%+a	.02
ELEVATOR CONSTRUCTORS' HELPERS	7.02	.545	.35	3%+a	.02
ELEVATOR CONSTRUCTORS' HELPERS (PROB.)	5.015				
GLAZIERS:					
Iron, Washington Counties	12.88	.35	.40		.05
Remaining Counties	8.34	.51	.20	b	
IRONWORKERS:					
Fence Erectors; Ornamental; Reinforcing; Structural	10.65	.65	1.15		.05
LATHERS	9.37	.50	.50		.01
LINE CONSTRUCTION WORKERS:					
Groundman	7.67	.45	3%		1/2%
Line Equipment Serviceman	9.15	.45	3%		1/2%
Line Equipment Mechanic:					
Base Shop	9.15	.45	3%		1/2%
Right-of-way	9.77	.45	3%		1/2%
Line Equipment Operators	9.30	.45	3%		1/2%
Linemen	10.32	.45	3%		1/2%
Cable Splicers	11.35	.45	3%		1/2%

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
MARBLE SETTERS	$ 10.35	.20			
PAINTERS:					
Area north of the 41st Parallel:					
Brush; Roller	9.41	.51	.50		.03
Spray; Sandblaster; Steeplejack	9.66	.51	.50		.03
Spray (swing stage); Sandblaster (swing stage)	9.86	.51	.50		.03
Remaining part of State:					
Brush; Roller	9.20	.51	.30		.02
Brush (swing stage); Brush (steel and bridge); Spray, Sandblaster; Steeplejack	9.50	.51	.30		.02
Spray (swing stage); Spray (steel and bridge); Sandblaster (swing stage)	9.75	.51	.30		.02
Wallcovering Hanger	9.45	.51	.30		.02
PLASTERER TENDERS	8.40	.35	.35		
PLASTERERS	9.40	.50	.60		.01
PLUMBERS; Pipefitters:					
Zone 1: Within a 15 mile radius from the center of each City, namely Salt Lake City, Ogden and Provo, Utah	10.10	.51	1.00		.06
Zone 2: Zone 1 plus 15 miles	10.40	.51	1.00		.06
Zone 3: Zone 2 plus 15 miles	10.75	.51	1.00		.06
Zone 4: Zone 3 plus 15 miles	12.10	.51	1.00		.06
Zone 5: All areas beyond Zone 4	12.60	.51	1.00		.06
REFRIGERATION & AIR CONDITIONING:					
Under 50 tons	9.95	.51	1.00		.04
50 tons and over	10.10	.51	1.00		.04
ROOFERS	9.39	.57	.35		.05
SHEET METAL WORKERS	10.19	.54	.59		.08
SOFT FLOOR LAYERS	8.15	.51	.12		
SPRINKLER FITTERS	10.68	.65	.95		.08
TERRAZZO WORKERS	10.35	.20			
TILE SETTERS	10.35	.20			

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% of basic hourly rate for 5 years' service and 2% basic hourly rate for 6 months' to 5 years' service as Vacation Pay Credit. 6 Paid Holidays: A through F.

b. Employees who have been employed for a period of 1 year shall have 3 weeks' vacation with pay. Should a holiday listed below occur within a employee's vacation period he shall be allotted an additional day's vacation. Any employee who has served continuously with one company for 12 or more years as of October 31, 1969, will continue to receive an additional week's vacation. For those employees who have voluntarily quit or are terminated prior to working 12 months, there will be accumulated for such employee by each individual employer for all straight time hours worked, 6% of his gross income for such straight time hours upon termination of such employment.

HOLIDAYS:
Straight time shall be paid when the following holidays are worked: New Year's Day; President's Day; Memorial Day; Independence Day; Pioneer Day; Labor Day; Thanksgiving Day and Christmas Day.
Other than temporary employees shall be paid for all such holidays regardless upon which day in the week the holiday shall fall. When work is performed on a holiday, an additional straight time rate shall be paid. No work will be performed on Labor Day.

LABORERS
Building Construction

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 1	$ 7.45	.40	.35		.04
Group 2	7.58	.40	.35		.04
Group 3	7.70	.40	.35		.04
Group 4	7.95	.40	.35		.04
Group 5	8.45	.40	.35		.04

LABORERS
Building Construction

Group 1: General Laborer (all classifications not included in Groups 2, 3, 4, 5)

Group 2: Asphalt Raker; Sandblast Pot Tender; Gunite Nozzleman; Concrete pump (head hoseman); Signalman and Dumpman on Concrete construction

Group 3: Work of all types using cutting torch; Operators of gasoline, electric or pneumatic tools (e.g., compressor, compactors, jackhammer, vibrator, concrete saw, chain saw and concrete cutting torch); Pipelayer; Laser instrument operator; Refinery Tank and Vessel Cleaner; Sandblaster

Group 4: Air Track and similar Drills

Group 5: Powderman

LABORERS* Heavy and Highway Construction	Basic Hourly Rates	Basic Hourly Rates	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and/or Appr. Tr.
	AREA 1	AREA 2				
Group 1	$ 7.45	$ 8.95	.40	.35		.04
Group 2	7.58	9.08	.40	.35		.04
Group 3	7.70	9.20	.40	.35		.04
Group 4	7.95	9.45	.40	.35		.04
Group 5	8.45	9.95	.40	.35		.04
Tunnel and Shaft Work						
Group 1	7.60	9.10	.40	.35		.04
Group 2	7.70	9.20	.40	.35		.04
Group 3	7.90	9.40	.40	.35		.04
Group 4	8.35	9.85	.40	.35		.04
*LABORERS - AREA DEFINITION:	See "Area Definition" - following Truck Drivers.					

LABORERS
Heavy and Highway Construction

Group 1: General Laborers (all classifications not included in Groups 2, 3, 4, or 5)

Group 2: Asphalt Raker; Sandblast Pot Tender; Gunite Nozzleman; Concrete Pump Head Hoseman; Signalman and Dumpman on concrete construction

Group 3: Work of all types using cutting torch; Operators of gasoline, electric or pneumatic tools (e.g., compressor, compactors, jackhammer, vibrator, concrete saw, chain saw and concrete cutting torch); Pipelayer; Laser Instrument Operator; Refinery Tank and Vessel Cleaner; Sandblaster

Group 4: Air Track and similar Drills

Group 5: Powderman

LABORERS
Tunnel and Shaft Work

Group 1: Underground Laborers

Group 2: Brakeman; Chucktender; Dumpman; Powderman Helper; Puddler; Nipper; Tapman; Vibrator; Screedmen

Group 3: Cutting Machine Operator; Drill Doctor; Finisher; Gunite Gunman; Miner; Powder Makeup Man; Spader and Tugger; Steelman; Gunite Groundman; Gunite Nozzleman; Gunite Rodman; Concrete Head Hoseman

Group 4: Shifter

POWER EQUIPMENT OPERATORS: Building Construction	Basic Hourly Rates AREA 1	Basic Hourly Rates AREA 2	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
Group 2	$ 7.82	$ 8.82	.90	$ 1.565	.75	.05
Group 3	8.19	9.19	.90	1.565	.75	.05
Group 4	8.38	9.38	.90	1.565	.75	.05
Group 4-A	8.49	9.49	.90	1.565	.75	.05
Group 5	8.49	9.49	.90	1.565	.75	.05
Group 6	8.97	9.97	.90	1.565	.75	.05
Group 7	9.13	10.13	.90	1.565	.75	.05
Group 7-A	9.25	10.25	.90	1.565	.75	.05
Group 8	9.56	10.56	.90	1.565	.75	.05
Group 8-A	9.63	10.63	.90	1.565	.75	.05
Group 9	9.79	10.79	.90	1.565	.75	.05
Group 10	9.96	10.96	.90	1.565	.75	.05
Group 11	10.42	11.42	.90	1.565	.75	.05
Group 11-A	11.33	12.33	.90	1.565	.75	.05
Group 11-B	11.80	12.80	.90	1.565	.75	.05
Group 12	12.07	13.07	.90	1.565	.75	.05

*POWER EQUIPMENT OPERATORS - AREA DEFINITIONS: See "Area Definition" - following Truck Drivers

POWER EQUIPMENT OPERATORS
Building Construction

Group 2: Assistant to Engineer; Elevator Operator; Hydraulic Monitor; Material Loader or Conveyor Operator

Group 3: Air Compressor Operator; Concrete Mixer Operator (skip-type); Concrete Pump or Pumpcrete Gun Operator; Generator Operator (100 KW or over); Mixer Box Operator or similar (concrete or asphalt plant Continuous mix); Pump Operator; Truck Crane Oiler

Group 4: Front End Loader (up to and including 1 cu. yd. struck M.R.C.); Hoist Operator - 1 drum; Slip Form Pumps

Grup 4-A: Heavy Duty Repairman and Welder

Group 5: Air Compressor Operator (2 or more compressors); Signalman; Small Rubber-tired Tractor; Small self-propelled pneumatic rollers; Towermobile Operator; Welding Machine (2 or more); Concrete Conveyor, building site

Group 6: A Frame Truck and Tugger Hoist; Fork Lift (construction jobsite); Kolman Loader and similar; Loader Operator (over 1 cu. yd. up to and including 2 cu. yds. struck M.R.C.); McGinnis Internall Full Slab Vibrator (on airports, highways, canals and warehouses); Mixermobile Operator; Ross Carrier or similar type; Small rubber-tired tractor (with attachments, including backhoe); Small rubber-tired Trenching Machine; Small Tractor with boom; Gradesetter

Group 7: Bridge Crane; Concrete Mixer Operator (paving or batch plant); Drilling Machine Operator (well or diamond); Dual Drum Mixers; Hoist Operator - 2 drums; Lull High-lift (40 ft. or similar); Roller Operator or self-propelled Compactors; Tractor Operator (Sheep's foot and compacting equipment); Trenching Machine; Concrete Conveyor or Concrete Pump, Truck or equipment mounted (boom length to apply); Self-propelled Compactor with or without dozer

Group 7-A: Tractor Operator (bulldozer or tractor-drawn scraper or drag-type Shovel or boom attachment, up to and including D-7 or similar)

POWER EQUIPMENT OPERATORS (Cont'd)
Building Construction (Cont'd)

Group 8: Chicago Boom (including Stiff Leg and Sheer Pole); Concrete Batch Plant (multiple units); Loader Operator (over 2 cu. yds. up to and including 5 cu. yds. struck M.R.C.); Self-propelled Boom type Lifting Device (center mount) (10 ton capacity or less M.R.C.)

Group 8-A: Heavy Duty Repairman or Welder; Tractor Operator (bulldozer or tractor-drawn scraper or dragf-type shovel or boom attachment, larger than D-7 or similar)

Group 9: Motor Patrol

Group 10: Loader Operator (over 5 cu. yds. up to and including 12 cu. yds. struck M.R.C.); Universal Equipment Operator (shovel, backhoe, dragline, derrick, derrick barge, clamshell, crane, grade-all, etc.) (up to and including 5 cu. yds. struck M.R.C.); Self-propelled Boom type Lifting Device (center mount); Tower Crane (Linden type or similar designs and capacity)

Group 11: Remote Controlled Cranes and Derricks; Tower Cranes Mobile

Group 11-A: Loader Operator (over 12 cu. yds. struck M.R.C. up to 18 cu. yds. M.R.C.)

Group 11-B: Operator of Helicopter (when used in erection work)

Group 12: Cranes over 125 tons

POWER EQUIPMENT OPERATORS:* Heavy and Highway Construction	Basic Hourly Rates	Basic Hourly Rates	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and/or Appr. Tr.
	AREA 1	AREA 2				
Group 1	$ 8.01	$ 9.01	.90	$ 1.615	.85	.14
Group 2	8.29	9.29	.90	1.615	.85	.14
Group 3	8.64	9.64	.90	1.615	.85	.14
Group 4	8.82	9.82	.90	1.615	.85	.14
Group 4-A	8.93	9.93	.90	1.615	.85	.14
Group 5	8.93	9.93	.90	1.615	.85	.14
Group 6	9.39	10.39	.90	1.615	.85	.14
Group 7	9.54	10.54	.90	1.615	.85	.14
Group 7-A	9.65	10.65	.90	1.615	.85	.14
Group 8	9.95	10.95	.90	1.615	.85	.14
Group 8-A	10.01	11.01	.90	1.615	.85	.14
Group 9	10.07	11.07	.90	1.615	.85	.14
Group 10	10.23	11.23	.90	1.615	.85	.14
Group 11	10.67	11.67	.90	1.615	.85	.14
Group 11-A	11.63	12.63	.90	1.615	.85	.14
Group 11-B	12.08	13.08	.90	1.615	.85	.14
Group 12	12.24	13.24	.90	1.615	.85	.14

*SEE AREA DEFINITION following Truck Drivers

POWER EQUIPMENT OPERATORS (Cont'd)
Heavy and Highway Construction

Group 1: Repairman Helper

Group 2: Asphalt Plant Fireman; Assistant to Engineer; Brakeman - Locomotive; Elevator Operator; Fireman; Hydraulic Monitor; Material Loader or Conveyor Operator; Partsman - Field; Repairman Helper - Field

Group 3: Air Compressor Operator; Concrete Mixer Operator (skip-type); Concrete Pump or Pumpcrete Gun Operator; Engineer, Dinky Operator; Generator Operator (100 KW or over); Mixer Box Operator or similar (concrete or asphalt plant continuous mix); Pump Operator; Screedman; Self-propelled, automatically applied concrete curing machine (on street, highways, airports and canals); Truck Crane Oiler; Boxman, Asphalt Plant

Group 4: Ballast Jack Tamper; Ballast Regulator; Ballast Tamper - multiple-purpose; Front End Loader (up to and including 1 cu. yd. struck MRC); Hoist Operator - 1 drum; Line Master; Slip Form Pumps

Group 4-A: Slurry Seal Machine or similar

Group 5: Air Compressor Operator (2 or more compressors); Batch Operator (asphalt plant); Motorman; Pavement Breaker Operator (Ehasco and similar type); Shuttlecar; Signalman; Small rubber-tired tractor; Small self-propelled pneumatic rollers; Towermobile Operator; Welding Machine (2 or more); Lube and Service Engineer (mobile and grease rack); Concrete Conveyor (building site)

Group 6: A-Frame Truck and Tugger Hoist; Concrete Saws (self-propelled units on streets, highways, airports and canals); Engineer-locomotive; Fork Lift (construction jobsite); Kolman Loader (and similar); Loader Operator (over 1 cu. yd. up to and including 2 cu. yds. struck MRC); Maginnis Internal Full Slab Vibrator (on airports, highways, canal and warehouses); Mixermobile Operator; Pipe Bending Machine Operator; Pipe Cleaning Machine; Pipe Wrapping Machine; Power Jumbo Operator (setting slip forms, etc., in tunnels); Road Mixing Machine Operator; Ross Carrier or similar type; Small rubber-tired tractor (with attachments, including backhoe); Small rubber-tired Trenching Machine; Small Tractor with boom; Surface Heater (self-propelled); Gradesetter

POWER EQUIPMENT OPERATORS (Cont'd)
Heavy and Highway Construction (Cont'd)

Group 7: Bridge Crane; Chip Box Spreader (Flaherty-type and similar); Concrete Mixer Operator (paving or batch plant); Deck Engineer (Marin); Drilling Machine Operator (well or diamond); Dual Drum Mixers; Elevating Grader Operator; Fuller Kenyon Pump and similar types; Heavy Duty Rotary Drill Rigs (such as Quarry Master, Joy Drills or equal); Hoist Operator - 2 drums; Lull High Lift (40 ft. or similar); Mechanical Finisher Operator (asphalt or concrete); Mine or Shaft Hoist; No-Joint Pipe Laying Machine; Pavement Breaker; Pavement Breaker with Compressor Combination; Pavement Breaker, truck mounted, compressor combination; Refrigeration Plant; Roller Operator or self-propelled Compactor; Self-propelled Pipeline, Wrapping Machine (Perault, CMC, or similar types); Slusher Operator; Tractor Compressor Drill combination; Tractor Operator (Sheep's foot and compacting equipment); Trenching Machine; Concrete Conveyor or Concrete Pump, truck or equipment mounted (boom length to apply); Mechanical Burm, Curb and/or Curb and Gutter Machine, Concrete or Asphalt; Self-propelled Compactor with or without dozer; Drilling and Boring Machinery, Horizontal and Vertical (not to apply to waterliners, wagon drills or jackhammers); Self-propelled Compactor (with multiple-propulsion power units)

Group 7-A: Side Boom Operator; Tractor Operator (Bulldozer or tractor-drawn scraper or drag-type shovel or boom attachment, up to and

Group 8: Chicago Boom (including Stiff Leg and Sheer Pole); Combination Slusher and Motor Operator; Concrete Batch Plant (multiple units); Do-mor Loader and Adams Elegrader; Euclid Loader and similar types; Koehring Skooper (or similar)(up to 5 cu. yds. struck MRC); Loader Operator (over 2 cu. yds. up to and including 5 cu. yds. struck MRC); Mechanical Trench Shield; Mucking Machine Operator; Rubber-tired Scrapers (under 35 cu. yds. struck MRC); Saurman-type Dragline (under 5 cu. yds. struck MRC); Self-propelled Boom-type Lifting Devixe (center mount) (10 ton capacity or less MRC); Self-propelled Elevating Grade Plane; Soil Stabilizer (P&H or equal); Subgrader (automatic subgrader - fine grader); Tri-batch Paver; Tunnel Mole (or similar); Asphalt Plant Engineer; Engineer, crushing plant; Combination Backhoe and Loader (3/4 yds. and over struck MRC)

POWER EQUIPMENT OPERATORS (Cont'd)
Heavy and Highway Construction (Cont'd)

Group 8-A: Heavy Duty Repairman or Welder; Tractor Operator (bull-dozer or tractor-drawn scraper or drag-type shovel or boom attachment, larger than D-7 or similar)

Group 9: Combination Mixer and Compressor (gunite); Highline Cableway Signalman; Motor Patrol; Tower Crane (Linden-type or similar designs and capacity)

Group 10: D.W. 10, 20, etc. (Tandem Scrapers); Highline Cableway Operator; Lift Slab Machine (Vagtborg and similar types); Loader Operator (over 5 cu. yds. up to and including 12 cu. yds. struck MRC); Locomotive (over 100 tons) (single or multiple units); Prestree Wire Wrapping Machine; Saurman-type Dragline (5 cu. yds. and over struck MRC); Tractor (tandem scrapers); Universal Equipment Operator (shovel, backhoe, dragline, derrick, derrick barge, clamshell, crane, gradeall, etc.) (up to and including 5 cu. yds. struck MRC); Self-propelled Boom-type lifting device (center mount (over 10 tons)

Group 11: Automatic Concrete Slip Form Paver; Koehring Skooper (or similar) (5 cu. yds. and over struck MRC); Multiple Propulsion power unit earth movers (up to and including 75 cu. yds. struck MRC); Power Equipment with Shovel-type controls (over 5 cu. yds. up to and including 7 cu. yds. struck MRC); Remote-controlled Cranes and Derricks; rubber-tired Scrapers (35 cu. yds. and over struck MRC); Slip Form Paver (concrete or asphalt); Tandem Tractors; tower Cranes Mobile

Group 11-A: Loader Operator (over 12 cu. yds. struck MRC up to 18 cu. yds. MRC); Multi-purpose earth moving machines (2 or more scrapers) (over 75 cu. yds. struck MRC); Power Shovels and Draglines (over 7 cu. yds. struck MRC)

Group 11-B: Operator of Helicopter (when used in erection work); Loader (18 cu. yds. and over)

Group 12: Cranes over 125 tons)

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS: Steel Erection					
Group 1	$ 9.22	.75	$ 1.615	.85	.14
Group 2	9.60	.75	1.615	.85	.14
Group 3	10.61	.75	1.615	.85	.14
Group 4	10.75	.75	1.615	.85	.14
Group 4-A	11.04	.75	1.615	.85	.14
Group 5	11.52	.75	1.615	.85	.14
Group 6	11.93	.75	1.615	.85	.14
Group 6-A	12.49	.75	1.615	.85	.14
Group 7	13.47	.75	1.615	.85	.14
Piledriving					
Group 1-A	8.78	.75	1.615	.85	.14
Group 1-B	9.11	.75	1.615	.85	.14
Group 1-C	9.26	.75	1.615	.85	.14
Group 2-A	9.89	.75	1.615	.85	.14
Group 2-B	10.10	.75	1.615	.85	.14
Group 3	10.40	.75	1.615	.85	.14
Group 3-A	10.78	.75	1.615	.85	.14
Group 4	11.33	.75	1.615	.85	.14
Group 5	11.48	.75	1.615	.85	.14
Group 6	12.49	.75	1.615	.85	.14

POWER EQUIPMENT OPERATORS (Cont'd)
Steel Erection

Group 1: Assistant to Engineer (oiler)

Group 2: Compressor Operator; Generator, gasoline or diesel driven (100 KW or over)(structural steel or tank erection only); Assistant to Engineer (truck crane oiler)

Group 3: Compressors, Generators and/or Welding Machines or Combination (2 to 6)(structural steel or tank erection only); Deck Engineer; Signalman (using mechanical equipment); Fork Lift

Group 4: Heavy Duty Repairman; Tractor Operator

Group 4-A: Combination Heavy Duty Repairman - Welder

Group 5: Dual-purpose A-Frame or Boom Truck; Boom Cat; Chacago Boom; Crawler Cranes and Truck Cranes (15 tons MRC or less); Self-propelled Boom-type Lifting Device (center mount)(10 ton capacity or less MRC); Single Drum Hoist; Tugger Hoist

Group 6: Crawler Cranes and Trucks Cranes (over 15 tons MRC); Derricks; Highline Cableway; Gantry Rider (or similar equipment); Self-propelled Boom-type Lifting Device (center mount) (over 10 tons); Tower Cranes Mobile (including rail mounted); Universal Liebher and Tower Cranes (and similar types); 2 or more drum Hoist

Group 6-A: Cranes (over 125 tons)

Group 7: Operator of Helicopter

POWER EQUIPMENT OPERATORS (Cont'd)
Piledriving

Group 1-A: Assistant to Engineer (deckhand, fireman, oiler)

Group 1-B: Compressor Operator

Group 1-C: Assistant to Engineer (truck crane oiler)

Group 2-A: Operator of Tugger Hoist (hoisting materials only)

Group 2-B: Compressor Operator (over 2); Generators; Pumps; Welding Machines (powered other than by electricity)

Group 3: Deck Engineer; Fork Lift Operator; A-Frame; Self-propelled Boom-type Lifting Device (center mount) (10 ton capacity or less MRC)

Group 3-A: Heavy Duty Repairman and/or Welder

Group 4: Operating Engineer in lieu of Assistant to Engineer tending boiler or compressor attached to Crane Piledriver; Operator or Piledriving Rigs, skid or floating and derrick barges; Operator of diesel or gasoline powered Crane Piledriver (without boiler) up to and including 1 cu. yd. rating; Self-propelled Boom-type lifting device (center mount) (over 10 tons); Truck Cranes Operator (up to and including 25 tons) (hoisting material only)

Group 5: Operator of diesel or gasoline powered Crane Piledriver (without boiler) over 2 cu. yd. rating; Operator of Crane (with steam, flash boiler, pump or compressor attached); Operator of steam powered Crawler or Universal-type Driver (Raymond or similar type); Truck Crane Operator (over 25 tons) (hoisting material or performing piledriving work)

Group 6: Cranes (over 125 tons)

TRUCK DRIVERS*	Basic Hourly Rates AREA 1	Basic Hourly Rates AREA 2	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
DUMP TRUCKS - Water level capacity (bottom, end and side) (including Dumpster Trucks, Euclid type Trucks, Turnawagons, Turnarockers and Dumpcrete)						
Less than 8 yards	$ 8.47	$ 9.97	.58	.75	$ 1.00	.10
8 yds. and less than 14 yds.	8.62	10.12	.58	.75	1.00	.10
14 yds. and less than 35 yds.	8.77	10.27	.58	.75	1.00	.10
35 yds. and less than 55 yds.	8.97	10.47	.58	.75	1.00	.10
55 yds. and less than 75 yds.	9.17	10.67	.58	.75	1.00	.10
75 yds. and less than 95 yds.	9.37	10.87	.58	.75	1.00	.10
95 yds. and less than 105 yds.	9.57	11.07	.58	.75	1.00	.10
105 yds. & less than 130 yds.	9.69	11.19	.58	.75	1.00	.10
130 cu. yds. and over to be paid one-half cent ($.005) per cu. yds. capacity per hour in addition to rate for 105 yards and less than 130 yards						
FLAT RACK TRUCKS, Bulk Cement Trucks, Transport Trucks, Semi-Trailer (carrying capacity):						
Pickup	8.295	9.795	.58	.75	1.00	.10
Less than 10 tons	8.37	9.87	.58	.75	1.00	.10
10 tons and less than 15 tons	8.52	10.02	.58	.75	1.00	.10
15 tons and less than 20 tons	8.62	10.12	.58	.75	1.00	.10
20 tons and over	8.77	10.27	.58	.75	1.00	.10

TRUCK DRIVERS:* (Cont'd)	Basic Hourly Rates AREA 1	Basic Hourly Rates AREA 2	Fringe Benefits Payments H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRANSIT MIX TRUCKS:						
4½ yards capacity and less	$ 8.495	$ 9.995	.58	.75	$1.00	.10
Over 4½ yards to and including 6½ yards capacity	8.595	10.095	.58	.75	1.00	.10
Over 6½ yards capacity	8.695	10.195	.58	.75	1.00	.10
CONCRETE PUMPING TRUCKS	8.695	10.195	.58	.75	1.00	.10
WATER, FUEL & OIL TANK TRUCKS:						
Less than 1200 gallons	8.345	9.845	.58	.75	1.00	.10
1200 gallons to less than 2500 gallons	8.47	9.97	.58	.75	1.00	.10
2500 gallons to less than 4000 gallons	8.62	10.12	.58	.75	1.00	.10
4000 gallons to less than 6000 gallons	8.92	10.42	.58	.75	1.00	.10
6000 gallons to less than 10,000 gallons	9.17	10.67	.58	.75	1.00	.10
10,000 gallons to less than 15,000 gallons	9.42	10.92	.58	.75	1.00	.10
15,000 gallons to less than 20,000 gallons	9.67	11.17	.58	.75	1.00	.10
20,000 gallons to less than 25,000 gallons	9.92	11.42	.58	.75	1.00	.10
2500 gallons and over	10.17	11.67	.58	.75	1.00	.10
OILER SPREADER OPERATOR (on single man operation where Boot Man is required)	9.17	10.67	.58	.75	1.00	.10

TRUCK DRIVERS:* (Cont'd)	Basic Hourly Rates	Basic Hourly Rates	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and/or Appr. Tr.
	AREA 1	AREA 2				
CONSTRUCTION JOB SERVICEMEN:						
Telescopic Manlift Truck	$ 8.67	$10.17	.58	.75	$1.00	.10
Fork Lift (under 6 tons) and Straddle Truck	8.67	10.17	.58	.75	1.00	.10
Truck Driver Helper	8.245	9.745	.58	.75	1.00	.10
Chauffeurs	8.245	9.745	.58	.75	1.00	.10
Warehousemen (counter clerk)	8.42	9.92	.58	.75	1.00	.10
Washers	8.445	9.945	.58	.75	1.00	.10
Tireman and Greaser	8.87	10.37	.58	.75	1.00	.10
Gas Station Attendants	8.295	9.795	.58	.75	1.00	.10
Fork Lift (over 6 tons)	8.77	10.27	.58	.75	1.00	.10
Teamster Mechanic	9.48	10.98	.58	.75	1.00	.10
Teamster Mechanic Helper	9.23	10.73	.58	.75	1.00	.10
Teamster Welder	9.48	10.98	.58	.75	1.00	.10
Teamster Driving two Horses	9.245	10.745	.58	.75	1.00	.10
Teamster Driving three or more horses	9.345	10.845	.58	.75	1.00	.10
Sweeper or Vacuum Truck	8.62	10.12	.58	.75	1.00	.10

*SEE AREA DEFINITION following this page.

AREA DEFINITIONS

Laborers
(Heavy and Highway Construction)
Power Equipment Operators
Building Construction)
(Heavy and Highway Construction)
Truck Drivers

Area 1: All areas included in the description defined below which is based upon township and range lines as referenced to the Salt Lake City Base and Meridian:

Commencing at the intersection of the Utah/Nevada border and the Southerly line ot township 35 south;
Thence easterly to the S.E. corner of township 35 south, range 17 west;
Thence northerly to the S.E. corner of township 34 south, range 17 west;
Thence easterly to the S.E. corner of township 34 south, range 16 west;
Thence northerly to the S.E. corner of township 30 south, range 16 west;
Thence easterly to the S.E. corner of township 30 south, range 15 west;
Thence northerly to the S.E. corner of township 25 south, range 15 west;
Thence easterly to the S.E. corner of township 25 south, range 14 west;
Thence northerly to the S. E. corner of township 24 south, range 14 west;
Thence easterly to the S.E. corner of township 24 south, range 13 west;
Thence northerly to the S.E. corner of township 23 south, range 13 west;
Thence easterly to the S.E. corner of township 23 south, range 12 west;
Thence northerly to the S.E. corner of township 18 south, range 12 west;
Thence easterly to the S.E. corner of township 18 south, range 11 west;
Thence northerly to the S.E. corner of township 16 south, range 11 west;
Thence easterly to the S.E. corner of township 16 south, range 10 west;
Thence northerly to the S.E. corner of township 15 south, range 10 west;
Thence easterly to the S.E. corner of township 15 south, range 9 west;
Thence northerly to the S.E. corner of township 14 south, range 9 west;
Thence easterly to the S.E. corner of township 14 south, range 8 west;
Thence northerly along the easterly line of range 8 west, crossing the Salt Lake Base Line to the intersection of the easterly line of range 8 west and the northerly border of Utah;
Thence easterly along the northerly border of Utah crossing the Salt Lake Meridian to the Utah/Idaho/Wyoming border;
Thence southerly along the Utah/Wyoming border;
Thence easterly along the Utah/Wyoming border to the intersection of the Utah/Wyoming border and Longitude 111 degrees west;
Thence southerly along Longitude 111 degrees west crossing the Salt Lake Base Line to the intersection of Longitude 111 degrees west and the southerly line of township 4 south;
Thence easterly along the southerly line of township 4 south to the S.E. corner of township 4 south, range 17 east;

AREA DEFINITIONS (Cont'd)

AREA 1: (Cont'd)

Thence northerly to the S. E. corner of township 1 south, range 17 east;
Thence easterly along the southerly line of township 1 south to the intersection of the Utah/Colorado border;
Thence southerly along the Utah/Colorado border to the intersection of the Utah/Colorado border and the southerly line of township 7 south;
Thence westerly along the southerly line of township 7 south to the S.W. corner of township 7 south, range 20 east;
Thence southerly to the S.E. corner of township 8 south, range 19 east;
Thence westerly along the southerly line of township 8 south to the S. E. corner of township 8 south, range 12 east;
Thence southerly along the easterly line of range 12 east to the S. E. corner of township 20 south, range 12 east;
Thence westerly along the southerly line of township 20 south to the S.E. corner of township 20 south, range 3 east;
Thence southerly along the easterly line of range 3 east to the S.E. corner of township 27 south, range 3 east;
Thence westerly to the intersection of the southerly line of township 27 south and the Salt Lake Meridian; thence southerly along the Salt Lake Meridian to the intersection of the Salt Lake Meridian and the southerly line of township 39 south;
Thence westerly crossing the Salt Lake Meridian to the S.E. corner of township 39 south, range 2 west;
Thence southerly to the S.E. corner of township 41 south, range 2 west;
Thence westerly to the S.E. corner of township 41 south, range 3 west;
Thence southerly along the easterly line of range 3 west to the Utah/Arizona border;
Thence westerly along the Utah/Arizona border to the Utah/Arizona/Nevada border;
Thence northerly along the Utah/Nevada border to the point of beginning; commencing at the intersection of the Utah/Colorado border and the southerly line of township 34 south;
Thence westerly to the S.W. corner of township 34 south, range 21 east;
Thence northerly to the S.W. corner of township 29 south, range 21 east;
Thence westerly to the S.W. corner of township 29 south, range 19 east;
Thence northerly to the N.W. corner of township 23 south, range 19 east;
Thence easterly to the N.W. corner of township 23 south, range 22 east;
Thence northerly to the N.W. corner of township 21 south, range 22 east;
Thence easterly to the N.E. corner of township 21 south, range 24 east;
Thence southerly to the N.E. corner of township 31 south, range 24 east;
Thence easterly along the northerly line of township 31 south, to the Utah/Colorado border;
Thence southerly along the Utah/Colorado border to the point of beginning

AREA 2: All areas not included in Area 1 as defined.

[FR Doc.77-22312 Filed 8-4-77;8:45 am]

DEPARTMENT OF LABOR

Employment Standards Administration

INDEX TO GENERAL WAGE DETERMINATION DECISIONS AND MODIFICATIONS AS OF JULY 1, 1977

There is set forth below an index to general wage determination decisions and modifications as published in the FEDERAL REGISTER pursuant to the Davis-Bacon and related Acts. The index lists general wage determination decisions and modifications by State and County. An updated index is published on the first Friday of each month.

The index is published for the convenience of the public and the Department of Labor will endeavor to keep it accurate and up to date. In the event the data in the index and published general decisions do not coincide, the published general decisions shall control.

Abbreviations:

(B)—Building Construction
(D)—Dredging
(F)—Flood Control Construction
(H)—Heavy Construction
(Hw)—Highway Construction
(R)—Residential Construction
Mod.—Modification
(HE)—Heavy Engineering
(LE)—Light Engineering
(U)—Utility
(W&S)—Water and Sewer

Signed at Washington, D.C. this 29th day of July 1977.

RAY J. DOLAN,
Assistant Administrator,
Wage and Hour Division.

ALABAMA

STATEWIDE
Decision #AL76-5090 (D)
41 FR 44609 - 10/8/76
Decision #AL77-1042 (Hw)
41 FR 17753 - 4/1/77
AUTAUGA COUNTY
Decision #AL77-1063 (W&S)
42 FR 24553 - 5/13/77
Decision #AL77-1064 (H)
42 FR 24553 - 5/13/77
(D,Hw) - See Statewide
BALDWIN COUNTY
Decision #AL77-1072 (H)
42 FR 28729 - 6/3/77
Decision #AL76-1009 (R)
41 FR 2540 - 1/16/76
(D,Hw) - See Statewide
BARBOUR COUNTY
(H,W&S) - See Autauga County
(D,Hw) - See Statewide
BIBB COUNTY
(H, W&S) - See Autauga County
(D,Hw) - See Statewide
BLOUNT COUNTY
Decision #AL77-1075 (R)
42 FR 28756 - 6/3/77
Decision #AL77-1066 (W&S)
42 FR 24554 - 5/13/77
Decision #AL77-1067 (H)
42 FR 24554 - 5/13/77
(D,Hw) - See Statewide
BULLOCK COUNTY
(H, W&S) - See Autauga County
(D,Hw) - See Statewide
BUTLER COUNTY
(H, W&S) - See Autauga County
(D,Hw) - See Statewide
CALHOUN COUNTY
Decision #AL77-1071 (W&S)
42 FR 28728 - 6/3/77
Decision #AL77-1083 (H)
42 FR 32458 - 6/24/77
Decision #AL76-1125 (B)
41 FR 47713 - 10/29/76
Mod. #1 - 42 FR 8925 - 2/11/77
(D,Hw) - See Statewide
CHAMBERS COUNTY
(H, W&S) - See Autauga County
(D,Hw) - See Statewide
CHEROKEE COUNTY
(H, W&S) - See Blount County
(D,Hw) - See Statewide
CHILTON COUNTY
(H, W&S) - See Autauga County
(D,Hw) - See Statewide
CHOCTAW COUNTY
(D,Hw) - See Statewide
(H) - See Baldwin County

ALABAMA (Cont'd.)

CLARKE COUNTY
(D, Hw) - See Statewide
(H,R) - See Baldwin County
CLAY COUNTY
(H, W&S) - See Blount County
(D,Hw) - See Statewide
CLEBURNE COUNTY
(H, W&S) - See Blount County
(D,Hw) - See Statewide
COFFEE COUNTY
(H, W&S) - See Autauga County
(D,Hw) - See Statewide
COLBERT COUNTY
Decision #AL75-1046 (R)
40 FR 17451 - 4/18/75
Decision #AL77-1027 (B)
42 FR 15260 - 3/18/77
Mod. #1 - 42 FR 17735 - 4/1/77
Mod. #2 - 42 FR 24567 - 5/13/77
(H, W&S) - See Blount County
(D,Hw) - See Statewide
CONECUH COUNTY
(D,Hw) - See Statewide
(H,R) - See Baldwin County
COOSA COUNTY
(H, W&S) - See Autauga County
(D,Hw) - See Statewide
COVINGTON COUNTY
(H, W&S) - See Autauga County
(D,Hw) - See Statewide
CRENSHAW COUNTY
(H, W&S) - See Autauga County
(D,Hw) - See Statewide
CULLMAN COUNTY
Decision #AL77-1048 (R)
42 FR 22067 - 4/29/77
(D,Hw) - See Statewide
(H, W&S) - See Blount County
DALE COUNTY
(H,W&S) - See Autauga County
(D,Hw) - See Statewide
DALLAS COUNTY
(H, W&S) - See Autauga County
(D,Hw)- See Statewide
DE KALB COUNTY
(H, W&S) - See Blount County
(D,Hw) - See Statewide
ELMORE COUNTY
(H, W&S) - See Autauga County
(D,Hw)- See Statewide
ESCAMBIA COUNTY
(D,Hw) - See Statewide
(H,R) - See Baldwin County
ETOWAH COUNTY
(D,Hw)-See Statewide
(H, W&S) - See Calhoun County

ALABAMA (Cont'd.

FAYETTE COUNTY
(D,Hw) - See Statewide
(H, W&S) - See Blount County
FRANKLIN COUNTY
(D,Hw) - See Statewide
(H, W&S) - See Blount County
(R) - See Colbert County
GENEVA COUNTY
(D,Hw) - See Statewide
(H, W&S) - See Autauga County
GREENE COUNTY
(H) - See Calhoun County
(D,Hw) - See Statewide
(W&S) - See Calhoun County
HALE COUNTY
(D,Hw) - See Statewide
(H, W&S) - See Autauga County
HENRY COUNTY
(D,Hw) - See Statewide
(H, W&S) - See Calhoun County
HOUSTON COUNTY
(D,Hw) - See Statewide
(H, W&S) - See Calhoun County
JACKSON COUNTY
(D,Hw) - See Statewide
(H, W&S) - See Blount County
(R) - See Cullman County
JEFFERSON COUNTY
Decision #AL77-1086 (B)
42 FR 34153 - 7/1/77
(D) - See Statewide
(R) - See Blount County
(Hw) - See Statewide
(H, W&S) - See Calhoun County
LAMAR COUNTY
(D,Hw) - See Statewide
(H, W&S) - See Blount County
LAUDERDALE COUNTY
(B,R) - See Colbert County
(D,Hw) - See Statewide
(H, W&S) - See Blount County
LAWRENCE COUNTY
Decision #AL77-1025 (B)
42 FR 12577 - 3/4/77
Mod. #1 - 42 FR 20048 - 4/15/77
Mod. #2 - 42 FR 24566 - 5/13/77
(D,Hw) - See Statewide
(R) - See Colbert County
(H, W&S) - See Blount County
LEE COUNTY
(H, W&S) - See Autauga County
(D,Hw) - See Statewide
LIMESTONE COUNTY
(B) - See Lawrence County
(D,Hw) - See Statewide

ALABAMA (cont'd)

LIMESTONE COUNTY (Cont'd.)
(R) - See Cullman County
(H, W&S) - See Blount County
LOWNDES COUNTY
(D,Hw) - See Statewide
(H,W&S) - See Autauga County
MACON COUNTY
(D,Hw) - See Statewide
(H, W&S) - See Autauga County
MADISON COUNTY
Decision #AL77-1040 (B)
42 FR 17752 - 4/1/77
Mod. #1 - 42 FR 28731 - 6/3/77
(D,Hw) - See Statewide
(H, W&S) - See Blount County
MARENGO COUNTY
(H) - See Baldwin County
(D,Hw) - See Statewide
MARION COUNTY
(R) - See Colbert County
(D,Hw) - See Statewide
(H, W&S) - See Blount County
MARSHALL COUNTY
(R) - See Madison County
(H, W&S) - See Blount County
(D,Hw) - See Statewide
MOBILE COUNTY
Decision #AL77-1039 (B)
42 FR 20988 - 4/22/77
(D,Hw) - See Statewide
(H,R) - See Baldwin County
MONROE COUNTY
(H,R) - See Baldwin County
(D,Hw) - See Statewide
MONTGOMERY COUNTY
(D,Hw) - See Statewide
(H, W&S) - See Autauga County
Decision #AL76-1002 (R)
41 FR 1693 - 1/9/76
Mod. #1 - 41 FR 36365 - 8/27/76
Decision #AL76-1138 (B)
41 FR 53241 - 12/3/76
MORGAN COUNTY
(B) - See Lawrence County
(D,Hw) - See Statewide
(R) - See Cullman County
(H, W&S) - See Blount County
PERRY COUNTY
(D,Hw) - See Statewide
(H, W&S) - See Autauga County
PICKENS COUNTY
(D,Hw) - See Statewide
(H, W&S) - See Calhoun County

ALABAMA (Cont'd)

PIKE COUNTY
(D,Hw) - See Statewide
(H, W&S) - See Autauga County
RANDOLPH COUNTY
(D,Hw) - See Statewide
(H, W&S) - See Blount County
RUSSELL COUNTY
(D,Hw) - See Statewide
(H, W&S) - See Autauga County
SAINT CLAIR COUNTY
(D,Hw) - See Statewide
(R) - See Blount County
(H, W&S) - See Calhoun County
SHELBY COUNTY
(B) - See Jefferson County
(D,Hw) - See Statewide
(R) - See Blount County
(H, W&S) - Calhoun County
SUMTER COUNTY
(D,Hw) - See Statewide
(H, W&S) - See Calhoun County
TALLADEGA COUNTY
(D,Hw) - See Statewide
(H, W&S) - See Calhoun County
(R) - See Blount County
TALLAPOOSA COUNTY
(D,Hw) - See Statewide
(H, W&S) - See Autauga County
TUSCALOOSA COUNTY
Decision #AL77-1053 (B)
42 FR 23294 - 5/6/77
(D,Hw) - See Statewide
(H, W&S) - See Calhoun County
WALKER COUNTY
(D,Hw) - See Statewide
(R) - See Blount County
(H, W&S) - See Calhoun County
WASHINGTON COUNTY
(D,Hw) - See Statewide
(H,R) - See Baldwin County
WILCOX COUNTY
(D,Hw) - See Statewide
(H) - See Baldwin County
WINSTON COUNTY
(D,Hw) - See Statewide
(R) - See Colbert County
(H, W&S) - See Blount County

ALASKA

STATEWIDE
Decision #AK77-5052 (B,H,Hw,D,R)
42 FR 26115 - 5/20/77
Mod. #1 - 42 FR 34138 - 7/1/77

ARIZONA

STATEWIDE
Decision #AZ77-5058 (B,H,Hw)
42 FR 31056 - 6/17/77
APACHE COUNTY
(Navajo and Hopi Indian
Reservations in Apache, Coconino, Navajo Cos.)
(B,H,Hw) - See Statewide
COCHISE COUNTY
(B,H,Hw) - See Statewide
COCONINO COUNTY
(B,H,Hw) - See Statewide
GILA COUNTY
(B,H,Hw) - See Statewide
GRAHAM COUNTY
(B,H,Hw) - See Statewide
GREENLEE COUNTY
(B,H,Hw) - See Statewide
MARICOPA COUNTY
(B,H,Hw) - See Statewide
Decision #AZ77-5059 (R)
42 FR 31065 - 6/17/77
MOHAVE COUNTY
(B,H,Hw) - See Statewide
NAVAJO COUNTY
(B,H,Hw) - See Statewide
PIMA COUNTY
(B,H,Hw) - See Statewide
Decision #AZ77-5060 (R)
42 FR 31070 - 6/17/77
PINAL COUNTY
(B,H,Hw) - See Statewide
SANTA CRUZ COUNTY
(B,H,Hw) - See Statewide
YAVAPAI COUNTY
(B,H,Hw) - See Statewide
YUMA COUNTY
(B,H,Hw) - See Statewide

ARKANSAS

STATEWIDE
Decision #AR77-4072 (Construction Alteration, and/or repair of streets, highways, runways, and water & sewer utilities)
42 FR 17754 - 4/1/77
Mod. #1 - 42 FR 23267 - 5/6/77
Decision #AR76-5090 (D)
41 FR 44609 - 10/8/76
Mod. #1 - 42 FR 18788 - 4/8/77
ARKANSAS COUNTY
Decision #AR76-5041 (F)
41 FR 19017 - 5/7/76
Mod. #1 - 41 FR 21981 - 5/28/76
ASHLEY COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
BAXTER COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
BENTON COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
BOONE COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
BRADLEY COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
CALHOUN COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
CARROLL COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
CHICOT COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
CLARK COUNTY
(B) - See Garland County
(B,H,Hw) - See Statewide
(F) - See Arkansas County

ARKANSAS (Cont'd.)

CLAY COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
CLEBURNE COUNTY
(B) - See Conway County
(D,H,Hw) - See Statewide
(F) - See Arkansas County
CLEVELAND COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
COLUMBIA COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
CONWAY COUNTY
Decision #AR77-4106 (B)
42 FR 27563 - 5/27/77
Mod. #1 - 42 FR 28732 - 6/3/77
Mod. #2 - 42 FR 31045 - 6/17/77
Mod. #3 - 42 FR 34138 - 7/1/77
(D,H,Hw) - See Statewide
(F) - See Arkansas County
CRAIGHEAD COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
CRAWFORD COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
Decision #AR77-4114 (B)
42 FR 30106 - 6/10/77
Mod. #1 - 42 FR 34139 - 7/1/77
CRITTENDEN COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
CROSS COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
DALLAS COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
DESHA COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County

ARKANSAS (Cont'd)

DREW COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
FAULKNER COUNTY
(B) - See Conway County
(D,H,Hw) - See Statewide
(F) - See Arkansas County
FRANKLIN COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
FULTON COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
GARLAND COUNTY
Decision #AR77-4112 (B)
42 FR 30104 - 6/10/77
Mod. #1 - 42 FR 34138 - 7/1/77
(D,H,Hw) - See Statewide
(F) - See Arkansas County
GRANT COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
GREENE COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
HEMPSTEAD COUNTY
(D,H,Hw) - See Statewide
(F(- See Arkansas County
HOT SPRING COUNTY
(B) - See Garland County
(D,H,Hw) - See Statewide
(F) - See Arkansas County
HOWARD COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
INDEPENDENCE COUNTY
(H,Hw) (D) - See Statewide
(F) - See Arkansas County
IZARD COUNTY
(H,Hw) (D) - See Statewide
(F) - See Arkansas County

ARKANSAS (Cont'd.)

JACKSON COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
JEFFERSON COUNTY
(D,H,Hw) - See Statewide
(F)- See Arkansas County
JOHNSON COUNTY
(D,Hw,H) - See Statewide
(F) - See Arkansas County
LAFAYETTE COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
LAWRENCE COUNTY
(D,Hw,H) - See Statewide
(F) - See Arkansas County
LEE COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
LINCOLN COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
LITTLE RIVER COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
LOGAN COUNTY
(D,Hw,H) - See Statewide
(F) - See Arkansas County
LONOKE COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
MADISON COUNTY
(D,Hw,H) - See Statewide
(F) - See Arkansas County
MARION COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County

ARKANSAS (Cont'd)

MILLER COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
MISSISSIPPI COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
MONROE COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
MONTGOMERY COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
NEVADA COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
NEWTON COUNTY
(D,H,Hw) - See Statewide
(F) - Arkansas County
OUACHITA COUNTY
(B) - See Union County
(D,H,Hw) - See Statewide
(F) - See Arkansas County
PERRY COUNTY
(B) - See Conway County
(D,H,Hw) - See Statewide
(F) - See Arkansas County
PHILLIPS COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
PIKE COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
POINSETT COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
POLK COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
POPE COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County

ARKANSAS (CONT'D)

PRAIRIE COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
PULASKI COUNTY
(D,H,Hw)- See Statewide
(F) - See Arkansas County
Decision #AR77-4107 (B)
42 FR 28757 - 6/3/77
Mod. #1 - 42 FR 31045 - 6/17/77
Mod. #2 - 42 FR 34138 - 7/1/77
Decision #AR77-4034 (R)
42 FR 10223 - 2/18/77
(D,H,Hw) - See Statewide
(F) - See Arkansas County
RANDOLPH COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
ST. FRANCIS COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
SALINE COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
SCOTT COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
SEARCY COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
SEBASTIAN COUNTY
(F) - See Arkansas County
(D,H,Hw) - See Statewide
(B) - See Crawford County
SEVIER COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
SHARP COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County

ARKANSAS (CONT'D)

STONE COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
UNION COUNTY
(F) - See Arkansas County
(D,H,Hw) - See Statewide
Decision #AR77-4147 (B)
42 FR 34155 - 7/1/77
VAN BUREN COUNTY
(B) - See Conway County
(D,H,Hw) - See Statewide
(F) - See Arkansas County
WASHINGTON COUNTY
(B) - See Crawford County
(D,H,Hw) - See Statewide
(F) - See Arkansas County
WHITE COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
WOODRUFF COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County
YELL COUNTY
(D,H,Hw) - See Statewide
(F) - See Arkansas County

CALIFORNIA

ALAMEDA COUNTY
Decision #CA77-5039 (B,H,Hw,D)
42 FR 20991 - 4/22/77
Mod. #1 - 42 FR 30081 - 6/10/77
Decision #CA77-5040 (R)
42 FR 21012 - 4/22/77
Mod. #1 - 42 FR 30082 - 6/10/77
ALPINE COUNTY
(B,D,H,Hw,R) - See Alameda County
AMADOR COUNTY
(B,D,H,Hw,R) - See Alameda County
BUTTE COUNTY
(B,H,Hw,D) - See Alameda County
CALAVERAS COUNTY
(B,H,Hw,D,R) - See Alameda County
COLUSA COUNTY
(B,H,Hw,D) - See Alameda County
CONTRA COSTA COUNTY
(B,D,H,Hw,R) - See Alameda County
DELNORTE COUNTY
(B,D,H,Hw,R) - See Alameda County
ELDORADO COUNTY
(B,D,H,Hw,R) - See Alameda County
FRESNO COUNTY
(B,D,H,Hw,R) - See Alameda County
GLENN COUNTY
(B,H,Hw,D) - See Alameda County
HUMBOLDT COUNTY
(B,D,H,Hw,R) - See Alameda County
IMPERIAL COUNTY
Decision #CA77-5041 (B,D,H,Hw)
42 FR 23295 - 5/6/77
Mod. #1 - 42 FR 28732 - 6/3/77
Decision #CA77-5042 (R)
42 FR 23306 - 5/6/77
Mod. #1 - 42 FR 28733 - 6/3/77
INYO COUNTY
(B,H,Hw,D) - See Imperial County
KERN COUNTY
(B,D,H,Hw,R) - See Imperial County

CALIFORNIA (Cont'd)

KINGS COUNTY
(B,H,Hw,D) - See Alameda County
LAKE COUNTY
(B,H,Hw,D) - See Alameda County
LASSEN COUNTY
(B,H,Hw,D) - See Alameda County
LOS ANGELES COUNTY
(B,D,H,Hw,R) - See Imperial County
MADERA COUNTY
(B,H,Hw,D) - See Alameda County
MARIN COUNTY
(B,H,Hw,D,R) - See Alameda County
MARIPOSA COUNTY
(B,D,H,Hw,R) - See Alameda County
MENDOCINO COUNTY
(B,H,Hw, D) - See Alameda County
MERCED COUNTY
(B,D,H,Hw,R) - See Alameda County
MODOC COUNTY
(B,H,Hw,D) - See Alameda County
MONO COUNTY
(B,H,Hw,D) - See Imperial County
MONTEREY COUNTY
(B,D,H,Hw,R) - See Alameda County
NAPA COUNTY
(B,D,H,Hw,R) - See Alameda County
NEVADA COUNTY
(B,D,H,Hw,R) - See Alameda County
ORANGE COUNTY
(B,D,H,Hw,R) - See Imperial County
PLACER COUNTY
(B,D,H,Hw,R)- See Alameda County
PLUMAS COUNTY
(B,H,Hw,D) - See Alameda County
RIVERSIDE COUNTY
(B,D,H,Hw,R) - See Imperial County
SACRAMENTO COUNTY
(B,D,H,Hw,R) - See Alameda County
SAN BENITO COUNTY
(B,H,Hw,D,R) - See Alameda County
SAN BERNARDINO COUNTY
(B,D,H,Hw,R) - See Imperial County
SAN DIEGO COUNTY
Decision #CA77-5043 (B,H,Hw,D)
42 FR 26122 - 5/20/77
Mod. #1 - 42 FR 28733 - 6/3/77
Mod. #2 - 42 FR 34139 - 7/1/77

CALIFORNIA (Cont'd.)

SAN DIEGO COUNTY (Cont'd.)
Decision #CA77-5044 (R)
42 FR 26130 - 5/20/77
Mod. #1 - 42 FR 28735 - 6/3/77
Mod. #2 - 42 FR 34139 - 7/1/77
SAN FRANCISCO COUNTY
(B,D,Hw,H,R) - See Alameda County
SAN JOAQUIN COUNTY
(B,D,H,Hw,R) - See Alameda County
SAN LUIS OBISPO COUNTY
(B,H,Hw,D,R) - See Imperial County
SAN MATEO COUNTY
(B,D,H,Hw,R) - See Alameda County
SANTA BARBARA COUNTY
(B,D,H,Hw,R) - See Imperial County
SANTA CLARA COUNTY
(B,D,Hw,H,R) - See Alameda County
SANTA CRUZ COUNTY
(B,D,H,Hw,R) - See Alameda County
SHASTA COUNTY
(B,D,H,Hw) - See Alameda County
SIERRA COUNTY
(B,D,H,Hw) - See Alameda County
SISKIYOU COUNTY
(B,H,Hw,D) - See Alameda County
SOLANO COUNTY
(B,D,H,Hw,R) - See Alameda County
SONOMA COUNTY
(B,D,Hw,H,R) - See Alameda County
STANISLAUS COUNTY
(B,H,Hw,D) - See Alameda County
SUTTER COUNTY
(B,D,H,Hw,R) - See Alameda County
TEHAMA COUNTY
(B,D,H,Hw,R) - See Alameda County
TRINITY COUNTY
(B,H,Hw,D) - See Alameda County
TULARE COUNTY
(B,H,Hw,D) - See Alameda County
TUOLUMNE COUNTY
(B,D,H,Hw,R) - See Alameda County
VENTURA COUNTY
(B,D,H,Hw,R) - See Imperial County
YOLO COUNTY
(B,H,Hw,D,R) - See Alameda County
YUBA COUNTY
(B,H,Hw,D,R) - See Alameda County

COLORADO

STATEWIDE
Decision #C077-5066 (H,Hw)
42 FR 34157 - 7/1/77
ADAMS COUNTY
Decision #C077-5067 (B)
42 FR 34165 - 7/1/77
Decision #C075-5061 (R)
40 FR 22744 - 5/23/75
Mod. #1 - 41 FR 10818 - 3/12/76
(H,Hw) - See Statewide
ALAMOSA COUNTY
(H,Hw) - See Statewide
ARAPAHOE COUNTY
(H,Hw) - See Statewide
(B,R) - See Adams County
ARCHULETA COUNTY
(H,Hw) - See Statewide
BACA COUNTY
(H,Hw) - See Statewide
BENT COUNTY
(H,Hw) - See Statewide
BOULDER COUNTY
(B) - See Adams County
(H,Hw) - See Statewide
CHAFFEE COUNTY
(H,Hw) - See Statewide
CHEYENNE COUNTY
(H,Hw) - See Statewide
CLEAR CREEK COUNTY
(B) - See Adams County
(H,Hw) - See Statewide
CONEJOS COUNTY
(H,Hw) - See Statewide
COSTILLA COUNTY
(H,Hw) - See Statewide
CROWLEY COUNTY
(H,Hw) - See Statewide
CUSTER COUNTY
(H,Hw) - See Statewide
DELTA COUNTY
Decision #C077-5070 (B)
42 FR 34182 - 7/1/77
(H,Hw) - See Statewide
DENVER COUNTY
(H,Hw) - See Statewide
(B,R) - See Adams County
DOLORES COUNTY
(H,Hw) - See Statewide
DOUGLAS COUNTY
(H,Hw) - See Statewide
(B) - See Adams County
EAGLE COUNTY
(B) - See Adams County
(H,Hw) - See Statewide

COLORADO (Cont'd.

ELBERT COUNTY
(H,Hw) - See Statewide
(B) - See Adams County
EL PASO COUNTY
Decision #C077-5068 (B)
42 FR 34172 - 7/1/77
(H,Hw) - See Statewide
FREMONT COUNTY
(H,Hw) - See Statewide
GARFIELD COUNTY
(B) - See Delta County
(H,Hw) - See Statewide
GILPIN COUNTY
(B) - See Adams County
(H,Hw) - See Statewide
GRAND COUNTY
(B) - See Adams County
(H,Hw) - See Statewide
GUNNISON COUNTY
(B) - See Delta County
(H,Hw) - See Statewide
HINDSDALE COUNTY
(H,Hw) - See Statewide
HUERFANO COUNTY
(H,Hw) - See Statewide
JACKSON COUNTY
(H,Hw) - See Statewide
JEFFERSON COUNTY
(H,Hw) - See Statewide
(B,R) - See Adams County
KIOWA COUNTY
(H,Hw) - See Statewide
KIT CARSON COUNTY
(H,Hw) - See Statewide
LAKE COUNTY
(B) - See Adams County
(H,Hw) - See Statewide
LA PLATA COUNTY
(H,Hw) - See Statewide
LARIMER COUNTY
(B) - See Adams County
(H,Hw) - See Statewide
LAS ANIMAS COUNTY
Decision #C077-5069 (B)
42 FR 34177 - 7/1/77
(H,Hw) - See Statewide
LINCOLN COUNTY
(H,Hw) - See Statewide
LOGAN COUNTY
(H,Hw) - See Statewide
MESA COUNTY
(B) - See Delta County
(H,Hw) - See Statewide
MINERAL COUNTY
(H,Hw) - See Statewide

COLORADO (Cont'd.)

MOFFAT COUNTY
(H,Hw) - See Statewide
MONTEZUMA COUNTY
(H,Hw) - See Statewide
MONTROSE COUNTY
(B) - See Delta County
(H,Hw) - See Statewide
MORGAN COUNTY
(B) - See Adams County
(H,Hw) - See Statewide
OTERO COUNTY
(B) - See Las Animas County
(H,Hw) - See Statewide
OURAY COUNTY
(H,Hw) - See Statewide
PARK COUNTY
(B) - See Adams County
(H,Hw) - See Statewide
PHILLIPS COUNTY
(H,Hw) - See Statewide
PITKIN COUNTY
(B) - See Delta County
(H,Hw) - See Statewide
PROWERS COUNTY
(H,Hw) - See Statewide
PUEBLO COUNTY
(B) - See Las Animas County
(H,Hw) - See Statewide
RIO BLANCO COUNTY
(H,Hw) - See Statewide
RIO GRANDE COUNTY
(H,Hw) - See Statewide
ROUTT COUNTY
(H,Hw) - See Statewide
SAGUACHE COUNTY
(H,Hw) - See Statewide
SAN JUAN COUNTY
(H,Hw) - See Statewide
SAN MIGUEL COUNTY
(H,Hw) - See Statewide
SEDGWICK COUNTY
(H,Hw) - See Statewide
SUMMIT COUNTY
(B) - See Adams County
(H,Hw) - See Statewide
TELLER COUNTY
(H,Hw) - See Statewide
WASHINGTON COUNTY
(H,Hw) - See Statewide
WELD COUNTY
(B) - See Adams County
(H,Hw) - See Statewide
YUMA COUNTY
(H,Hw) - See Statewide

CONNECTICUT

FAIRFIELD COUNTY
Decision #CT76-2172 (B,H,Hw,R)
41 FR 56574 - 12/28/76
Decision #CT77-5001 (D)
42 FR 999 - 1/4/77
HARTFORD COUNTY
Decision #CT75-2067 (R)
40 FR 18304 - 4/25/75
Decision #CT76-2173 (B,H,Hw,R)
41 FR 56581 - 12/28/76
Mod. #1 - 42 FR 30083 - 6/10/77
LITCHFIELD COUNTY
(B,H,Hw,R) - See Fairfield County
MIDDLESEX COUNTY
(B,H,Hw) - See Hartford County
(D) - See Fairfield County
NEW HAVEN COUNTY
Decision #CT77-3045 (R)
42 FR 20055 - 4/15/77
(B,H,Hw) - See Hartford County
(D) - See Fairfield County
NEW LONDON COUNTY
(B,H,Hw,D,R) - See Fairfield County
TOLLAND COUNTY
(B,H,Hw) - See Hartford County
WINDHAM COUNTY
(B,H,Hw,D,R) - See Fairfield County

DELAWARE

STATEWIDE
Decision #CT77-5001 (D)
42 FR 999 - 1/4/77
Decision #DE77-3042 (B,H,Hw)
42 FR 17756 - 4/1/77
Mod. #1 - 42 FR 30084 - 6/10/77
KENT COUNTY
(B,H,Hw,D) - See Statewide
NEW CASTLE COUNTY
(B,H,Hw,D) - See Statewide
SUSSEX COUNTY
(B,H,Hw,D) - See Statewide

FLORIDA

ALACHUA COUNTY
Decision #FL75-1080 (Hw)
40 FR 41358 - 9/5/75
Mod. #1 - 41 FR 23885 - 6/11/76
Decision #FL77-1028 (B)
42 FR 15262 - 3/18/77
Mod. #1 - 42 FR 18788 - 4/8/77
Mod. #2 - 42 FR 22069 - 4/29/77
Mod. #3 - 42 FR 28738 - 6/3/77
BAKER COUNTY
Decision #FL75-1081 (Hw)
40 FR 41359 - 9/5/75
BAY COUNTY
Decision #FL76-1059 (B)
41 FR 20130 - 5/14/76
Mod. #1 - 41 FR 23885 - 6/11/76
Mod. #2 - 42 FR 10206 - 2/18/77
Decision #AL76-5090 (D)
41 FR 44609 - 10/8/76
Mod. #1 - 42 FR 18788 - 4/8/77
Decision #FL76-1021 (Hw)
41 FR 4749 - 1/30/76
Mod. #1 - 41 FR 23884 - 6/11/76

FLORIDA (Cont'd.)

BRADFORD COUNTY
(Hw) - See Alachua County
BREVARD COUNTY (Entire County)
Decision #GA77-5035 (D)
42 FR 13756 - 3/11/77
Decision #FL76-1105 (R)
41 FR 40365 - 9/17/76
(Cape Kennedy, Kennedy Space Flight Center and Patrick AFB only)
Decision #FL77-1065 (B,H,Hw)
42 FR 24575 - 5/13/77
Mod. #1 - 42 FR 27556 - 5/27/77
Mod. #2 - 42 FR 28739 - 6/3/77
Mod. #3 - 42 FR 31045 - 6/17/77
(Remainder of County)
Decision #FL76-1108 (B)
41 FR 43555 - 10/1/76
Decision #FL76-1082 (Hw)
41 FR 41360 - 9/5/76
BROWARD COUNTY
Decision #FL75-1084 (Hw)
40 FR 41362 - 9/5/75
Mod. #1 - 40 FR 53168 - 11/14/75
Decision #FL77-1015 (B,H)
42 FR 10224 - 2/18/77
Mod. #1 - 42 FR 17736 - 4/1/77
Mod. #2 - 42 FR 22068 - 4/29/77
Mod. #3 - 42 FR 28738 - 6/3/77
(D) - See Brevard County
CALHOUN COUNTY
(D) - See Brevard County
(Hw) - See Alachua County
CHARLOTTE COUNTY
Decision #FL75-1083 (Hw)
40 FR 41361 - 9/5/75
Mod. #1 - 40 FR 53168 - 11/14/75
Mod. #2 - 41 FR 53229 - 12/3/76
Mod. #3 - 42 FR 12564 - 3/4/77
(D) - See Brevard County
CITRUS COUNTY
Decision #FL75-1104 (R)
40 FR 49949 - 10/24/75
(Hw) - See Alachua County
(D) - See Brevard County
CLAY COUNTY
(Hw) - See Baker County
COLLIER COUNTY
(D) - See Brevard County
(Hw) - See Charlotte County
COLUMBIA COUNTY
(Hw) - See Alachua County
(B) - See Alachua County
DADE COUNTY
Decision #FL76-1102 (H)
41 FR 40365 - 9/17/76
Decision #FL77-1029 (B)
42 FR 15264 - 3/18/77
Mod. #1 - 42 FR 17737 - 4/1/77
Mod. #2 - 42 FR 28738 - 6/3/77
Decision #FL77-1003 (R)
42 FR 4081 - 1/21/77
Decision #FL76-1141 (Hw)
41 FR 56589 - 12/28/76
(D) - See Brevard County

FLORIDA (cont'd)

DESOTO COUNTY
Decision #AR-4065 (R)
39 FR 43468 - 12/13/74
(Hw) - See Charlotte County
DIXIE COUNTY
(Hw) - See Alachua County
(D) - See Brevard County
DUVAL COUNTY
Decision #FL76-1098 (R)
41 FR 37469 - 9/3/76
Decision #FL77-1021 (B)
42 FR 10226 - 2/18/77
Mod. #1 - 42 FR 13715 - 3/11/77
Mod. #2 - 42 FR 17736 - 4/1/77
Mod. #3 - 42 FR 22068 - 4/29/77
Mod. #4 - 42 FR 28738 - 6/3/77
(D) - See Brevard County
(Hw) - See Baker County
ESCAMBIA COUNTY
Decision #FL76-1133 (B)
41 FR 52233 - 11/26/76
Mod. #1 - 41 FR 54101 - 12/10/76
Mod. #2 - 42 FR 3133 - 1/14/77
Decision #FL76-1017 (R)
41 FR 3589 - 1/23/76
(D,Hw) - See Bay County
FLAGLER COUNTY
(D) - See Brevard County
(Hw) - See Baker County
FRANKLIN COUNTY
(D) - See Bay County
(Hw) - See Alachua County
GADSDEN COUNTY
Decision #FL77-1004 (R)
42 FR 3141 - 1/14/77
(Hw) - See Alachua County
GILCHRIST COUNTY
(Hw) - See Alachua County
GLADES COUNTY
(Hw) - See Charlotte County
GULF COUNTY
(D) - See Bay County
(Hw) - See Bay County
HAMILTON COUNTY
(Hw) - See Alachua County
HARDEE COUNTY
(R) - See DeSoto County
(Hw) - See Charlotte County
HENDRY COUNTY
(Hw) - See Charlotte County
HERNANDO COUNTY
(D) - See Brevard County
(R) - See Citrus County
(Hw) - See Alachua County
HIGHLANDS COUNTY
(R) - See DeSoto County
(Hw) - See Charlotte County
HILLSBOROUGH COUNTY
Decision #FL76-1014 (B)
41 FR 3587 - 1/23/76
Mod. #1 - 41 FR 22718 - 6/4/76
Mod. #2 - 41 FR 37473 - 9/3/76

FLORIDA (cont'd)

HILLSBOROUGH COUNTY (Cont'd.)
(Hw) - See Brevard Co. (Remainder of Co.)
(D) - See Brevard County
(R) - See Citrus County
HOLMES COUNTY
(Hw) - See Alachua County
INDIAN RIVER COUNTY
(D) - See Brevard County
(Hw) - See Brevard Co. (Remainder of Co.)
JACKSON COUNTY
(Hw) - See Alachua County
JEFFERSON COUNTY
(D) - See Bay County
(R) - See Gadsden County
(Hw) - See Alachua County
LAFAYETTE COUNTY
(H,Hw) - See Alachua County
LAKE COUNTY
Decision #FL75-1066 (R)
40 FR 28332 - 7/3/75
(Hw) - See Alachua County
LEE COUNTY
(D) - See Brevard County
(Hw) - See Charlotte County
LEON COUNTY
Decision #FL77-1049 (B)
42 FR 22080 - 4/29/77
Mod. #1 - 42 FR 28739 - 6/3/77
(Hw) - See Alachua County
(R) - See Gadsden County
LEVY COUNTY
(D) - See Brevard County
(Hw) - See Alachua County
LIBERTY COUNTY
(Hw) - See Alachua County
MADISON COUNTY
(R) - See Gadsden County
(Hw) - See Alachua County
MANATEE COUNTY
(D) - See Brevard County
(Hw) - See Brevard Co. (Remainder of Co.)
MARION COUNTY
(Hw) - See Alachua County
MARTIN COUNTY
Decision #FL77-1034 (B)
42 FR 17761 - 4/1/77
Mod. #1 - 42 FR 22069 - 4/29/77
Mod. #2 - 42 FR 28738 - 6/3/77
(D) - See Brevard County
(Hw) - See Brevard Co. (Remainder of Co.)
MONROE COUNTY
(D) - See Brevard County
(Hw) - See Charlotte County
NASSAU COUNTY
(D) - See Brevard County
(Hw) - See Baker County

FLORIDA (cont'd)

OKALOOSA COUNTY
(B) - See Escambia County
(D,Hw) - See Bay County
Decision #FL76-1016 (R)
41 FR 3589 - 1/23/76
OKEECHOBEE COUNTY
(Hw) - See Charlotte County
ORANGE COUNTY
Decision #FL77-1024 (B)
42 FR 11193 - 2/25/77
Mod. #1 - 42 FR 17737 - 4/1/77
Mod. #2 - 42 FR 22069 - 4/29/77
Mod. #3 - 42 FR 27556 - 5/27/77
Mod. #4 - 42 FR 28738 - 6/3/77
(Hw) - See Brevard Co. (Remainder of Co
(R) - See Lake County
OSCEOLA COUNTY
(Hw) - See Brevard Co. (Remainder of Co
(R) - See Lake County
PALM BEACH COUNTY
(D) - See Brevard County
(B) - See Martin County
(Hw) - See Broward County
PASCO COUNTY
(D) - See Brevard County
(Hw) - See Alachua County
(R) - See Citrus County
PINELLAS COUNTY
Decision #FL77-1043 (B)
42 FR 17762 - 4/1/77
Mod. #1 - 42 FR 22070 - 4/29/77
Mod. #2 - 42 FR 28739 - 6/3/77
(R) - See Citrus County
(D) - See Brevard County
(Hw) - See Brevard Co. (Remainder of Co
POLK COUNTY
Decision #FL77-1060 (B)
42 FR 26093 - 5/20/77
(Hw) - See Brevard Co. (Remainder of Co.
(R) - See DeSoto County
PUTNAM COUNTY
(Hw) - See Alachua County
ST. JOHNS COUNTY
(D) - See Brevard County
(Hw) - See Baker County
ST. LUCIE COUNTY
(D) - See Brevard County
(Hw) - See Brevard Co. (Remainder of Co.
SANTA ROSA COUNTY
(B) - See Escambia County
(D,Hw) - See Bay County
(R) - See Okaloosa County
SARASOTA COUNTY
(D) - See Brevard County
(Hw) - See Hillsborough County

FLORIDA (Cont'd)

SEMINOLE COUNTY
(Hw) - See Brevard Co. (Remainder of Co.)
(R) - See Lake County
SUMTER COUNTY
(R) - See Citrus County
(Hw) - See Alachua County
SUWANNEE COUNTY
Decision #FL77-1061 (B)
42 FR 26093 - 5/20/77
(Hw) - See Alachua County
TAYLOR COUNTY
(Hw) - See Alachua County
(D) - See Brevard County
(R) - See Gadsden County
UNION COUNTY
(Hw) - See Alachua County
VOLUSIA COUNTY
(D) - See Brevard County (Entire County)
(Cape Kennedy, Kennedy Space Flight Center and Cape Canaveral Air Force Only)
(B,H,Hw) - See Brevard County (Cape Kennedy etc.)
(Remainder of County)
Decision #FL77-1044 (B)
42 FR 17764 - 4/1/77
Mod. #1 - 42 FR 22070 - 4/29/77
Mod. #2 - 42 FR 28739 - 6/3/77
(Hw) - See Brevard County
(Remainder of County)
WAKULLA COUNTY
(D) - See Bay County
(Hw) - See Alachua County
WALTON COUNTY
(B) - See Escambia County
(D,Hw) - See Bay County
(R) - See Okaloosa County
WASHINGTON COUNTY
(Hw) - See Alachua County

GEORGIA

STATEWIDE
Decision #AR-4038 (Hw)
39 FR 34984 - 9/27/74
Mod. #1 - 39 FR 36711 - 10/11/74
Mod. #2 - 40 FR 23629 - 5/30/76
Mod. #3 - 41 FR 7888 - 2/20/76
Mod. #4 - 42 FR 7025 - 2/4/77
Mod. #5 - 42 FR 17737 - 4/1/77
APPLING COUNTY
(Hw) - See Statewide
ATKINSON COUNTY
(Hw) - See Statewide
BACON COUNTY
(Hw) - See Statewide

GEORGIA (Cont'd.)

BAKER COUNTY
Decision #GA77-1031 (R)
42 FR 16355 - 3/25/77.
(Hw) - See Statewide
BALDWIN COUNTY
(Hw) - See Statewide
BANKS COUNTY
(Hw) - See Statewide
BARROW COUNTY
Decision #AQ-4108 (R)
39 FR 14841 - 4/26/74
(Hw) - See Statewide
BARTOW COUNTY
(Hw) - See Statewide
BEN HILL COUNTY
(Hw) - See Statewide
BERRIEN COUNTY
(Hw) - See Statewide
BIBB COUNTY
Decision #GA76-1122 (B)
41 FR 46803 - 10/22/76
(Hw) - See Statewide
BLECKLEY COUNTY
(Hw) - See Statewide
BRANTLEY COUNTY
(Hw) - See Statewide
BROOKS COUNTY
(Hw) - See Statewide
BRYAN COUNTY
(Hw) - See Statewide
Decision #GA76-1050 (R)
41 FR 16362 - 4/16/76
Decision #GA77-5035 (D)
42 FR 13756 - 3/11/77
BULLOCH COUNTY
(R) - See Bryan County
(Hw) - See Statewide
BURKE COUNTY
Decision #GA76-1015 (R)
41 FR 3590 - 1/23/76
(Hw) - See Statewide
BUTTS COUNTY
(Hw) - See Statewide
CALHOUN COUNTY
(Hw) - See Statewide
(R) - See Baker County
CAMDEN COUNTY
(D) - See Bryan County
(Hw) - See Statewide
CANDLER COUNTY
(Hw) - See Statewide
CARROLL COUNTY
(Hw) - See Statewide
CATOOSA COUNTY
(Hw) - See Statewide
CHARLTON COUNTY
Decision #AR-4037 (R)
39 FR 33919 - 9/20/74
Mod. #1 - 40 FR 3083 - 1/17/75
Mod. #2 - 41 FR 28461 - 7/9/76
(Hw) - See Statewide

GEORGIA (Cont'd.

CHATHAM COUNTY
Decision #GA77-1009 (B)
42 FR 5623 - 1/28/77
Mod. #1 - 42 FR 8932 - 2/11/77
Mod. #2 - 42 FR 11183 - 2/25/77
Mod. #3 - 42 FR 24967 - 5/13/77
Mod. #4 - 42 FR 34141 - 7/1/77
(Hw) - See Statewide
(D,R) - See Bryan County
CHATTAHOOCHEE COUNTY
Decision #GA75-1039 (B)
40 FR 16471 - 4/11/75
Mod. #1 - 40 FR 24455 - 6/6/75
Mod. #2 - 40 FR 49942 - 10/24/75
Mod. #3 - 41 FR 10818 - 3/12/76
Mod. #4 - 41 FR 15232 - 4/9/76
Mod. #5 - 41 FR 24033 - 6/18/76
Decision #GA76-1035 (R)
41 FR 9758 - 3/5/76
Mod. #1 - 42 FR 15249 - 3/18/77
(Hw) - See Statewide
CHATTOOGA COUNTY
(Hw) - See Statewide
CHEROKEE COUNTY
(Hw) - See Statewide
CLARKE COUNTY
(Hw) - See Statewide
(R) - See Barrow County
CLAY COUNTY
(R) - See Baker County
(Hw) - See Statewide
CLAYTON COUNTY
Decision #GA77-1005 (B)
42 FR 5621 - 1/28/77
Mod. #1 - 42 FR 10206 - 2/18/77
Mod. #2 - 42 FR 16344 - 3/25/77
Mod. #3 - 42 FR 17737 - 4/1/77
Mod. #4 - 42 FR 23268 - 5/6/77
Mod. #5 - 42 FR 34140 - 7/1/77
Decision #GA76-1033 (R)
41 FR 8642 - 2/27/76
Mod. #1 - 41 FR 15232 - 4/9/76
(Hw) - See Statewide
CLINCH COUNTY
(Hw) - See Statewide
COBB COUNTY
(R) - See Clayton County
(Hw) - See Statewide
COFFEE COUNTY
(Hw) - See Statewide
COLQUITT COUNTY
(Hw) - See Statewide
COLUMBIA COUNTY
(R) - See Burke County
(Hw) - See Statewide
COOK COUNTY
(Hw) - See Statewide
COWETA COUNTY
(Hw) - See Statewide
CRAWFORD COUNTY
(Hw) - See Statewide
CRISP COUNTY
(Hw) - See Statewide
DECATUR COUNTY
(R) - See Baker County
(Hw) - See Statewide

GEORGIA (Cont'd.

DEKALB COUNTY
(B,R) - See Clayton County
(Hw) - See Statewide
DODGE COUNTY
(Hw) - See Statewide
DOOLY COUNTY
(Hw) - See Statewide
DOUGHERTY COUNTY
(Hw) - See Statewide
(R) - See BAker County
DOUGLAS COUNTY
(Hw) - See Statewide
EARLY COUNTY
(Hw) - See Statewide
(R) - See Baker County
ECHOLS COUNTY
(Hw) - See Statewide
EFFINGHAM COUNTY
(R) - See Bryan County
(Hw) - See Statewide
ELBERT COUNTY
(Hw) - See Statewide
(R) - See Barrow County
EMANUEL COUNTY
(Hw) - See Statewide
EVANS COUNTY
(R) - See Bryan County
(Hw) - See Statewide
FANNIN COUNTY
(Hw) - See Statewide
FAYETTE COUNTY
(Hw) - See Statewide
FLOYD COUNTY
(Hw) - See Statewide
FORSYTH COUNTY
(Hw) - See Statewide
FRANKLIN COUNTY
(Hw) - See Statewide
FULTON COUNTY
(Hw) - See Statewide
(B,R) - See Clayton County
GILMER COUNTY
(Hw) - See Statewide
GLASCOCK COUNTY
(Hw) - See Statewide
(R) - See Burke County
GLYNN COUNTY
(D) - See Bryan County
(Hw) - See Statewide
GORDON COUNTY
(Hw) - See Statewide
GRADY COUNTY
(Hw) - See Statewide
(R) - See Baker County
GREENE COUNTY
(R) - See Barrow County
(Hw) - See Statewide
GWINNETT COUNTY
(R) - See Clayton County
(Hw) - See Statewide
HABERSHAM COUNTY
(Hw) - See Statewide

GEORGIA (Cont'd.)

HALL COUNTY
Decision #GA77-1068 (B)
42 FR 26136 - 5/20/77
(Hw) - See Statewide
HANCOCK COUNTY
(Hw) - See Statewide
(R) - See Burke County
HARALSON COUNTY
(Hw) - See Statewide
HARRIS COUNTY
(Hw) - See Statewide
(R) - See Chattahoochee County
HART COUNTY
(Hw) - See Statewide
(R) - See Barrow County
HEARD COUNTY
(Hw) - See Statewide
HENRY COUNTY
(Hw) - See Statewide
HOUSTON COUNTY
Decision #GA76-1123 (B)
41 FR 46804 - 10/22/76
(Hw) - See Statewide
IRWIN COUNTY
(Hw) - See Statewide
JACKSON COUNTY
(Hw) - See Statewide
(R) - See Barrow County
JASPER COUNTY
(Hw) - See Statewide
JEFF DAVIS COUNTY
(Hw) - See Statewide
JEFFERSON COUNTY
(Hw) - See Statewide
(R) - See Burke County
JENKINS COUNTY
(Hw) - See Statewide
(R) - See Burke County
JOHNSON COUNTY
(Hw) - See Statewide
JONES COUNTY
(Hw) - See Statewide
LAMAR COUNTY
(Hw) - See Statewide
LANIER COUNTY
(Hw) - See Statewide
LAURENS COUNTY
Decision #AQ-4124 (B)
39 FR 20912 - 6/14/74
Mod. #1 - 41 FR 11722 - 3/19/76
(Hw) - See Statewide
LEE COUNTY
(Hw) - See Statewide
(R) - See Baker County

GEORGIA (Cont'd.

LIBERTY COUNTY
(D,R) - See Bryan County
(Hw) - See Statewide
LINCOLN COUNTY
(Hw) - See Statewide
(R) - See Burke County
LONG COUNTY
(Hw) - See Statewide
(R) - See Bryan County
LOWNDES COUNTY
(Hw) - See Statewide
LUMPKIN COUNTY
(Hw) - See Statewide
MCDUFFIE COUNTY
(Hw) - See Statewide
(R) - See Burke County
McINTOSH COUNTY
(D) - See Bryan County
(Hw) - See Statewide
MACON COUNTY
(Hw) - See Statewide
(R) - See Chattahoochee County
MADISON COUNTY
(Hw) - See Statewide
(R) - See Barrow County
MARION COUNTY
(Hw) - See Statewide
(R) - See Chattahoochee County
MERIWETHER COUNTY
(R) - See Chattahoochee County
(Hw) - See Statewide
MILLER COUNTY
(Hw) - See Statewide
(R) - See Baker County
MITCHELL COUNTY
(Hw) - See Statewide
(R) - See Baker County
MONROE COUNTY
(Hw) - See Statewide
MONTGOMERY COUNTY
(Hw) - See Statewide
MORGAN COUNTY
(Hw) - See Statewide
(R) - See Barrow County
MURRAY COUNTY
(Hw) - See Statewide
MUSCOGEE COUNTY
(B,R) - See Chattahoochee County
(Hw) - See Statewide
NEWTON COUNTY
(Hw) - See Statewide
(R) - See Barrow County
OCONEE COUNTY
(Hw) - See Statewide
(R) - See Barrow County
OGLETHORPE COUNTY
(Hw) - See Statewide
(R) - See Barrow County
PAULDING COUNTY
(Hw) - See Statewide

GEORGIA (Cont'd.

PEACH COUNTY
(Hw) - See Statewide
PICKENS COUNTY
(Hw) - See Statewide
PIERCE COUNTY
(Hw) - See Statewide
(R) - See Charlton County
PIKE COUNTY
(Hw) - See Statewide
POLK COUNTY
(Hw) - See Statewide
PULASKI COUNTY
(Hw) - See Statewide
PUTNAM COUNTY
(Hw) - See Statewide
QUITMAN COUNTY
(Hw) - See Statewide
(R) - See Baker County
RABUN COUNTY
(Hw) - See Statewide
RANDOLPH COUNTY
(Hw) - See Statewide
(R) - See Baker County
RICHMOND COUNTY
Decision #GA76-1119 (B)
41 FR 45800 - 10/15/76
Mod. #1 - 42 FR 5613 - 1/28/77
Mod. #2 - 42 FR 20048 - 4/15/77
Mod. #3 - 42 FR 23268 - 5/6/77
Mod. #4 - 42 FR 34140 - 7/1/77
(Hw) - See Statewide
(R) - See Burke County
ROCKDALE COUNTY
(Hw) - See Statewide
SCHLEY COUNTY
(Hw) - See Statewide
(R) - See Chattahoochee County
SCREVEN COUNTY
(R) - See Bryan County
(Hw) - See Statewide
SEMINOLE COUNTY
(Hw) - See Statewide
(R) - See Baker County
SPALDING COUNTY
(Hw) - See Statewide
STEPHENS COUNTY
(Hw) - See Statewide
STEWART COUNTY
(Hw) - See Statewide
(R) - See Chattahoochee County
SUMTER COUNTY
(Hw) - See Statewide
(R) - See Chattahoochee County
TALBOT COUNTY
(Hw) - See Statewide
(R) - See Chattahoochee County
TALIAFERRO COUNTY
(Hw) - See Statewide
(R) - See Burke County
TATTNALL COUNTY
(Hw) - See Statewide
TAYLOR COUNTY
(Hw) - See Statewide
(R) - See Chattahoochee County

GEORGIA (Cont'd.)

TELFAIR COUNTY
(Hw) - See Statewide
TERRELL COUNTY
(Hw) - See Statewide
(R) - See Baker County
THOMAS COUNTY
(Hw) - See Statewide
TIFT COUNTY
(Hw) - See Statewide
TOOMBS COUNTY
(Hw) - See Statewide
TOWNS COUNTY
(Hw) - See Statewide
TREUTLEN COUNTY
(Hw) - See Statewide
TROUP COUNTY
(Hw) - See Statewide
(R) - See Chattahoochee County
TURNER COUNTY
(Hw) - See Statewide
TWIGGS COUNTY
(Hw) - See Statewide
UNION COUNTY
(Hw) - See Statewide
UPSON COUNTY
(Hw) - See Statewide
WALKER COUNTY
(Hw) - See Statewide
WALTON COUNTY
(Hw) - See Statewide
(R) - See Barron County
WARE COUNTY
Decision #GA75-1113 (B)
40 FR 58034 - 12/12/75
(R) - See Charlton County
(Hw) - See Statewide
WARREN COUNTY
(Hw) - See Statewide
(R) - See Burke County
WASHINGTON COUNTY
(Hw) - See Statewide
(R) - See Burke County
WAYNE COUNTY
(Hw) - See Statewide
WEBSTER COUNTY
(Hw) - See Statewide
(R) - See Chattahoochee County
WHEELER COUNTY
(Hw) - See Statewide
WHITE COUNTY
(Hw) - See Statewide
WHITEFIELD COUNTY
(Hw) - See Statewide
WILCOX COUNTY
(Hw) - See Statewide
WILKES COUNTY
(R) - See Burke County
(Hw) - See Statewide
WILKINSON COUNTY
(Hw) - See Statewide
WORTH COUNTY
(Hw) - See Statewide

GUAM

GUAM
Decision #GU77-5026 (B,H,Hw,R)
42 FR 13757 - 3/11/77

HAWAII

STATEWIDE
Decision #HI77-5030 (B,H,Hw,D,R)
42 FR 12579 - 3/4/77
Mod. #1 - 42 FR 16345 - 3/25/77
Mod. #2 - 42 FR 20048 - 4/15/77
Mod. #3 - 42 FR 22071 - 4/29/77
Mod. #4 - 42 FR 24567 - 5/13/77

IDAHO

STATEWIDE
Decision #ID77-5045 (B,H,Hw)
42 FR 24577 - 5/13/77
Mod. #1 - 42 FR 27556 - 5/27/77
Mod. #2 - 42 FR 28740 - 6/3/77
Mod. #3 - 42 FR 34141 - 7/1/77
ADA COUNTY
(B,H,Hw) - See Statewide
ADAMS COUNTY
(B,H,Hw) - See Statewide

IDAHO (Cont'd.)

BANNOCK COUNTY
(B,H,Hw) - See Statewide
BEAR LAKE COUNTY
(B,H,Hw) - See Statewide
BENEWAH COUNTY
(B,H,Hw) - See Statewide
BINGHAM COUNTY
(B,H,Hw) - See Statewide
BLAINE COUNTY
(B,H,Hw) - See Statewide
BOISE COUNTY
(B,H,Hw) - See Statewide
BONNER COUNTY
(B,H,Hw) - See Statewide
BONNEVILLE COUNTY
(B,H,Hw) - See Statewide
BOUNDARY COUNTY
(B,H,Hw) - See Statewide
BUTTE COUNTY
(B,H,Hw) - See Statewide
CAMAS COUNTY
(B,H,Hw) - See Statewide
CANYON COUNTY
(B,H,Hw) - See Statewide
CARIBOU COUNTY
(B,H,Hw) - See Statewide
CASSIA COUNTY
(B,H,Hw) - See Statewide
CLARK COUNTY
(B,H,Hw) - See Statewide
CLEARWATER COUNTY
(B,H,Hw) - See Statewide
CUSTER COUNTY
(B,H,Hw) - See Statewide
ELMORE COUNTY
(B,H,Hw) - See Statewide
FRANKLIN COUNTY
(B,H,Hw) - See Statewide
FREMONT COUNTY
(B,H,Hw) - See Statewide
GEM COUNTY
(B,H,Hw) - See Statewide
GOODING COUNTY
(B,H,Hw) - See Statewide
IDAHO COUNTY
(B,H,Hw) - See Statewide
JEFFERSON COUNTY
(B,H,Hw) - See Statewide
JEROME COUNTY
(B,H,Hw) - See Statewide

IDAHO (Cont'd)

KOOTENAI COUNTY
(B,H,Hw) - See Statewide
LATAH COUNTY
(B,H,Hw) - See Statewide
LEMHI COUNTY
(B,H,Hw) - See Statewide
LEWIS COUNTY
(B,H,Hw) - See Statewide
LINCOLN COUNTY
(B,H,Hw) - See Statewide
MADISON COUNTY
(B,H,Hw) - See Statewide
MINIDOKA COUNTY
(B,H,Hw) - See Statewide
NEZ PERCE COUNTY
(B,H,Hw) - See Statewide
ONEIDA COUNTY
(B,H,Hw) - See Statewide
OWYHEE COUNTY
(B,H,Hw) - See Statewide
PAYETTE COUNTY
(B,H,Hw) - See Statewide
POWER COUNTY
(B,H,Hw) - See Statewide
SHOSHONE COUNTY
(B,H,Hw) - See Statewide
TETON COUNTY
(B,H,Hw) - See Statewide
TWIN FALLS COUNTY
(B,H,Hw) - See Statewide
VALLEY COUNTY
(B,H,Hw) - See Statewide
WASHINGTON COUNTY
(B,H,Hw) - See Statewide

ILLINOIS

ADAMS COUNTY
Decision #IL76-2120 (B)
41 FR 43570 - 10/1/76
Mod. #1 - 42 FR 12565 - 3/4/77
Mod. #3 - 42 FR 17738 - 4/1/77
Mod. #4 - 42 FR 28741 - 6/3/77
Decision #IL76-2149 (H,Hw)
41 FR 54128 - 12/10/76
Mod. #1 - 42 FR 3135 - 1/14/76
Mod. #2 - 42 FR 7025 - 2/4/77
Mod. #3 - 42 FR 10210 - 2/18/77
Mod. #4 - 42 FR 28744 - 6/3/77
Decision #IL77-5056 (D)
42 FR 28759 - 6/3/77
Mod. #1 - 42 FR 32447 - 6/24/77
ALEXANDER COUNTY
Decision #IL76-2132 (B)
41 FR 47729 - 10/29/76
Mod. #1 - 41 FR 55262 - 12/17/75
Mod. #2 - 42 FR 10207 - 2/18/77
Mod. #3 - 42 FR 12566 - 3/4/77
Mod. #4 - 42 FR 17739 - 4/1/77
Mod. #5 - 42 FR 23270 - 5/6/77
Mod. #6 - 42 FR 28743 - 6/3/77
Decision #IL76-2154 (H,Hw)
41 FR 53256 - 12/3/76
Mod. #1 - 41 FR 55263 - 12/17/76
Mod. #2 - 42 FR 10210 - 2/18/77
Mod. #3 - 42 FR 28744 - 6/3/77
BOND COUNTY
Decision #IL77-2018 (H,Hw)
42 FR 10228 - 2/18/77
Decision #IL76-2080 (B)
41 FR 34475 - 8/13/76
Mod. #1 - 42 FR 4062 - 1/21/77
BOONE COUNTY
Decision #IL76-2133 (B)
41 FR 46831 - 10/22/76
Mod. #1 - 42 FR 17739 - 4/1/77
Mod. #2 - 42 FR 12567 - 3/4/77
Mod. #3 - 42 FR 17739 - 4/1/77
Mod. #4 - 42 FR 23270 - 5/6/77
Mod. #5 - 42 FR 28743 - 6/3/77
Decision #IL76-2141 (H,Hw)
41 FR 47733 - 10/29/76
Mod. #1 - 42 FR 7027 - 2/4/77
Mod. #2 - 42 FR 10208 - 2/18/77
BROWN COUNTY
(B,H,Hw) - See Adams County
(D) - See Adams County
BUREAU COUNTY
Decision #IL76-2125 (B)
41 FR 44620 - 10/8/76
Mod. #1 - 42 FR 5614 - 1/28/77
Mod. #2 - 42 FR 12565 - 3/4/77
Mod. #3 - 42 FR 23269 - 5/6/77
Mod. #4 - 42 FR 28741 - 6/3/77
Decision #IL76-2142 (H,Hw)
41 FR 50126 - 11/12/76
Mod. #1 - 42 FR 10208 - 2/18/77
Mod. #2 - 42 FR 23270 - 5/6/77
CALHOUN COUNTY
(B,H,Hw) - See Bond County
(D) - See Adams County
CARROLL COUNTY
(D) - See Adams County
(H,Hw) - See Bureau County

ILLINOIS (Cont'd.)

CASS COUNTY
Decision #IL76-2129 (B)
41 FR 44625 - 10/8/76
Mod. #1 - 42 FR 3135 - 1/14/77
(H,Hw) - See Adams County
(D) - See Adams County
CHAMPAIGN COUNTY
Decision #IL76-2121 (B)
41 FR 43573 - 10/1/76
Mod. #1 - 42 FR 1679 - 1/7/77
Mod. #2 - 42 FR 7026 - 2/4/77
Mod. #3 - 42 FR 17738 - 4/1/77
Decision #IL76-2145 (H,Hw)
41 FR 53251 - 12/3/76
Mod. #1 - 42 FR 1679 - 1/7/77
Mod. #2 - 42 FR 4062 - 1/21/77
Mod. #3 - 42 FR 10210 - 2/18/77
Mod. #4 - 42 FR 28744 - 6/3/77
CHRISTIAN COUNTY
(H,Hw) - See Adams County
Decision #IL76-2128 (B)
41 FR 46823 - 10/22/76
Mod. #1 - 42 FR 4063 - 1/21/77
Mod. #2 - 42 FR 10207 - 2/18/77
Mod. #3 - 42 FR 17738 - 4/1/77
Mod. #4 - 42 FR 23269 - 5/6/77
Mod. #5 - 42 FR 28742 - 6/3/77
CLARKE COUNTY
Decision #IL77-2030 (B)
42 FR 12584 - 3/4/77
Mod. #1 - 42 FR 17739 - 4/1/77
Mod. #2 - 42 FR 28742 - 6/3/77
(H,Hw) - See Champaign County
CLAY COUNTY
Decision #IL76-2153 (H,Hw)
41 FR 52253 - 11/26/76
Mod. #1 - 41 FR 55263 - 12/17/76
Mod. #2 - 42 FR 4063 - 1/21/77
Mod. #3 - 42 FR 10210 - 2/18/77
Mod. #4 - 42 FR 12567 - 3/4/77
(B) - See Clarke County
CLINTON COUNTY
(B,H,Hw) - See Bond County
COLES COUNTY
(B) - See Clarke County
(H,Hw) - See Champaign County
COOK COUNTY
Decision #IL76-2122 (B,H,Hw,R)
41 FR 43576 - 10/1/76
Mod. #1 - 42 FR 987 - 1/4/77
Mod. #2 - 42 FR 5613 - 1/28/77
Mod. #3 - 42 FR 17738 - 4/1/77
Mod. #4 - 42 FR 28741 - 6/3/77
Decision #IL77-5038 (D)
42 FR 18802 - 4/8/77
Mod. #1 - 42 FR 22070 - 4/29/77
CRAWFORD COUNTY
(B) - See Clarke County
(H,Hw) - See Clay County
CUMBERLAND COUNTY
(B) - See Clarke County
(H,Hw) - See Champaign County
DEKALB COUNTY
(H,Hw) - See Boone County
DEWITT COUNTY
(B) - See Christian County
(H,Hw) - See Champaign County

ILLINOIS (Cont'd.)

DOUGLAS COUNTY
(B) - See Clarke County
(H,Hw) - See Champaign County
DU PAGE COUNTY
Decision #IL77-2068 (B,R)
42 FR 30108 - 6/10/77
EDGAR COUNTY
(B) - See Clarke County
(H,Hw) - See Champaign County
EDWARDS COUNTY
(B) - See Clarke County
(H,Hw) - See Clay County
EFFINGHAM COUNTY
(B) - See Clarke County
(H,Hw) - See Clay County
FAYETTE COUNTY
(H,Hw) - See Clay County
FORD COUNTY
Decision #IL76-2124 (B)
41 FR 44616 - 10/8/76
Mod. #1 - 42 FR 5614 - 1/28/77
Mod. #2 - 42 FR 28741 - 6/3/77
Decision #IL76-2143 (H,Hw)
41 FR 50133 - 11/12/76
Mod. #1 - 42 FR 10209 - 2/18/77
Mod. #2 - 42 FR 23271 - 5/6/77
Mod. #3 - 42 FR 28743 - 6/3/77
FRANKLIN COUNTY
(B,H,Hw) - See Alexander County
FULTON COUNTY
Decision #IL77-2029 (B)
42 FR 11206 - 2/25/77
Decision #IL76-2144 (H,Hw)
41 FR 52247 - 11/26/76
Mod. #1 - 42 FR 10209 - 2/18/77
Mod. #2 - 42 FR 23271 - 5/6/77
GALLATIN COUNTY
(B,H,Hw) - See Alexander County
(D) - See Adams County
GREENE COUNTY
(B,H,Hw) - See Bond County
(D) - See Adams County
GRUNDY COUNTY
(H,Hw) - See Ford County
HAMILTON COUNTY
(B) - See Alexander County
(H,Hw) - See Clay County
HANCOCK COUNTY
(D) - See Adams County
(H,Hw) - See Fulton County
HARDIN COUNTY
(D) - See Adams County
(B,H,Hw) - See Alexander County
HENDERSON COUNTY
(B) - See Rock Island County
(D) - See Adams County
(H,Hw) - See Fulton County
HENRY COUNTY
(B) - See Rock Island County
(H,Hw) - See Bureau County
IROQUOIS COUNTY
(B,H,Hw) - See Ford County

ILLINOIS (Cont'd)

JACKSON COUNTY
(B,H,Hw) - See Alexander County
(D) - See Adams County
JASPER COUNTY
(B) - See Clarke County
(H,Hw) - See Clay County
JEFFERSON COUNTY
(B) - See Alexander County
(H,Hw) - See Clay County
JERSEY COUNTY
(B,H,Hw) - See Bond County
(D) - See Adams County
JO DAVIESS COUNTY
(D) - See Adams County
(H,Hw) - See Bureau County
JOHNSON COUNTY
(B,H,Hw) - See Alexander County
KANE COUNTY
(B,R) - See Du Page County
(H,Hw) - See Boone County
KANKAKEE COUNTY
(B,H,Hw) - See Ford County
KENDALL COUNTY
(H,Hw) - See Boone County
KNOX COUNTY
(B) - See Rock Island County
(H,Hw) - See Fulton County
LAKE COUNTY
(B,R) - See Du Page County
(D) - See Cook County
(H,Hw) - See Boone County
LA SALLE COUNTY
(B) - See Bureau County
(H,Hw) - See Ford County
LAWRENCE COUNTY
(B) - See Clarke County
(H,Hw) - See Clay County
LEE COUNTY
(H,Hw) - See Bureau County
LIVINGSTON COUNTY
(B) - See Bureau County
(H,Hw) - See Ford County
LOGAN COUNTY
Decision #IL76-2126 (B)
41 FR 44630 - 10/8/76
Mod. #1 - 42 FR 3135 - 1/14/77
Mod. #2 - 42 FR 28741 - 6/3/77
(H,Hw) - See Adams County
MCDONOUGH COUNTY
(H,Hw) - See Fulton County
MCHENRY COUNTY
(H,Hw) - See Fulton County
Mc LEAN COUNTY
Decision #IL76-2127 (B)
41 FR 44627 - 10/8/76
Mod. #1 - 41 FR 52178 - 11/26/76
Mod. #2 - 42 FR 28742 - 6/3/77
(H,Hw) - See Ford County
MACON COUNTY
(B) - See Christian County
(H,Hw) - See Champaign County
MACAUPIN COUNTY
(H,Hw) - See Bond County
MADISON COUNTY
Decision #IL76-2078 (B,R)
41 FR 34492 - 8/13/76

ILLINOIS (Cont'd)

MADISON COUNTY (Cont'd.)
Mod. #1 - 42 FR 4062 - 1/21/77
Mod. #2 - 42 FR 17738 - 4/1/77
Mod. #3 - 42 FR 23268 - 5/6/77
Mod. #4 - 42 FR 28740 - 6/3/77
(D) - See Adams County
(H,Hw) - See Bond County
MARION COUNTY
(B) - See Alexander County
(H,Hw) - See Clay County
MARSHALL COUNTY
(B) - See Bureau County
(H,Hw) - See Ford County
MASON COUNTY
(B) - See Logan County
(H,Hw) - See Adams County
MASSAC COUNTY
(D) - See Adams County
(B,H,Hw) - See Alexander County
MENARD COUNTY
(B) - See Logan County
(H,Hw) - See Adams County
MERCER COUNTY
(B) - See Rock Island County
(D) - See Adams County
(H,Hw) - See Fulton County
MONROE COUNTY
(B,H,Hw) - See Bond County
(D) - See Adams County
MONTGOMERY COUNTY
(B,H,Hw) - See Bond County
MORGAN COUNTY
(B) - See Cass County
(H,Hw) - See Adams County
(D) - See Adams County
MOULTRIE COUNTY
(B) - See Christian County
(H,Hw) - See Champaign County
OGLE COUNTY
(H,Hw) - See Bureau County
PEORIA COUNTY
Decision #IL76-2015 (B,D,R)
41 FR 8643 - 2/27/76
Mod. #1 - 41 FR 20120 - 5/14/76
Mod. #2 - 42 FR 7025 - 2/4/77
Mod. #3 - 42 FR 23268 - 5/6/77
Mod. #4 - 42 FR 28740 - 6/3/77
(H,Hw) - See Fulton County
PERRY COUNTY
(B,H,Hw) - See Alexander County
PIATT COUNTY
(B) - See Christian County
(H,Hw) - See Champaign County
PIKE COUNTY
(B,H,Hw) - See Adams County
(D) - See Adams County
POPE COUNTY
(B,H,Hw) - See Alexander County
(D) - See Adams County
PULASKI COUNTY
(B,H,Hw) - See Alexander County
(D) - See Adams County
PUTNAM COUNTY
(B) - See Bureau County
(H,Hw) - See Ford County
RANDOLPH COUNTY
(B) - See Bond County
(D) - See Adams County
(H,Hw) - See Alexander County

ILLINOIS (Cont'd)

RICHLAND COUNTY
(B) - See Clarke County
(H,Hw) - See Clay County
ROCK ISLAND COUNTY
Decision #IL76-2130 (B)
41 FR 47724 - 10/29/76
Mod. #1 - 42 FR 7026 - 2/4/77
Mod. #2 - 42 FR 12566 - 3/4/77
Mod. #3 - 42 FR 23269 - 5/6/77
Mod. #4 - 42 FR 28742 - 6/3/77
(D) - See Adams County
(H,Hw) - See Bureau County
SAINT CLAIR COUNTY
(B,R) - See Madison County
(H,Hw) - See Bond County
(D) - See Adams County
SALINE COUNTY
(B,H,Hw) - See Alexander County
SANGAMON COUNTY
Decision #IL76-2131 (B,R)
41 FR 46829 - 10/22/76
Mod. #1 - 42 FR 3135 - 1/14/77
Mod. #2 - 42 FR 23269 - 5/6/77
Mod. #3 - 42 FR 28742 - 6/3/77
(H,Hw) - See Adams County
SCHUYLER COUNTY
(H,Hw) - See Adams County
SCOTT COUNTY
(B) - See Scott County
(D,H,Hw) - See Adams County
SHELBY COUNTY
(B) - See Christian County
(H,Hw) - See Champaign County
STARK COUNTY
(B) - See Rock Island County
(H,Hw) - See Fulton County
STEPHENSON COUNTY
(H,Hw) - See Bureau County

TAZEWELL COUNTY
(B,R,D) - See Peoria County
(H,Hw) - See Fulton County
UNION COUNTY
(B,H,Hw) - See Alexander County
(D) - See Adams County
VERMILLION COUNTY
(H,Hw) - See Champaign County
(B) - See Champaign County
WABASH COUNTY
(B) - See Clarke County
(H,Hw) - See Clay County
WARREN COUNTY
(B) - See Rock Island County
(H,Hw) - See Fulton County
WASHINGTON COUNTY
(B,H,Hw) - See Bond County
WAYNE COUNTY
(B) - See Clarke County
(H,Hw) - See Clay County
WHITE COUNTY
(D) - See Adams County
(B) - See Alexander County
(H,Hw) - See Clay County
WHITESIDE COUNTY
(H,Hw) - See Bureau County
(D) - See Adams County

ILLINOIS (Cont'd.)

WILL COUNTY
(B,R) - See Du Page County
(H,Hw) - See Boone County
WILLIAMSON COUNTY
Decision #IL76-2048 (B)
41 FR 16369 - 4/16/76
Mod. #1 - 41 FR 20124 - 5/14/76
(B,H,Hw) - See Alexander County
WINNEBAGO COUNTY
(B) - See Boone County
(H,Hw) - See Bureau County
WOODFORD COUNTY
(B) - See Bureau County
(H,Hw) - See Ford County

INDIANA

STATEWIDE
Decision #IN77-2003 (H,Hw)
42 FR 24596 - 5/13/77
Mod. #1 - 42 FR 27557 - 5/27/77
Mod. #2 - 42 FR 32449 - 6/24/77
ADAMS COUNTY
Decision #IN77-2017 (B)
42 FR 8920 - 2/11/77
Mod. #1 - 42 FR 12568 - 3/4/77
Mod. #2 - 42 FR 24570 - 5/13/77
Mod. #3 - 42 FR 32448 - 6/24/77
(H,Hw) - See Statewide
ALLEN COUNTY
Decision #IN77-2101 (B)
42 FR 32460 - 6/24/77
Decision #IN77-2007 (R)
42 FR 8940 - 2/11/77
(H,Hw) - See Statewide
BARTHOLOMEW COUNTY
Decision #IN77-2093 (R)
42 FR 27551 - 5/27/77
(B) - See Allen County
(H,Hw) - See Statewide
BENTON COUNTY
B) - See Allen County
H,Hw) - See Statewide
BLACKFORD COUNTY
(B) - See Adams County
(H,Hw) - See Statewide
BOONE COUNTY
Decision #IN77-2016 (B)
42 FR 8915 - 2/11/77
Mod. #1 - 42 FR 24570 - 5/13/77
Mod. #2 - 42 FR 32447 - 6/24/77
(H,Hw) - See Statewide
BROWN COUNTY
Decision #IN77-2084 (B)
42 FR 24555 - 5/13/77
Mod. #1 - 42 FR 27557 - 5/27/77
Mod. #2 - 42 FR 32451 - 6/24/77
(H,Hw) - See Statewide
CARROLL COUNTY
(H,Hw) - See Statewide
CASS COUNTY
(H,Hw) - See Statewide
CLARK COUNTY
Decision #IL77-5056 (D)
42 FR 28759 - 6/3/77
Mod. #1 - 42 FR 32447 - 6/24/77
Decision #IN77-2009 (B)
42 FR 8910 - 2/11/77
Mod. #1 - 42 FR 24569 - 5/13/77
Mod. #2 - 42 FR 32447 - 6/24/77
(H,Hw) - See Statewide
CLAY COUNTY
Decision #IN77-2020 (R)
42 FR 10196 - 2/18/77
(H,Hw) - See Statewide
CLINTON COUNTY
(H,Hw) - See Statewide
CRAWFORD COUNTY
(B) - See Brown County
(H,Hw) - See Statewide
(D) - See Clark County

INDIANA (Cont'd.)

DAVIESS COUNTY
Decision #IN77-2021 (R)
42 FR 10196 - 2/18/77
(H,Hw) - See Statewide
DEARBORN COUNTY
(B) - See Allen County
(D) - See Clark County
(H,Hw) - See Statewide
DECATUR COUNTY
Decision #IN77-2008 (B)
42 FR 8908 - 2/11/77
Mod. #1 - 42 FR 12568 - 3/4/77
Mod. #2 - 42 FR 24569 - 5/13/77
Mod. #3 - 42 FR 32447 - 6/24/77
(H,Hw) - See Statewide
DEKALB COUNTY
Decision #IN77-2010 (R)
42 FR 8912 - 2/11/77
(H,Hw) - See Statewide
DELAWARE COUNTY
Decision #IN77-2094 (R)
42 FR 27551 - 5/27/77
(B) - See Allen County
(H,Hw) - See Statewide
DUBOIS COUNTY
Decision #IN77-2022 (R)
42 FR 10197 - 2/18/77
(H,Hw) - See Statewide
ELKHART COUNTY
(H,Hw) - See Statewide
FAYETTE COUNTY
Decision #IN77-2085 (B)
42 FR 24562 - 5/13/77
Mod. #1 - 42 FR 27557 - 5/27/77
Mod. #2 - 42 FR 32451 - 6/24/77
(H,Hw) - See Statewide
FLOYD COUNTY
(B,D) - See Clark County
(H,Hw) - See Statewide
FOUNTAIN COUNTY
(H,Hw) - See Statewide
FRANKLIN COUNTY
(B) - See Fayette County
(H,Hw) - See Statewide
FULTON COUNTY
(H,Hw) - See Statewide
GIBSON COUNTY
Decision #IN77-2023 (R)
42 FR 10197 - 2/18/77
(H,Hw) - See Statewide
GRANT COUNTY
Decision #IN77-2070 (R)
42 FR 24555 - 5/13/77
(B) - See Allen County
(H,Hw) - See Statewide
GREENE COUNTY
Decision #IN77-2024 (R)
42 FR 10198 - 2/18/77
(H,Hw) - See Statewide
HAMILTON COUNTY
Decision #IN77-2011 (R)
42 FR 8912 - 2/11/77
(B) - See Boone County
(H,Hw) - See Statewide

INDIANA (Cont'd.)

HANCOCK COUNTY
(B) - See Boone County
(H,Hw) - See Statewide
HARRISON COUNTY
(B,D) - See Clark County
(H,Hw) - See Statewide
HENDRICKS COUNTY
Decision #IN77-2095 (R)
42 FR 27552 - 5/27/77
(H,Hw) - See Statewide
(B) - See Boone County
HENRY COUNTY
(B) - See Fayette County
(H,Hw) - See Statewide
HOWARD COUNTY
(H,Hw) - See Statewide
HUNTINGTON COUNTY
(B) - See Adams County
(H,Hw) - See Statewide
JACKSON COUNTY
Decision #IN77-2012 (R)
42 FR 8913 - 2/11/77
Mod. #1 - 42 FR 24569 - 5/13/77
(B) - See Brown County
(H,Hw) - See Statewide
JASPER COUNTY
(H,Hw) - See Statewide
JAY COUNTY
(H,Hw) - See Statewide
(B) - See Adams County
JEFFERSON COUNTY
Decision #IN77-2013 (R)
42 FR 8913 - 2/11/77
(D) - See Clark County
(B) - See Brown County
(H,Hw) - See Statewide
JENNINGS COUNTY
(B) - See Brown County
(H,Hw) - See Statewide
JOHNSON COUNTY
Decision #IN77-2014 (R)
42 FR 8914 - 2/11/77
(H,Hw) - See Statewide
(B) - See Boone County
KNOX COUNTY
(H,Hw) - See Statewide
KOSCIUSKO COUNTY
(H,Hw) - See Statewide
LAGRANGE COUNTY
(H,Hw) - See Statewide
LAKE COUNTY
Decision #IN77-2082 (B,H,Hw)
42 FR 24588 - 5/13/77
Mod. #1 - 42 FR 27557 - 5/27/77
Mod. #2 - 42 FR 32449 - 6/24/77
Decision #IN77-5038 (D)
42 FR 18802 - 4/8/77
Mod. #1 - 42 FR 22070 - 4/29/77
LAPORTE COUNTY
(B,H,Hw) - See Lake County
(D) - See Lake County

INDIANA (Cont'd.

LAWRENCE COUNTY
Decision #IN77-2096 (R)
42 FR 27552 - 5/27/77
(B) - See Brown County
(H,Hw) - See Statewide
MADISON COUNTY
Decision #IN77-2097 (R)
42 FR 27553 - 5/27/77
(B) - See Boone County
(H,Hw) - See Statewide
MARION COUNTY
Decision #IN76-2005 (R)
41 FR 3602 - 1/23/76
Mod. #1 - 41 FR 9720 - 3/5/76
Mod. #2 - 41 FR 21984 - 5/28/76
Mod. #3 - 42 FR 12568 - 3/4/77
(B) - See Allen County
(H,Hw) - See Statewide
MARSHALL COUNTY
(H,Hw) - See Statewide
MARTIN COUNTY
(H,Hw) - See Statewide
MIAMI COUNTY
Decision #IN77-2025 (R)
42 FR 10198 - 2/18/77
(H,Hw) - See Statewide
MONROE COUNTY
(B) - See Allen County
(H,Hw) - See Statewide
MONTGOMERY COUNTY
(H,Hw) - See Statewide
MORGAN COUNTY
(B) - See Boone County
(H,Hw) - See Statewide
NEWTON COUNTY
(H,Hw) - See Statewide
NOBLE COUNTY
(B) - See Adams County
(H,Hw) - See Statewide
OHIO COUNTY
(B) - See Fayette County
(D) - See Clark County
(H,Hw) - See Statewide
ORANGE COUNTY
Decision #IN77-2026 (R)
42 FR 10199 - 2/18/77
(B) - See Brown County
(H,Hw) - See Statewide
OWEN COUNTY
(H,Hw) - See Statewide
PARKE COUNTY
Decision #IN77-2027 (R)
42 FR 10199 - 2/18/77
(H,Hw) - See Statewide
PERRY COUNTY
(D) - See Clark County
(H,Hw) - See Statewide
PIKE COUNTY
(H,Hw) - See Statewide
PORTER COUNTY
(B,H,Hw) - See Lake County
(D) - See Lake County

INDIANA (Cont'd.)

POSEY COUNTY
(D) - See Clark County
(H,Hw) - See Statewide
PULASKI COUNTY
(H,Hw) - See Statewide
PUTNAM COUNTY
(H,Hw) - See Statewide
RANDOLPH COUNTY
(B) - See Fayette County
(H,Hw) - See Statewide
RIPLEY COUNTY
(B) - See Fayette County
(H,Hw) - See Statewide
RUSH COUNTY
(B) - See Fayette County
(H,Hw) - See Statewide
SAINT JOSEPH COUNTY
(B,H,Hw) - See Lake County
SCOTT COUNTY
(B) - See Brown County
(H,Hw) - See Statewide
SHELBY COUNTY
(B) - See Boone County
(H,Hw) - See Statewide
SPENCER COUNTY
(D) - See Clark County
(H,Hw) - See Statewide
STARKE COUNTY
(H,Hw) - See Statewide
STEUBEN COUNTY
Decision #IN77-2098 (R)
42 FR 27553 - 5/27/77
(B) - See Adams County
(H,Hw) - See Statewide
SULLIVAN COUNTY
(H,Hw) - See Statewide
SWITZERLAND COUNTY
(B) - See Brown County
(D) - See Clark County
(H,Hw) - See Statewide

INDIANA (Cont'd)

TIPPECANOE COUNTY
Decision #IN77-2099 (R)
42 FR 27554 - 5/27/77
(B) - See Allen County
(H,Hw) - See Statewide
TIPTON COUNTY
(H,Hw) - See Statewide
UNION COUNTY
(B) - See Fayette County
(H,Hw) - See Statewide
VANDERBURGH COUNTY
Decision #IN76-2046 (R)
41 FR 16302 - 4/16/76
(B) - See Allen County
(D) - See Clark County
(H,Hw) - See Statewide
VERMILLION COUNTY
Decision #IN77-2028 (R)
42 FR 10200 - 2/18/77
(H,Hw) - See Statewide
VIGO COUNTY
(B) - See Allen County
(H,Hw) - See Statewide
WABASH COUNTY
(B) - See Adams County
(H,Hw) - See Statewide
WARREN COUNTY
(H,Hw) - See Statewide
WARRICK COUNTY
(D) - See Clark County
(H,Hw) - See Statewide
WASHINGTON COUNTY
Decision #IN77-2015 (R)
42 FR 8914 - 2/11/77
(B) - See Brown County
(H,Hw) - See Statewide
WAYNE COUNTY
(B) - See Fayette County
(H,Hw) - See Statewide
WELLS COUNTY
(B) - See Adams County
(H,Hw) - See Statewide
WHITE COUNTY
(H,Hw) - See Statewide
WHITLEY COUNTY
(B) - See Adams County
(H,Hw) - See Statewide

IOWA

ADAIR COUNTY
Decision #IA76-4120 (H,Hw)
41 FR 30481 - 7/23/76
ADAMS COUNTY
(H,Hw) - See Adair County
ALLAMAKEE COUNTY
Decision #IL77-5056 (D)
42 FR 28759 - 6/3/77
Mod. #1 - 42 FR 32447 - 6/24/77
APPANOOSE COUNTY
Decision #IA77-4042 (H,Hw)
42 FR 11211 - 2/25/77
AUDUBON COUNTY
Decision #IA77-4110 (H,Hw)
42 FR 30079 - 6/10/77
BENTON COUNTY
Decision #IA77-4041 (Hw)
42 FR 11210 - 2/25/77
BLACK HAWK COUNTY
Decision #IA77-4089 (B,H,Hw)(City of Waterloo & abutting Municipalities
42 FR 23345 - 5/6/77
Mod. #1 - 42 FR 26100 - 5/20/77
BOONE COUNTY
None
BREMER COUNTY
None
BUCHANAN COUNTY
Decision #IA76-4121 (H,Hw)
41 FR 30482 - 7/23/76
BUENA VISTA COUNTY
None
BUTLER COUNTY
Decision #IA76-4122 (H,Hw)
41 FR 30483 - 7/23/76
CALHOUN COUNTY
(H,Hw) - See Audubon County
CARROLL COUNTY
(H,Hw) - See Audubon County

CASS COUNTY
(H,Hw) - See Adair County
CEDAR COUNTY
(H,Hw) - See Buchanan County
CERRO GORDO COUNTY (MASON CITY)
Decision #IA77-4090 (B,H,Hw
42 FR 23348 - 5/6/77
(H,Hw) - See Butler Co. (Excl Mason City)
CHEROKEE COUNTY
None
CHICKASAW COUNTY
None
CLARKE COUNTY
(H,Hw) - See Adair County

IOWA (Cont'd)

CLAY COUNTY
None
CLAYTON COUNTY
(D) - See Allamakee County
CLINTON COUNTY (City of Clinton and abbutting municipalities)
Decision #IA77-4099 (B,H,Hw)
42 FR 24607 - 5/13/77
(D) - See Allamakee County

CRAWFORD COUNTY
(H,Hw) - See Audubon County
DALLAS COUNTY
None
DAVIS COUNTY
(H,Hw) - See Appanoose County
DECATUR COUNTY
(H,Hw) - See Adair County
DELAWARE COUNTY
(H,Hw) - See Buchanan County
DES MOINES COUNTY (City of Burlington and Abutting Municipalities; and Burlington Ordance Plant
Decision #IA77-4100 (B,H,Hw)
42 FR 24609 - 5/13/77
Mod. #1 - 42 FR 27558 - 5/27/77
DICKSON COUNTY
None
DUBUQUE COUNTY (City of Dubuque and abutting municipalities)
Decision #IA77-4091 (B,H,Hw)
42 FR 23351 - 5/6/77
(D) - See Allamakee County
EMMET COUNTY
None
FAYETTE COUNTY
None
FLOYD COUNTY
(H,Hw) - See Butler County
FRANKLIN COUNTY
Decision #IA76-4123 (H,Hw)
41 FR 30484 - 7/23/76
FREMONT COUNTY
Decision #NE76-4184 (Channel Stabilization)
41 FR 53259 - 12/3/76
(H,Hw) - See Adair County
GREENE COUNTY
(H,Hw) - See Audubon County
GRUNDY COUNTY
(D) - See Allamakee County
(H,Hw) - See Butler County

IOWA (Cont'd)

GUTHRIE COUNTY
(H,Hw) - See Audubon County
HAMILTON COUNTY
(H,Hw) - See Butler County
HANCOCK COUNTY
(H,Hw) - See Butler County
HARDIN COUNTY
(H,Hw) - See Franklin County
HARRISON COUNTY
Decision #IA76-4124 (H,Hw)
41 FR 30485 - 7/23/76
Mod. #1 - 41 FR 51239 - 11/19/76
(Chann. Stab.) - See Fremont Co.
HENRY COUNTY
None
HOWARD COUNTY
None
HUMBOLDT COUNTY
None
IDA COUNTY
(H,Hw) - See Audubon County
IOWA COUNTY
(Hw) - See Benton County
JACKSON COUNTY
(D) - See Allamakee County
(H,Hw) - See Buchanan County
JASPER COUNTY
None
JEFFERSON COUNTY
(H,Hw) - See Appanoose County
JOHNSON COUNTY (City of Iowa City and abutting municipalities)
Decision #IA77-4092 (B,H,Hw)
42 FR 23354 - 5/6/77
(Hw) - See Benton County
JONES COUNTY
(H,Hw) - See Buchanan County
KEOKUK COUNTY
(Hw) - See Benton County
KOSSUTH COUNTY
None
LEE COUNTY
(D) - See Allamakee County
LINN COUNTY
Decision #IA77-4093 (B,H,Hw)
42 FR 23357 - 5/6/77

IOWA (Cont'd.)

LOUISA COUNTY
(D) - See Allamakee County
LUCAS COUNTY
(H,Hw) - See Adair County
LYON COUNTY
None
MADISON COUNTY
None
MAHASKA COUNTY
(Hw) - See Benton County
MARION COUNTY
None
MARSHALL COUNTY
None
MILLS COUNTY
(H,Hw) - See Adair County
(Channel Stab.) - See Freemont Co.
MITCHELL COUNTY
(H,Hw) - See Butler County
MONONA COUNTY
(H,Hw) - See Harrison County
(Channel Stab.) - See Freemont Co.
MONROE COUNTY
None
MONTGOMERY COUNTY
(H,Hw) - See Adair County
MUSCATINE COUNTY
(D) - See Allamakee County
O'BRIEN COUNTY
None
OSCEOLA COUNTY
None
PAGE COUNTY
(H,Hw) - See Adair County
PALO ALTO COUNTY
None
PLYMOUTH COUNTY
None
POCAHONTAS COUNTY
None
POLK COUNTY
Decision #IA77-4094 (B,H,Hw)
42 FR 23360 - 5/6/77
POTTAWATTAMIE COUNTY (City of Council Bluffs and the area within 3 miles from the City Limits)
Decision #IA77-4117 (B,H,Hw)
42 FR 32470 - 6/24/77
(Chann. Stab.) - See Freemont County

IOWA (Cont'd)

POWESHIEK COUNTY
(Hw) - See Benton County
RINGGOLD COUNTY
(H,Hw) - See Adair County
SAC COUNTY
(H,Hw) - See Audubon County
SCOTT COUNTY
Decision #IA76-4172 (B,H,Hw)
41 FR 45802 - 10/15/76
Mod. #1 - 41 FR 48985 - 11/5/76
Mod. #2 - 41 FR 51239 - 11/19/76
Mod. #3 - 42 PR 13716 - 3/11/77
(D) - See Allamakee County
SHELBY COUNTY
(H,Hw) - See Audubon County
SIOUX COUNTY
None
STORY COUNTY (City of Ames and abutting municipalities)
Decision #IA77-4095 (B,H,Hw)
42 FR 23363 - 5/6/77
TAMA COUNTY
(Hw) - See Benton County
TAYLOR COUNTY
(H,Hw) - See Adair County
UNION COUNTY
(H,Hw) - See Adair County
VAN BUREN COUNTY
(H,Hw) - See Appanoose County
WAPELLO COUNTY
(H,Hw) - See Appannose County
WARREN COUNTY
None
WASHINGTON COUNTY
(Hw) - See Benton County
WAYNE COUNTY
(H,Hw) - See Adair County
WEBSTER COUNTY (City of Fort Dodge)
Decision #IA77-4096 (B,H,Hw)
42 FR 23366 - 5/6/77
Mod. #1 - 42 FR 26100 - 5/20/77
WINNEBAGO COUNTY
(H,Hw) - See Butler County
WINNESHIEK COUNTY
None

IOWA (Cont'd.)

WOODBURY COUNTY (City of Sioux City and abutting municipalities)
Decision #IA76-4175 (B)
41 FR 45811 - 10/15/76
Mod. #1 - 41 FR 56550 - 12/28/76
Mod. #2 - 42 FR 16346 - 3/25/77
Mod. #3 - 42 FR 18791 - 4/8/77
(Chann. Stab.) - See Freemont Co.
(H,Hw) - See Harrison County
WORTH COUNTY
(H,Hw) - See Butler County
WRIGHT COUNTY
(H,Hw) - See Butler County

KANSAS

ALLEN COUNTY
Decision #KS77-4025 (Hw, W&S)
42 FR 10235 - 2/18/77
Mod. #1 - 42 FR 15251 - 3/18/77
Mod. #2 - 42 FR 20048 - 4/15/77
ANDERSON COUNTY
(Hw, W&S) - See Allen County
ATCHISON COUNTY
Decision #MO75-4070 (D)
40 FR 14225 - 3/28/75
(Hw, W&S) - See Allen County
BARBER COUNTY
Decision #KS77-4024 (Hw, W&S)
42 FR 10234 - 2/18/77
Mod. #1 - 42 FR 17741 - 4/1/77
BARTON COUNTY
(Hw, W&S) - See Barber County
BOURBON COUNTY
(Hw, W&S) - See Allen County
BROWN COUNTY
(Hw, W&S) - See Allen County
BUTLER COUNTY
(Hw, W&S) - See Allen County
CASS COUNTY
(Hw, W&S) - See Allen County
CHASE COUNTY
(Hw, W&S) - See Allen County
CHAUTAUQUA COUNTY
(Hw, W&S) - See Allen County
CHEROKEE COUNTY
(Hw, W&S) - See Allen County
CHEYENNE COUNTY
(Hw, W&S) - See Barber County
CLARK COUNTY
(Hw, W&S) - See Barber County

KANSAS (Cont'd.)

CLAY COUNTY
(Hw, W&S) - See Allen County
CLOUD COUNTY
(Hw, W&S) - See Allen County
COFFEY COUNTY
(Hw, W&S) - See Allen County
COMANCHE COUNTY
(Hw, W&S) - See Barber County
COWLEY COUNTY
(Hw, W&S) - See Allen County
CRAWFORD COUNTY
(Hw, W&S) - See Allen County
DECATUR COUNTY
(Hw, W&S) - See Barber County
DICKINSON COUNTY
(Hw, W&S) - See Allen County
DONIPHAN COUNTY
(D) - See Atchison County
(Hw, W&S) - See Allen County
DOUGLAS COUNTY
Decision #KS77-4084 (Hw)
42 FR 20059 - 4/15/77
Mod. #1 - 42 FR 26101 - 5/20/77
EDWARDS COUNTY
(Hw, W&S) - See Barber County
ELK COUNTY
(Hw, W&S) - See Allen County
ELLIS COUNTY
(Hw, W&S) - See Barber County
ELLSWORTH COUNTY
(Hw, W&S) - See Barber County
FINNEY COUNTY
(Hw, W&S) - See Barber County
FORD COUNTY
(Hw, W&S) - See Barber County
FRANKLIN COUNTY
(Hw, W&S) - See Allen County
GEARY COUNTY
Decision #KS77-4019 (R)
42 FR 7056 - 2/4/77
Mod. #1 - 42 FR 26100 - 5/20/77
(Hw, W&S) - See Allen County
GOVE COUNTY
(Hw, W&S) - See Barber County
GRAHAM COUNTY
(Hw, W&S) - See Barber County
GRANT COUNTY
(Hw, W&S) - See Barber County
GRAY COUNTY
(Hw, W&S) - See Barber County
GREELEY COUNTY
(Hw, W&S) - See Barber County
GREENWOOD COUNTY
(Hw, W&S) - See Allen County

KANSAS (Cont'd.

HAMILTON COUNTY
(Hw, W&S) - See Barber County
HARPER COUNTY
(Hw, W&S) - See Allen County
HARVEY COUNTY
(Hw, W&S) - See Allen County
HASKELL COUNTY
(Hw, W&S) - See Barber County
HODGEMAN COUNTY
(Hw, W&S) - See Barber County
JACKSON COUNTY
(Hw, W&S) - See Allen County
JEFFERSON COUNTY
(Hw) - See Douglas County
JEWELL COUNTY
(Hw, W&S) - See Barber County
JOHNSON COUNTY
Decision #M077-4075 (B,H,Hw)
42 FR 18815 - 4/8/77
Mod. #1 - 42 FR 26100 - 5/20/77
Mod. #2 - 42 FR 27558 - 5/27/77
Mod. #3 - 42 FR 28745 - 6/3/77
Decision #M077-4076 (R)
42 FR 18820 - 4/8/77
Mod. #1 - 42 FR 27558 - 5/27/77
Mod. #2 - 42 FR 30085 - 6/10/77
KEARNY COUNTY
(Hw, W&S) - See Barber County
KINGMAN COUNTY
(Hw, W&S) - See Allen County
KIOWA COUNTY
(Hw, W&S) - See Barber County
LABETTE COUNTY
(Hw, W&S) - See Allen County
LANE COUNTY
(Hw, W&S) - See Barber County
LEAVENWORTH COUNTY
Decision #KS77-4149 (B)
42 FR 34188 - 7/1/77
(D) - See Atchison County
(Hw) - See Douglas County
LINCOLN COUNTY
(Hw, W&S) - See Barber County
LINN COUNTY
(Hw, W&S) - See Allen County
LOGAN COUNTY
(Hw, W&S) - See Barber County

KANSAS (Cont'd.

LYON COUNTY
(Hw, W&S) - See Allen County
McPHERSON COUNTY
(Hw, W&S) - See Allen County
MARION COUNTY
(Hw, W&S) - See Allen County
MARSHALL COUNTY
(Hw, W&S) - See Allen County
MEADE COUNTY
(Hw, W&S) - See Barber County
MIAMI COUNTY
(Hw) - See Douglas County
MITCHELL COUNTY
(Hw, W&S) - See Barber County
MONTGOMERY COUNTY
(Hw, W&S) - See Allen County
MORRIS COUNTY
(Hw, W&S) - See Allen County
MORTON COUNTY
(Hw, W&S) - See Barber County
NEMAHA COUNTY
(Hw, W&S) - See Allen County
NEOSHO COUNTY
(Hw, W&S) - See Allen County
NESS COUNTY
(Hw, W&S) - See Barber County
NORTON COUNTY
(Hw, W&S) - See Barber County
OSAGE COUNTY
(Hw, W&S) - See Allen County
OSBORNE COUNTY
(Hw, W&S) - See Barber County
OTTAWA COUNTY
(Hw, W&S) - See Allen County
PAWNEE COUNTY
(Hw, W&S) - See Barber County
PHILLIPS COUNTY
(Hw, W&S) - See Barber County
POTTAWATOMIE COUNTY
(Hw, W&S) - See Allen County
PRATT COUNTY
(Hw, W&S) - See Barber County
RAWLINS COUNTY
(Hw, W&S) - See Barber County
RAY COUNTY
(Hw, W&S) - See Allen County

KANSAS (Cont'd.

RENO COUNTY
(Hw, W&S) - See Allen County
REPUBLIC COUNTY
(Hw, W&S) - See Allen County
RICE COUNTY
(Hw, W&S) - See Barber County
RILEY COUNTY
(Hw, W&S) - See Allen County
(R) - See Geary County
ROOKS COUNTY
(Hw, W&S) - See Barber County
RUSH COUNTY
(Hw, W&S) - See Barber County
RUSSELL COUNTY
(Hw, W&S) - See Barber County
SALINE COUNTY
(Hw, W&S) - See Allen County
SCOTT COUNTY
(Hw, W&S) - See Barber County
SEDGWICK COUNTY
Decision #KS77-4047 (R)
42 FR 11212 - 2/25/77
Decision #KS77-4081 (B)
42 FR 18809 - 4/8/77
Mod. #1 - 42 FR 23273 - 5/6/77
MMod. #2 - 42 FR 27559 - 5/27/77
Decision #KS77-4023 (Hw, W&S)
42 FR 10233 - 2/18/77
Mod. #1 - 42 FR 17740 - 4/1/77
SEWARD COUNTY
(Hw, W&S) - See Barber County
SHAWNEE COUNTY
Decision #KS77-4080 (B)
42 FR 18806 - 4/8/77
Mod. #1 - 42 FR 22072 - 4/29/77
Mod. #2 - 42 FR 27559 - 5/27/77
Decision #KS77-4079 (R)
42 FR 18803 - 4/8/77
Mod. #1 - 42 FR 22071 - 4/29/77
Mod. #2 - 42 FR 27559 - 5/27/77
(Hw) - See Douglas County

KANSAS (Cont'd.

SHERIDAN COUNTY
(Hw, W&S) - See Barber County
SHERMAN COUNTY
(Hw, W&S) - See Barber County
SMITH COUNTY
(Hw, W&S) - See Barber County
STAFFARD COUNTY
(Hw, W&S) - See Barber County
STANTON COUNTY
(Hw, W&S) - See Barber County
STEVENS COUNTY
(Hw, W&S) - See Barber County
SUMNER COUNTY
(Hw, W&S) - See Allen County
THOMAS COUNTY
(Hw, W&S) - See Barber County
TREGO COUNTY
(Hw, W&S) - See Barber County
WABAUNSEE COUNTY
(Hw, W&S) - See Allen County
WALLACE COUNTY
(Hw, W&S) - See Barber County
WASHINGTON COUNTY
(Hw, W&S) - See Allen County
WICHITA COUNTY
(Hw, W&S) - See Barber County
WILSON COUNTY
(Hw, W&S) - See Allen County
WOODSON COUNTY
(Hw, W&S) - See Allen County
WYANDOTTE COUNTY
(B,H,Hw,R) - See Johnson County
(D) - See Atchison County

KENTUCKY

ADAIR COUNTY
Decision #KY76-1093 (R)
41 FR 37472 - 9/3/76
Decision #KY76-1112 (H,Hw)
41 FR 43579 - 10/1/76
ALLEN COUNTY
Decision #KY76-1128 (H,Hw)
41 FR 50144 - 11/12/76
Mod. #1 - 41 FR 54106 - 12/10/76
ANDERSON COUNTY
Decision #KY76-1114 (H,Hw)
41 FR 44633 - 10/8/76
BALLARD COUNTY
Decision #AL76-5090 (D)
41 FR 44609 - 10/8/76
Mod. #1 - 42 FR 18788 - 4/8/77
Decision #IL77-5056 (D)
42 FR 28759 - 6/3/77
Mod. #1 - 42 FR 32447 - 6/24/77
(H,Hw) - See Allen County
BARREN COUNTY
(H,Hw) - See Adair County
BATH COUNTY
(H,Hw) - See Anderson County
Decision #KY75-1105 (R)
40 FR 49950 - 10/24/75
BELL COUNTY
(H,Hw) - See Adair County
Decision #AQ-4126 (B)
39 FR 22359 - 6/21/74
BOONE COUNTY
Decision #KY76-1092 (R)
41 FR 37471 - 9/3/76
Decision #KY76-1113 (H,Hw)
41 FR 43582 - 10/1/76
Decision #KY77-1088 (B)
42 FR 34192 - 7/1/77
(D) - See Ballard County
BOURBON COUNTY
(H,Hw) - See Anderson County
(R) - See Bath County
BOYD COUNTY
Decision #KY77-1059 (B)
42 FR 24615 - 5/13/77
(D) - See Ballard County
(H,Hw) - See Anderson County
BOYLE COUNTY
Decision #KY76-1096 (R)
41 FR 38707 - 9/10/76
(H,Hw) - See Anderson County
BRACKEN COUNTY
(H,Hw) - See Anderson County
(D) - See Ballard County
(R) - See Boone County
BREATHITT COUNTY
(H,Hw) - See Adair County
Decision #KY76-1101 (R)
41 FR 40366 - 9/17/76

KENTUCKY (Cont'd.)

BRECKINRIDGE COUNTY
Decision #KY76-1080 (R)
41 FR 30532 - 7/23/76
Mod. #1 - 41 FR 38709 - 9/10/76
(D) - See Ballard County
(H,Hw) - See Anderson County
BULLITT COUNTY
(D) - See Ballard County
(H,Hw) - See Anderson County
(R) - See Breckinridge County
BUTLER COUNTY
(H,Hw) - See Allen County
CALDWELL COUNTY
(H,Hw) - See Allen County
CALLOWAY COUNTY
(H,Hw) - See Allen County
CAMPBELL COUNTY
(D) - See Ballard County
(B,H,Hw,R) - See Statewide
CARLISLE COUNTY
(D) - See Ballard County
(H,Hw) - See Allen County
CARROLL COUNTY
(D) - See Ballard County
(H,Hw) - See Anderson County
(R) - See Boone County
CARTER COUNTY
Decision #KY76-1111 (R)
41 FR 43456 - 10/1/76
(H,Hw) - See Anderson County
CASEY COUNTY
(H,Hw) - See Adair County
(R) - See Boyle County
CHRISTIAN COUNTY
Decision #KY77-1084 (B)
42 FR 32473 - 6/24/77
Decision #KY76-1118 (R)
41 FR 45801 - 10/15/76
(H,Hw) - See Allen County
CLARK COUNTY
(H,Hw) - See Anderson County
(R) - See Bath County
CLAY COUNTY
Decision #KY76-1097 (R)
41 FR 38707 - 9/10/76
(H,Hw) - See Adair County
CLINTON COUNTY
(R) - See Boyle County
(H,Hw) - See Adair County
CRITTENDEN COUNTY
(H,Hw) - See Allen County
(D) - See Ballard County
CUMBERLAND COUNTY
(H,Hw,R) - See Adair County
DAVIESS COUNTY
Decision #AQ-4122 (B)
39 FR 20281 - 6/7/74
Mod. #1 - 41 FR 19008 - 5/7/76
Mod. #2 - 41 FR 21987 - 5/28/76
Mod. #3 - 41 FR 43560 - 10/1/76
Mod. #4 - 42 FR 17741 - 4/1/77

KENTUCKY (Cont'd)

DAVIESS COUNTY (Cont'd.)
Decision #KY76-1136 (R)
41 FR 53260 - 12/3/76
(D) - See Ballard County
(H,Hw) - See Allen County
EDMONSON COUNTY
(H,Hw) - See Allen County
ELLIOTT COUNTY
(R) - See Carter County
(H,Hw) - See Anderson County
ESTILL COUNTY
(H,Hw) - See Adair County
(R) - See Clay County
FAYETTE COUNTY
Decision #KY77-1010 (B)
42 FR 8941 - 2/11/77
Mod. #1 - 42 FR 11184 - 2/25/77
Mod. #2 - 42 FR 17742 - 4/1/77
Mod. #3 - 42 FR 24572 - 5/13/77
(H,Hw) - See Anderson County
(R) - See Bath County
FLEMING COUNTY
(R) - See Carter County
(H,Hw) - See Anderson County
FLOYD COUNTY
Decision #AR-4002 (B)
39 FR 24777 - 7/5/74
(H,Hw) - See Adair County
FRANKLIN COUNTY
Decision #KY76-1132 (B)
41 FR 52260 - 11/26/76
Mod. #1 - 42 FR 988 - 1/4/77
Mod. #2 - 42 FR 7030 - 2/4/77
Mod. #3 - 42 FR 11186 - 2/25/77
Mod. #4 - 42 FR 17742 - 4/1/77
Mod. #5 - 42 FR 24571 - 5/13/77
(H,Hw) - See Anderson County
FULTON COUNTY
(D) - See Ballard County
(H,Hw) - See Allen County
GALLATIN COUNTY
(D) - See Ballard County
(H,Hw) - See Anderson County
R(R) - See Boone County
GARRARD COUNTY
(H,Hw) - See Adair County
(R) - See Boyle County
GRANT COUNTY
(H,Hw) - See Anderson County
(R) - See Boone County
GRAVES COUNTY
(H,Hw) - See Allen County
GRAYSON COUNTY
(H,Hw) - See Anderson County
GREENE COUNTY
(H,Hw,R) - See Adair County
GREENUP COUNTY
(H,Hw) - See Anderson County
(D) - See Ballard County

KENTUCKY (Cont'd)

HANCOCK COUNTY
(D) - See Ballard County
(H,Hw) - See Allen County
HARDIN COUNTY
(B) - See Jefferson County
(H,Hw) - See Anderson County
(R) - See Breckinridge County
(D) - See Ballard County
HARLAN COUNTY
(R) - See Breathitt County
(H,Hw) - See Adair County
HARRISON COUNTY
(H,Hw) - See Anderson County
(R) - See Bath County
HART COUNTY
(H,Hw,R) - See Adair County
HENDERSON COUNTY
Decision #KY76-1078 (B)
41 FR 30527 - 7/23/76
Mod. #1 - 41 FR 43560 - 10/1/76
Mod. #2 - 41 FR 45787 - 10/15/76
Mod. #3 - 41 FR 53230 - 12/3/76
Mod. #4 - 42 FR 11185 - 2/25/77
Mod. #5 - 42 FR 17741 - 4/1/77
(H,Hw) - See Allen County
(D) - See Ballard County
HENRY COUNTY
(H,Hw) - See Anderson County
HICKMAN COUNTY
(D) - See Ballard County
(H,Hw) - See Allen County
HOPKINS COUNTY
(H,Hw) - See Allen County
JACKSON COUNTY
(R) - See Boyle County
(H,Hw) - See Adair County
JEFFERSON COUNTY
Decision #KY77-1058 (B)
42 FR 24612 - 5/13/77
Mod. #1 - 42 FR34142 - 7/1/77
(D) - See Ballard County
(R) - See Breckinridge County
(H,Hw) - See Anderson County
JESSAMINE COUNTY
(H,Hw) - See Anderson County
(R) - See Bath County

KENTUCKY (Cont'd)

JOHNSON COUNTY
(H,Hw) - See Anderson County
KENTON COUNTY
(D) - See Ballard County
(B,H,Hw,R) - See Boone County
KNOTT COUNTY
(R) - See Breathitt County
(H,Hw) - See Adair County
KNOX COUNTY
(R) - See Laurel County
(H,Hw) - See Adair County
LARUE COUNTY
(R) - See Adair County
(H,Hw) - See Anderson County
LAUREL COUNTY
Decision #KY77-1002 (R)
42 FR 1684 - 1/7/77
(H,Hw) - See Adair County
LAWRENCE COUNTY
(H,Hw) - See Anderson County
LEE COUNTY
(R) - See Breathitt County
(H,Hw) - See Adair cOunty
LESLIE COUNTY
(R) - See Breathitt County
(H,Hw) - See Adair County
LETCHER COUNTY
(R) - See Breathitt County
(H,Hw) - See Adair County
LEWIS COUNTY
(D) - See Ballard County
(R) - See Carter County
LINCOLN COUNTY
(R) - See Boyle County
(H,Hw) - See Adair County
LIVINGSTON COUNTY
(D) - See Ballard County
(H,Hw) - See Allen County
LOGAN COUNTY
(H,Hw) - See Allen County
LYON COUNTY
(H,Hw) - See Allen County
McCRACKEN COUNTY
Decision #KY77-1011 (B)
42 FR 8944 - 2/11/77
Mod. #1 - 42 FR 11184 - 2/25/77
Mod. #2 - 42 FR 23273 - 5/6/77
(D) - See Ballard County
(H,Hw) - See Allen County

KENTUCKY (Cont'd.)

McCREARY COUNTY
(R) - See Laurel County
(H,Hw) - See Adair County
McLEAN COUNTY
(H,Hw) - See Allen County
MADISON COUNTY
(H,Hw) - See Anderson County
(R) - See Bath County
MAGOFFIN COUNTY
(H,Hw) - See Adair County
MARION COUNTY
(H,Hw) - See Anderson County
(R) - See Breckinridge County
MARSHALL COUNTY
(H,Hw) - See Allen County
MARTIN COUNTY
(H,Hw) - See Adair County
MASON COUNTY
(R) - See Carter County
(H,Hw) - See Anderson County
(D) - See Ballard County
MEADE COUNTY
(H,Hw) - See Anderson County
(B) - See Jefferson County
(R) - See Breckinridge County
(D) - See Ballard County
MENIFEE COUNTY
(H,Hw) - See Adair County
MERCER COUNTY
(H,Hw) - See Anderson County
METCALFE COUNTY
(H,Hw,R) - See Adair County
MONROE COUNTY
(H,Hw,R) - See Adair County
MONTGOMERY COUNTY
(H,Hw) - See Anderson County
(R) - See Bath County
MORGAN COUNTY
(H,Hw) - See Anderson County
MUHLENBERG COUNTY
(H,Hw) - See Allen County

KENTUCKY (Cont'd)

NELSON COUNTY
(H,Hw) - See Anderson County
(R) - See Breckinridge County
NICHOLAS COUNTY
(R) - See Carter County
(H,Hw) - See Anderson County
OHIO COUNTY
(H,Hw) - See Allen County
OLDHAM COUNTY
(H,Hw) - See Anderson County
(R) - See Breckinridge County
(D) - See Ballard County
OWEN COUNTY
(H,Hw) - See Anderson County
OWSLEY COUNTY
(R) - See Clay County
(H,Hw) - See Adair County
PENDLETON COUNTY
(B,H,Hw,R) - See Boone County
(D) - See Ballard County
PERRY COUNTY
(R) - See Breathitt County
(H,Hw) - See Adair County
PIKE COUNTY
(B) - See Floyd County
(H,Hw) - See Adair County
POWELL COUNTY
(H,Hw) - See Adair County
PULASKI COUNTY
(R) - See Boyle County
(H,Hw) - See Adair County
(R) - See Clay County
ROBERTSON COUNTY
(R) - See Carter County
(H,Hw) - See Anderson County
ROCKCASTLE COUNTY
(R) - See Boyle County
(H,Hw) - See Adair County
ROWAN COUNTY
(R) - See Carter County
(H,Hw) - See Anderson County
RUSSELL COUNTY
(R) - See Boyle County
(H,Hw) - See Adair County
SCOTT COUNTY
(H,Hw) - See Anderson County
(R) - See Bath County
SHELBY COUNTY
(H,Hw) - See Anderson County
(R) - See Breckinridge County

KENTUCKY (Cont'd.)

SIMPSON COUNTY
(H,Hw) - See Allen County
SPENCER COUNTY
(H,Hw) - See Anderson County
(R) - See Breckinridge County
TAYLOR COUNTY
(R) - See Adair County
(H,Hw) - See Adair County
TODD COUNTY
(H,Hw) - See Allen County
TRIGG COUNTY
(H,Hw) - See Allen County
TRIMBLE COUNTY
(H,Hw) - See Anderson County
(D) - See Ballard County
UNION COUNTY
(H,Hw) - See Allen County
(D) - See Ballard County
WARREN COUNTY
Decision #KY77-1035 (D)
42 FR 18812 - 4/8/77
Mod. #1 - 42 FR 24572 - 5/13/77
(H,Hw) - See Allen County
WASHINGTON COUNTY
(H,Hw) - See Anderson County
(R) - See Breckinridge County
WAYNE COUNTY
(H,Hw) - See Adair County
(R) - See Boyle County
WEBSTER COUNTY
(H,Hw) - See Allen County
WHITLEY COUNTY
(R) - See Laurel County
(H,Hw) - See Adair County
WOLFE COUNTY
(H,Hw) - See Adair County
(R) - See Clay County
WOODFORD COUNTY
(H,Hw) - See Anderson County
(R) - See Bath County

LOUISIANA

STATEWIDE
Decision #AL76-5090 (D)
41 FR 44609 - 10/8/76
Mod. #1 - 42 FR 18788 - 4/8/77
Decision #LA77-4104 (B,Hw,R)
42 FR 26137 - 5/20/77
Mod. #1 - 42 FR 28745 - 6/3/77
Mod. #2 - 42 FR 30085 - 6/10/77
Mod. #3 - 42 FR 34142 - 7/1/77
ACADIA PARISH
Decision #AR76-5041 (F)
41 FR 19017 - 5/7/76
Mod. #1 - 41 FR 21981 - 5/28/76
(B,D,Hw) - See Statewide
ALLEN COUNTY
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
ASCENSION PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
ASSUMPTION PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
AVOYELLES PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
BEAUREGARD PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
BIENVILLE PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
BOSSIER PARISH
(F) - See Acadia Parish
(B,D,Hw,R) - See Statewide
CADDO PARISH
(F) - See Acadia Parish
(B,D,Hw,R) - See Statewide
CALCASIEU PARISH
(F) - See Acadia Parish
(B,D,Hw,R) - See Statewide

LOUISIANA (Cont'd.)

CALDWELL PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
CAMERON PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
CATAHOULA PARISH
(F) - See Acadia Parish
(D,B,Hw) - See Statewide
CLAIBORNE PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
CONCORDIA PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
DE SOTO PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
EAST BATON ROUGE PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
EAST CARROLL PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
EAST FELICIANA PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
EVANGELINE PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
FRANKLIN COUNTY
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
GRANT PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
IBERIA PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide

LOUISIANA (Cont'd.)

IBERVILLE PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
JACKSON PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
JEFFERSON PARISH
Decision #LA77-4030 (R)
42 FR 10237 - 2/18/77
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
JEFFERSON DAVIS PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
LAFAYETTE PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
LAFOURCHE PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
LA SALLE PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
LINCOLN PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
LIVINGSTON PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
MADISON COUNTY
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
MOREHOUSE PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
NATCHITOCHES PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
ORLEANS PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
(R) - See Jefferson Parish
OUACHITA PARISH
Decision #LA77-4031 (R)
42 FR 10237 - 2/18/77
(B,D,Hw) - See Statewide
(F) - See Acadia Parish

LOUISIANA (Cont'd.)

PLAQUEMINES PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
(R) - See Jefferson Parish
POINTE COUPEE PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
RAPIDES PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
RED RIVER PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
RICHLAND PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
SABINE PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
ST. BERNARD PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
(R) - See Jefferson Parish
ST. CHARLES PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
ST. HELENA PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
ST. JAMES PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
ST. JOHN THE BAPTIST PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
ST. LANDRY PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
ST. MARTIN PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
ST. MARY PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide

LOUISIANA (Cont'd.)

ST. TAMMANY PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
TANGIPAHOA PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
TENSAS PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
TERREBONNE PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
UNION PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
VERMILION PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
VERNON PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
WASHINGTON PARISH
(F) - See Acadia Parish
(B,Hw,D) - See Statewide
WEBSTER PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
WEST BATON ROUGE PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
WEST CARROLL PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
WEST FELICIANA PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide
WINN PARISH
(F) - See Acadia Parish
(B,D,Hw) - See Statewide

MAINE

ANDROSCOGGIN COUNTY
Decision #ME76-2159 (Hw)
41 FR 52173 - 11/26/76
AROOSTOOK COUNTY
Decision #ME76-2156 (Hw)
41 FR 52171 - 11/26/76
CUMBERLAND COUNTY
Decision #CT77-5001 (D)
42 FR 999 - 1/4/77
(Hw) - See Aroostook County
FRANKLIN COUNTY
(Hw) - See Androscoggin County
HANCOCK COUNTY
Decision #ME76-2166 (Hw)
41 FR 53227 - 12/3/76
(D) - See Cumberland County
KENNEBEC COUNTY
(Hw) - See Androscoggin County
KNOX COUNTY
(D) - See Cumberland County
(Hw) - See Hancock County
LINCOLN COUNTY
(D) - See Cumberland County
(Hw) - See Hancock County
OXFORD COUNTY
(Hw) - See Androscoggin County
PENOBSCOT COUNTY
(Hw) - See Aroostook County
PISCATAQUIS COUNTY
(Hw) - See Androscoggin County
SAGADAHOC COUNTY
(D) - See Cumberland County
(Hw) - See Aroostook County
SOMERSET COUNTY
(Hw) - See Androscoggin County
WALDO COUNTY
(D) - See Cumberland County
(Hw) - See Hancock County
WASHINGTON COUNTY
(D) - See Cumberland County
(Hw) - See Hancock County
YORK COUNTY
(D) - See Cumberland County
(Hw) - See Hancock County

MARYLAND

ALLEGANY COUNTY
Decision #MD77-3020 (B)
42 FR 3151 - 1/14/77
Mod. #1 - 42 FR 13717 - 3/11/77
Mod. #2 - 42 FR 20984 - 4/22/77
Decision #MD77-3021 (H,Hw)
42 FR 3153 - 1/14/77
Mod. #1 - 42 FR 20984 - 4/22/77
Mod. #2 - 42 FR 31046 - 6/17/77
ANNE ARUNDEL COUNTY
Decision #CT77-5001 (D)
42 FR 999 - 1/4/77
(B,H) - See Baltimore City
Decision #MD76-3151 (Hw)
41 FR 11742 - 3/19/76
BALTIMORE CITY
Decision #MD77-3080 (Hw)
42 FR 32476 - 6/24/77
Decision #MD77-3077 (B,H)
42 FR 28760 - 6/3/77
Mod. #1 - 42 FR 34144 - 7/1/77
(D) - See Anne Arundel County
BALTIMORE COUNTY
Decision #MD76-3153 (Hw)
41 FR 11744 - 3/19/76
Mod. #1 - 41 FR 14273 - 4/2/76
Mod. #2 - 42 FR 15253 - 3/18/77
(D) - See Anne Arundel County
(B,H) - See Baltimore City
CALVERT COUNTY
(D,Hw) - See Anne Arundel County
CAROLINE COUNTY
Decision #MD76-3152 (Hw)
41 FR 11743 - 3/19/76
Mod. #1 - 41 FR 14273 - 4/2/76
(Hw) - See Anne Arundel County
CARROLL COUNTY
(Hw) - See Anne Arundel County
CECIL COUNTY
(Hw) - See Caroline County
CHARLES COUNTY
(D,Hw) - See Anne Arundel County
DORCHESTER COUNTY
(Hw) - See Caroline County
(D) - See Anne Arundel County
FREDERICK COUNTY
Decision #MD77-3085 (R)
42 FR 34195 - 7/1/77
(Hw) - See Anne Arundel County
GARRETT COUNTY
(B,H,Hw) - See Allegany County

MARYLAND (Cont'd.)

HARFORD COUNTY
(B,H) - See Baltimore City
(Hw) - See Anne Arundel County
HOWARD COUNTY
(B,H) - See Baltimore City
(Hw) - See Anne Arundel County
KENT COUNTY
(Hw) - See Caroline County
(D) - See Anne Arundel County
MONTGOMERY COUNTY
Decision #MD77-3041 (B)
42 FR 15268 - 3/18/77
Mod. #1 - 42 FR 18794 - 4/8/77
Mod. #2 - 42 FR 20982 - 4/22/77
Mod. #3 - 42 FR 23290 - 5/6/77
Mod. #4 - 42 FR 27563 - 5/27/77
Mod. #5 - 42 FR 32456 - 6/24/77
(Hw) - See Anne Arundel County
PRINCE GEORGES COUNTY
(B) - See Montgomery County
(D,Hw) - See Anne Arundel County
QUEEN ANNES COUNTY
(Hw) - See Caroline County
(D) - See Anne Arundel County
ST. MARYS COUNTY
(D,Hw) - See Anne Arundel County
SOMERSET COUNTY
(Hw) - See Caroline County
(D) - See Anne Arundel County
TALBOT COUNTY
(Hw) - See Caroline County
(D) - See Anne Arundel County
WASHINGTON COUNTY
(R) - See Frederick County
(Hw) - See Anne Arundel County
WICOMICO COUNTY
Decision #MD77-3036 (R)
42 FR 12613 - 3/4/77
(D) - See Anne Arundel County
(Hw) - See Caroline County
WORCESTER COUNTY
(D) - See Anne Arundel County
(Hw) - See Caroline County
Decision #MD77-3035 (B)
42 FR 12613 - 3/4/77

MASSACHUSETTS

BARNSTABLE COUNTY
Decision #MA76-2095 (B,H,Hw, & Marine)
41 FR 34501 - 8/13/76
Mod. #1 - 41 FR 45788 - 10/15/76
Mod. #2 - 41 FR 54106 - 12/10/76
Mod. #3 - 42 FR 7030 - 2/4/77
Mod. #4 - 42 FR 16347 - 3/25/77
Decision #CT77-5001 (D)
42 FR 999 - 1/4/77
BERKSHIRE COUNTY
Decision #MA76-2096 (B,H,Hw)
41 FR 34505 - 8/13/76
Mod. #1 - 41 FR 45788 - 10/15/76
Mod. #2 - 41 FR 54106 - 12/10/76
Mod. #3 - 42 FR 7030 - 2/4/77
Mod. #4 - 42 FR 16347 - 3/25/77
BRISTOL COUNTY
Decision #MA76-2097 (B,H,Hw,R & Marine)
41 FR 34509 - 8/13/76
Mod. #1 - 41 FR 45789 - 10/15/76
Mod. #2 - 42 FR 54106 - 12/10/76
Mod. #3 - 42 FR 7030 - 2/4/77
Mod. #4 - 42 FR 16347 - 3/25/77
(D) - See Barnstable County
DUKES COUNTY
(D) - See Barnstable County
ESSEX COUNTY
Decision #MA76-2098 (B,H,Hw, & Marine)
41 FR 34514 - 8/13/76
Mod. #1 - 41 FR 46811 - 10/22/76
Mod. #2 - 41 FR 51241 - 11/19/76
Mod. #3 - 41 FR 55266 - 12/17/76
Mod. #4 - 42 FR 7031 - 2/4/77
Mod. #5 - 42 FR 13717 - 3/11/77
Mod. #6 - 42 FR 23274 - 5/6/77
(D) - See Barnstable County
FRANKLIN COUNTY
Decision #MA76-2099 (B,H,Hw)
41 FR 34519 - 8/13/76
Mod. #1 - 41 FR 46812 - 10/22/76
Mod. #2 - 41 FR 55266 - 12/17/76
Mod. #3 - 42 FR 7031 - 2/4/77
Mod. #4 - 42 FR 16347 - 3 /25/77
HAMPDEN COUNTY
Decision #MA76-2100 (B,H,Hw)
41 FR 34522 - 8/13/76
Mod. #1 - 41 FR 46812 - 10/22/76
Mod. #2 - 41 FR 55266 - 12/17/76
Mod. #3 - 42 FR 7031 - 2/4/77
Mod. #4 - 42 FR 16348 - 3/25/77
Decision #MA75-2134 (R)
40 FR 59166 - 12/19/75
HAMPSHIRE COUNTY
Decision #MA76-2101 (B,H,Hw)
41 FR 35369 - 8/20/76
Mod. #1 - 41 FR 46813 - 10/22/76
Mod. #2 - 41 FR 55266 - 12/17/76

MASSACHUSETTS

MIDDLESEX COUNTY
Decision #MA76-2102 (B,H,Hw,R, & Marine)
41 FR 37479 - 9/3/76
Mod. #1 - 41 FR 46813 - 10/22/76
Mod. #2 - 41 FR 55267 - 12/17/76
Mod. #3 - 42 FR 7031 - 2/4/77
Mod. #4 - 42 FR 13718 - 3/11/77
Mod. #5 - 42 FR 16438 - 3/25/77
Mod. #6 - 42 FR 23274 - 5/6/77
(D) - See Barnstable County
NANTUCKET COUNTY
(D) - See Barnstable County
NORFOLK COUNTY
Decision #MA76-2103 (B,H,Hw,R)
41 FR 35373 - 8/20/76
Mod. #1 - 41 FR 46814 - 10/22/76
Mod. #2 - 41 FR 55267 - 12/17/76
Mod. #3 - 42 FR 7032 - 2/4/77
Mod. #4 - 42 FR 16348 - 3/25/77
(D) - See Barnstable County
PLYMOUTH COUNTY
Decision #MA76-2104 (B,H,Hw,R)
41 FR 37485 - 9/3/76
Mod. #1 - 41 FR 46815 - 10/22/76
Mod. #2 - 41 FR 56551 - 12/28/76
Mod. #3 - 42 FR 7032 - 2/4/77
Mod. #4 - 42 FR 16348 - 3/25/77
(D) - See Barnstable County
SUFFOLK COUNTY
Decision #MA76-2105 (B,H,Hw,D,R, & Marine)
41 FR 35377 - 8/20/76
Mod. #1 - 41 FR 46815 - 10/22/76
Mod. #2 - 41 FR 56551 - 12/28/76
Mod. #3 - 42 FR 7032 - 2/4/77
Mod. #4 - 42 FR 16349 - 3/25/77
(D) - See Barnstable County
WORCESTER COUNTY
Decision #MA76-2106 (B,H,Hw,R)
41 FR 37490 - 9/3/76
Mod. #1 - 41 FR 46816 - 10/22/76
Mod. #2 - 41 FR 56551 - 12/28/76
Mod. #3 - 42 FR 3136 - 1/14/77
Mod. #4 - 42 FR 7032 - 2/4/77
Mod. #5 - 42 FR 16349 - 3/25/77

MICHIGAN

STATEWIDE
Decision #MI76-2140 (Hw, W&S)
41 FR 51318 - 11/19/76
Mod. #1 - 41 FR 54107 - 12/10/76
Mod. #2 - 42 FR 1681 - 1/7/77
ALCONA COUNTY
Decision #MI77-2050 (B,H)
42 FR 23369 - 5/6/77
Mod. #1 - 42 FR 27560 - 5/27/77
Mod. #2 - 42 FR 28746 - 6/3/77
Decision #IL77-5038 (D)
42 FR 16802 - 4/8/77
Mod. #1 - 42 FR 22070 - 4/29/77
(Hw, W&S) - See Statewide
ALGER COUNTY
Decision #MI77-2051 (B,H)
42 FR 23374 - 5/6/77
Mod. #1 - 42 FR 28746 - 6/3/77
(D) - See Alcona County
(Hw, W&S) - See Statewide
ALLEGAN COUNTY
Decision #MI77-2053 (B,H)
42 FR 23377 - 5/6/77
Mod. #1 - 42 FR 28747 - 6/3/77
Decision #AM-398 (R)
36 FR 15891 - 8/18/71
(Hw, W&S) - See Statewide
(D) - See Alcona County
ALPENA COUNTY
(D) - See Alcona County
(B,H) - See Alcona County
(Hw, W&S) - See Statewide
ANTRIM COUNTY
(D) - See Alcona County
(Hw, W&S) - See Statewide
ARENAC COUNTY
(D) - See Alcona County
(Hw, W&S) - See Statewide
BARAGA COUNTY
(B,H) - See Alger County
(D) - See Alcona County
(Hw, W&S) - See Statewide
BARRY COUNTY
(Hw, W&S) - See Statewide
BAY COUNTY
Decision #MI77-2054 (B,H)
42 FR 23384 - 5/6/77
Mod. #1 - 42 FR 28748 - 6/3/77

MICHIGAN (Cont'd.)

BERRIEN COUNTY
(B,H) - See Allegan County
Decision #AM-399 (R)
36 FR 15892 - 8/18/71
(D) - See Alcona County
(Hw, W&S) - See Statewide
BRANCH COUNTY
Decision #MI77-2041 (R)
42 FR 16355 - 3/25/77
(Hw, W&S) - See Statewide
CALHOUN COUNTY
(B,H) - See Allegan County
Decision #MI76-2107 (R)
41 FR 35381 - 8/20/76
(Hw, W&S) - See Statewide
CASS COUNTY
(Hw, W&S) - See Statewide
(R) - See Branch County
CHARLEVOIX COUNTY
(B,H) - See Allegan County
(D) - See Alcona County
(Hw, W&S) - See Statewide
CHEBOYGAN COUNTY
(D) - See Alcona County
(Hw, W&S) - See Statewide
CHIPPEWA COUNTY
(B,H) - See Alger County
(D) - See Alcona County
(Hw, W&S) - See Statewide
CLARE COUNTY
(Hw, W&S) - See Statewide
CLINTON COUNTY
(B,H) - See Allegan County
(Hw, W&S) - See Statewide
CRAWFORD COUNTY
(Hw, W&S) - See Statewide

MICHIGAN (Cont'd.)

DELTA COUNTY
(D) - See Alcona County
(Hw, W&S) - See Statewide
DICKERSON COUNTY
(Hw, W&S) - See Statewide
(D) - See Alcona County
(B,H) - See Alger County
EATON COUNTY
Decision #MI77-2035 (R)
42 FR 12614 - 3/4/77
(B,H) - See Allegan County
(Hw, W&S) - See Statewide
EMMET COUNTY
(B,H) - See Charlevoix County
(D) - See Alcona County
(Hw, W&S) - See Statewide
GENESEE COUNTY
(B,H) - See Bay County
Decision #MI77-2055 (R)
42 FR 24619 - 5/13/77
Mod. #1 - 42 FR 28748 - 6/3/77
(Hw, W&S) - See Statewide
GLADWIN COUNTY
(Hw) - See Statewide
GOGEBIC COUNTY
(B,H) - See Alger County
(D) - See Alcona County
(Hw, W&S) - See Statewide
GRAND TRAVERSE COUNTY
(B,H) - See Alcona County
(D) - See Alcona County
(Hw, W&S) - See Statewide
GRATIOT COUNTY
(Hw, W&S) - See Statewide
HILLSDALE COUNTY
(Hw, W&S) - See Statewide
HOUGHTON COUNTY
(B,H) - See Alger County
(D) - See Alcona County
(Hw, W&S) - See Statewide
HURON COUNTY
(B,H) - See Bay County
(D) - See Alcona County
(Hw, W&S) - See Allegan County
INGHAM COUNTY
(B,H) - See Allegan County
(R) - See Eaton County
(Hw, W&S) - See Statewide
IONIA COUNTY
(Hw, W&S) - See Statewide
IOSCO COUNTY
(B,H) - See Bay County
(Hw, W&S) - See Statewide
(D) - See Alcona County
IRON COUNTY
(Hw, W&S) - See Statewide
(D) - See Alcona County

MICHIGAN (Cont'd.)

ISABELLA COUNTY
(Hw, W&S) - See Statewide
JACKSON COUNTY
(B,H) - See Allegan County
(Hw, W&S) - See Statewide
KALAMAZOO COUNTY
(B,H) - See Allegan County
(Hw, W&S) - See Statewide
(R) - See Branch County
KALKASKA COUNTY
(Hw, W&S) - See Statewide
KENT COUNTY
Decision #MI76-2171 (B,H)
41 FR 56590 - 12/28/76
Decision #AM-402 (R)
36 FR 15895 - 8/18/71
(Hw, W&S) - See Statewide
KEWEENAW COUNTY
(D) - See Alcona County
(B,H) - See Alger County
(Hw, W&S) - See Statewide
LAKE COUNTY
(Hw, W&S) - See Statewide
LAPEER COUNTY
(R) - See Genesee County
(B,H) - See Bay County
(Hw, W&S) - See Statewide
LEELANAU COUNTY
(D) - See Alcona County
(B,H) - See Grant Traverse County
(Hw, W&S) - See Statewide
LENAWEE COUNTY
(Hw, W&S) - See Statewide
LIVINGSTON COUNTY
(Hw, W&S) - See Statewide
LUCE COUNTY
(D) - See Alcona County
(Hw, W&S) - See Statewide
MACKINAC COUNTY
(B,H) - See Alger County
(D) - See Alcona County
(Hw, W&S) - See Statewide
MACOMB COUNTY
Decision #MI77-2071 (B,H,R)
42 FR 28763 - 6/3/77
(D) - See Alcona County
(Hw, W&S) - See Statewide

MICHIGAN (Cont'd.)

MANISTEE COUNTY
(D) - See Alcona County
(Hw, W&S) - See Statewide
MARQUETTE COUNTY
Decision #MI77-2052 (R)
42 FR 24618 - 5/13/77
Mod. #1 - 42 FR 28746 - 6/3/77
(B,H) - See Alger County
(D) - See Alcona County
(Hw, W&S) - See Statewide
MASON COUNTY
(B,H) - See Charlevoix County
(D) - See Alcona County
MECOSTA COUNTY
(Hw, W&S) - See Statewide
MENOMINEE COUNTY
(D) - See Alcona County
(Hw, W&S) - See Statewide
MIDLAND COUNTY
(Hw, W&S) - See Statewide
MISSAUKEE COUNTY
(Hw, W&S) - See Statewide
MONROE COUNTY
(B,H,R) - See Macomb County
(D) - See Alcona County
(Hw, W&S) - See Statewide
MONTCALM COUNTY
(Hw, W&S) - See Statewide
(R) - See Kent County
MONTMORENCY COUNTY
(B,H) - See Alcona County
(Hw, W&S) - See Statewide
MUSKEGON COUNTY
Decision #MI75-2120 (R)
40 FR 49955 - 10/24/75
(B,H) - See Alcona County
(D) - See Alcona County
(Hw, W&S) - See Statewide
NEWAYGO COUNTY
(Hw, W&S) - See Statewide
OAKLAND COUNTY
(B,H,R) - See Macomb County
(D) - See Alcona County
(Hw, W&S) - See Statewide
OCEANA COUNTY
(B,H,R) - See Alcorn County
(D) - See Alcona County
(Hw, W&S) - See Statewide
OGEMAW COUNTY
(Hw, W&S) - See Statewide
ONTONAGON COUNTY
(B,H) - See Alger County
(D) - See Alcona County
(Hw, W&S) - See Statewide
OSCEOLA COUNTY
(Hw, W&S) - See Statewide

MICHIGAN (Cont'd.)

OSCODA COUNTY
(Hw, W&S) - See Statewide
(B,H) - See Alcona County
OTSEGO COUNTY
(Hw, W&S) - See Statewide
OTTAWA COUNTY
(D) - See Alcona County
(Hw, W&S) - See Statewide
(R) - See Allegan County
PRESQUE ISLE COUNTY
(B,H) - See Alcona County
(D) - See Alcona County
(Hw, W&S) - See Statewide
ROSCOMMON COUNTY
(Hw, W&S) - See Statewide
SAGINAW COUNTY
(B,H) - See Bay County
(R) - See Genesee County
(Hw, W&S) - See Statewide
SAINT CLAIR COUNTY
(B,H) - See Bay County
(D) - See Alcona County
(R) - See Genesee County
(Hw, W&S) - See Statewide
SAINT JOSEPH COUNTY
(Hw, W&S) - See Statewide
(R) - See Branch County
SANILAC COUNTY
(B,H) - See Bay County
(D) - See Alcona County
(Hw, W&S) - See Statewide
SCHOOLCRAFT COUNTY
(D) - See Alcona County
(Hw, W&S) - See Statewide
SHIAWASSEE COUNTY
(B,H) - See Bay County
(R) - See Genesee County
(Hw, W&S) - See Statewide
TUSCOLA COUNTY
(B,H) - See Bay County
(D) - See Alcona County
(Hw, W&S) - See Statewide
VAN BUREN COUNTY
(Hw, W&S) - See Statewide
(D) - See Alcona County
WASHTENAW COUNTY
(B,H,R) - See Macomb County
(Hw, W&S) - See Statewide
(D) - See Alcona County
WAYNE COUNTY
(B,H,R) - See Macomb County
(D) - See Alcona County
(Hw, W&S) - See Statewide
WEXFORD COUNTY
(Hw, W&S) - See Statewide

MINNESOTA

AITKIN COUNTY
Decision #MN77-2048 (H,Hw)
42 FR 26157 - 5/20/77
ANOKA COUNTY
Decision #MN77-2043 (B,R)
42 FR 23390 - 5/6/77
Mod. #1 - 42 FR 28749 - 6/3/77
Decision #IL77-5056 (D)
42 FR 28759 - 6/3/77
Mod. #1 - 42 FR 32447 - 6/24/77
(H,Hw) - See Aitkin County
BECKER COUNTY
Decision #MN77-2031 (H,Hw)
42 FR 12616 - 3/4/77
BELTRAMI COUNTY
Decision #MN77-2034 (H,Hw)
42 FR 12617 - 3/4/77
BENTON COUNTY
(D) - See Anoka County
(H,Hw) - See Aitkin County
BIG STONE COUNTY
Decision #MN77-2032 (H,Hw)
42 FR 12616 - 3/4/77
BLUE EARTH COUNTY
Decision #MN77-2044 (B)
42 FR 23395 - 5/6/77
Mod. #2 - 42 FR 28749 - 6/3/77
(H,Hw) - See Aitkin County
BROWN COUNTY
Decision #MN77-2066 (H,Hw)
42 FR 20127 - 4/22/77
CARLTON COUNTY
(B,R) - See Saint Louis County
(H,Hw) - See Aitkin County
CARVER COUNTY
(B,R) - See Anoka County
(H,Hw) - See Aitkin County
CASS COUNTY
(Hw) - See Becker County
CHIPPEWA COUNTY
(Hw) - See Big Stone County
CHISAGO COUNTY
(H,Hw) - See Aitkin County
CLAY COUNTY
(Hw) - See Becker County
CLEAR WATER COUNTY
(H,Hw) - See Beltrami County
COOK COUNTY
Decision #IL77-5038 (D)
42 FR 18802- 4/8/77
Mod. #1 - 42 FR 22070 - 4/29/77
(H,Hw) - See Aitkin County
COTTONWOOD COUNTY
Decision #MN77-2033 (H,Hw)
42 FR 12617 - 3/4/77
CROW WING COUNTY
Decision #MN77-2064 (H,Hw)
42 FR 20126 - 4/22/77
(H,Hw) - See Aitkin County

MINNESOTA (Cont'd.)

DAKOTA COUNTY
(B,D,R) - See Anoka County
(H,Hw) - See Aitkin County
DODGE COUNTY
(H,Hw) - See Aitkin County
DOUGLAS COUNTY
(H,Hw) - See Big Stone County
FAIRBAULT COUNTY
(B) - See Blue Earth County
(H,Hw) - See Aitkin County
FILLMORE COUNTY
(H,Hw) - See Aitkin County
FREEBORN COUNTY
(B) - See Blue Earth County
(H,Hw) - See Aitkin County
GOODHUE COUNTY
(D) - See Anoka County
(H,Hw) - See Aitkin County
GRANT COUNTY
(H,Hw) - See Big Stone County
HENNEPIN COUNTY
(B,D,R) - See Anoka County
(H,Hw) - See Aitkin County
HOUSTON COUNTY
(H,Hw) - See Aitkin County
(D) - See Anoka County
HUBBARD COUNTY
(H,Hw) - See Becker County
ISANTI COUNTY
(H,Hw) - See Aitkin County
ITASKA COUNTY
(B,R) - See St. Louis County
(H,Hw) - See Aitkin County
JACKSON COUNTY
(H,Hw) - See Aitkin County
KANABEC COUNTY
(H,Hw) - See Aitkin County
KANDIYOHI COUNTY
(H,Hw) - See Big Stone County
KITTSON COUNTY
(H,Hw) - See Beltrami County
KOOCHICHING COUNTY
(B,R) - See St. Louis County
(H,Hw) - See Aitkin County
LAC QUI PARLE COUNTY
(H,Hw) - See Big Stone County
LAKE COUNTY
(H,Hw) - See Aitkin County
(D) - See Cook County
LAKE OF THE WOODS COUNTY
(H,Hw) - See Beltrami County
LE SHUEUR COUNTY
(H,Hw) - See Aitkin County
LINCOLN COUNTY
(H,Hw) - See Cottonwood County
LYON COUNTY
(H,Hw) - See Cottonwood County
MCLEOD COUNTY
(H,Hw) - See Aitkin County

MINNESOTA (Cont'd.)

MAHOMEN COUNTY
(H,Hw) - See Beltrami County
MARSHALL COUNTY
(H,Hw) - See Beltrami County
MARTIN COUNTY
(H,Hw) - See Aitkin County
MEEKER COUNTY
(H,Hw) - See Aitkin County
MILLE LACS COUNTY
(H,Hw) - See Aitkin County
MORRISON COUNTY
(D) - See Anoka County
(H,Hw) - See Aitkin County
MOWER COUNTY
(B) - See Blue Earth County
(H,Hw) - See Aitkin County
MURRAY COUNTY
(H,Hw) - See Cottonwood County
NICOLLET COUNTY
(H,Hw) - See Aitkin County
NOBLES COUNTY
(H,Hw) - See Aitkin County
NORMAN COUNTY
(H,Hw) - See Beltrami County
OLMSTEAD COUNTY
Decision #MN77-2045 (B,R)
42 FR 23400 - 5/6/77
Mod. #1 - 42 FR 28750 - 6/3/77
(H,Hw) - See Aitkin County
OTTER TAIL COUNTY
(H,Hw) - See Becker County
PENNINGTON COUNTY
(H,Hw) - See Beltrami County
PINE COUNTY
(H,Hw) - See Aitkin County
PIPESTONE COUNTY
(H,Hw) - See Cottonwood County
POLK COUNTY
(H,Hw) - See Beltrami County
POPE COUNTY
(H,Hw) - See Big Stone County
RAMSEY COUNTY
(B,D,R) - See Anoka County
(H,Hw) - See Aitkin County
RED LAKE COUNTY
(H,Hw) - See Beltrami County
REDWOOD COUNTY
(H,Hw) - See Cottonwood County
RENVILLE COUNTY
Decision #MN77-2065 (H,Hw)
42 FR 20127 - 4/22/77
RICE COUNTY
(H,Hw) - See Aitkin County
ROCK COUNTY
(H,Hw) - See Aitkin County

MINNESOTA (Cont'd.)

ROSEAU COUNTY
(H,Hw) - See Beltrami County
SAINT LOUIS COUNTY
(D) - See Cook County
(H,Hw) - See Aitkin County
Decision #MN77-2047 (B,R)
42 FR 23412 - 5/6/77
Mod. #1 - 42 FR 28750 - 6/3/77
SCOTT COUNTY
(H,Hw) - See Aitkin County
(B,R) - See Anoka County
SHERBURNE COUNTY
(D) - See Anoka County
(H,Hw) - See Aitkin County
SIBLEY COUNTY
(H,Hw) - See Aitkin County
STEARNS COUNTY
Decision #MN77-2046 (B,R)
42 FR 23405 - 5/6/77
Mod. #1 - 42 FR 28750 - 6/3/77
(D) - See Anoka County
(H,Hw) - See Aitkin County
STEELE COUNTY
(H,Hw) - See Aitkin County
STEVENS COUNTY
(H,Hw) - See Big Stone County
SWIFT COUNTY
(H,Hw) - See Big Stone County
TODD COUNTY
(Hw) - See Becker County
TRAVERSE COUNTY
(H,Hw) - See Big Stone County
WABASHA COUNTY
(D) - See Anoka County
(H,Hw) - See Aitkin County
WADENA COUNTY
(H,Hw) - See Becker County
WASECA COUNTY
(H,Hw) - See Aitkin County
WASHINGTON COUNTY
(B,D,R) - See Anoka County
(H,Hw) - See Aitkin County
WATONWAN COUNTY
None
WILKIN COUNTY
(H,Hw) - See Becker County
WINONA COUNTY
(D) - See Anoka County
(H,Hw) - See Aitkin County
WRIGHT COUNTY
(D) - See Anoka County
(H,Hw) - See Aitkin County
YELLOW MEDICINE COUNTY
(H,Hw) - See Cottonwood County

MISSISSIPPI

STATEWIDE
Decision #AL76-5090 (D)
41 FR 44609 - 10/8/76
Mod. #1 - 42 FR 18788 - 4/8/77
Decision #MS76-1137 (Hw)
41 FR 55271 - 12/17/76
Mod. #1 - 42 FR 3136 - 1/14/77
Decision #MS76-1139 (W&S)
41 FR 55259 - 12/17/76
ADAMS COUNTY
Decision #AR-5041 (F)
41 FR 19017 - 5/7/76
Mod. #1 - 41 FR 21981 - 5/28/76
(D,Hw, W&S) - See Statewide
ALCORN COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
AMITE COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
ATTALA COUNTY
(D,Hw, W&S) - See Statewide
BENTON COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
BOLIVAR COUNTY
Decision #MS77-1069 (B)
42 FR 26094 - 5/20/77
(D,Hw, W&S) - See Statewide
(F) - See Adams County
CALHOUN COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
CHICKASAW COUNTY
(Hw, W&S) - See Statewide
(F) - See Adams County
CHOCTAW COUNTY
(Hw, W&S) - See Statewide
CLAIBORNE COUNTY
Decision #MS76-1099 (R)
41 FR 40368 - 9/17/76
(D,Hw, W&S) - See Statewide
(F) - See Adams County
CLARK COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Statewide
CLAY COUNTY
(Hw, W&S) - See Statewide
COAHOMA COUNTY
Decision #MS76-1004 (R)
41 FR 1695 - 1/9/76
Mod. #1 - 41 FR 40371 - 9/17/76
(D,Hw, W&S) - See Statewide
(F) - See Adams County

MISSISSIPPI (Cont'd.)

COPIAH COUNTY
Decision #MS76-1074 (R)
41 FR 29650 - 7/16/76
(D,Hw, W&S) - See Statewide
(F) - See Adams County
COVINGTON COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
DE SOTO COUNTY
Decision #MS77-1054 (B)
42 FR 23265 - 5/6/77
(D,Hw, W&S) - See Statewide
(F) - See Adams County
FORREST COUNTY
Decision #MS75-1076 (R)
40 FR 36935 - 8/22/75
Mod. #1 - 40 FR 55609 - 11/28/75
Decision #MS76-1142 (B)
41 FR 56593 - 12/28/76
(D,Hw, W&S) - See Statewide
(F) - See Adams County
FRANKLIN COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
GEORGE COUNTY
Decision #MS75-1077 (R)
40 FR 36935 - 8/22/75
(D,Hw, W&S) - See Statewide
(F) - See Adams County
GREENE COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
GRENADA COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
HANCOCK COUNTY
Decision #MS77-1030 (B,H)
42 FR 16356 - 3/25/77
Mod. #1 - 42 FR 18791 - 4/8/77
Mod. #2 - 42 FR 22072 - 4/29/77
(D) - See Statewide
(F) - See Adams County
(R) - See George County
HARRISON COUNTY
(B,H) - See Hancock County
(R) - See George County
(D,Hw, W&S) - See Statewide
(F) - See Adams County
HINDS COUNTY
Decision #MS77-1032 (B)
42 FR 16359 - 3/25/77
Mod. #1 - 42 FR 22072 - 4/29/77
(D,Hw, W&S) - See Statewide
(F) - See Adams County
(R) - See Copiah County

MISSISSIPPI (Cont'd.)

HOLMES COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
HUMPHREYS COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
ISSAQUENA COUNTY
Decision #MS76-1076 (B)
41 FR 22551 - 7/16/76
(D,Hw, W&S) - See Statewide
(F) - See Adams County
(R) - See Claiborne County
ITAWAMBA COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
JACKSON COUNTY
(D,Hw, W&S) - See Statewide
(B,H) - See Hancock County
(R) - See George County
JASPER COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
JEFFERSON COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
JEFFERSON DAVIS COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
JONES COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
(B,R) - See Forrest County
KEMPER COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
LAFAYETTE COUNTY
Decision #MS77-1062 (B)
42 FR 26094 - 5/20/77
(D,Hw, W&S) - See Statewide
(F) - See Adams County
LAMAR COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
LAUDERDALE COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
LAWRENCE COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
LEAKE COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
(R) - See Copiah County
LEE COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
LEFLORE COUNTY
Decision #MS77-1055 (B)
42 FR 23265 - 5/6/77
(F) - See Adams County
((D,Hw, W&S) - See Statewide

MISSISSIPPI (Cont'd.)

LINCOLN COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
LOWNDES COUNTY
Decision #MS77-1078 (B)
42 FR 31044 - 6/17/77
(D,Hw, W&S) - See Statewide
(F) - See Adams County
MADISON COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
(R) - See Copiah County
MARION COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
MARSHALL COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
MONROE COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
MONTGOMERY COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
NESHOBA COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
NEWTON COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
NOXUBEE COUNTY
Decision #MS77-1057 (H)
42 FR 23266 - 5/6/77
(D,Hw, W&S) - See Statewide
(F) - See Adams County
OKTIBBEHA COUNTY
(D,Hw, W&S) - See Statewide
PANOLA COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
PEARL RIVER COUNTY
(D,Hw, W&S) - See Statewide
(B,H) - See Hancock County
(F) - See Adams County
(R) - See George County
PERRY COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
PIKE COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
PONTOTOC COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
PRENTISS COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
QUITMAN COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County

MISSISSIPPI (Cont'd.

RANKIN COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
(R) - See Copiah County
SCOTT COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
(R) - See Copiah County
SHARKEY COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
(R) - See Claiborne County
(B) - See Issaquena County
SIMPSON COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
(R) - See Copiah County
SMITH COUNTY
(D,Hw, W&S) - See Statewide
(R) - See Copiah County
(F) - See Adams County
STONE COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
(R) - See George County
SUNFLOWER COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
(B) - See Issaquena County
(R) - See Coahoma County
TALLAHATCHIE COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
TATE COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
TIPPAH COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
TISHOMINGO COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
TUNICA COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
UNION COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
WALTHALL COUNTY
((D,Hw,W&S)-sSee Statewide
(F) - See Adams County

MISSISSIPPI (Cont'd.

WARREN COUNTY
Decision #MS77-1033 (B)
42 FR 16361 - 3/25/77
Mod. #1 - 42 FR 22072 - 4/29/77
(D,Hw, W&S) - See Statewide
(F) - See Adams County
(R) - See Claiborne County
WASHINGTON COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
(B) - See Issaquena County
(R) - See Coahoma County
WAYNE COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
WEBSTER COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
WILKINSON COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
WINSTON COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
YALOBUSHA COUNTY
Decision #MS77-1056 (B)
42 FR 23266 - 5/6/77
(D,Hw, W&S) - See Statewide
(F) - See Adams County
YAZOO COUNTY
(D,Hw, W&S) - See Statewide
(F) - See Adams County
(R) - See Copiah County

MISSOURI

STATEWIDE
Decision #MO77-4113 (H,Hw)
42 FR 30112 - 6/10/77
ADAIR COUNTY
(H,Hw) - See Statewide
ANDREW COUNTY
Decision #MO75-4070 (D)
40 FR 14225 - 3/28/75
(H,Hw) - See Statewide
ATCHISON COUNTY
(D) - See Andrew County
(H,Hw) - See Statewide
AUDRAIN COUNTY
(H,Hw) - See Statewide
BARRY COUNTY
(Hw) - See Statewide
BARTON COUNTY
(H,Hw) - See Statewide
BATES COUNTY
(H,Hw) - See Statewide
BENTON COUNTY
(H,Hw) - See Statewide
BOLLINGER COUNTY
(H,Hw) - See Statewide
BOONE COUNTY
(H,Hw) - See Statewide
(D) - See Andrew County
BUCHANAN COUNTY
(D) - See Andrew County
(H,Hw) - See Statewide
BUTLER COUNTY
(Hw) - See Statewide
CALDWELL COUNTY
(H,Hw) - See Statewide
CALLAWAY COUNTY
(D) - See Andrew County
(H,Hw) - See Statewide
CAMDEN COUNTY
(H,Hw) - See Statewide
CAPE GIRARDEAU COUNTY
Decision #IL77-5056 (D)
42 FR 28759 - 6/3/77
Mod. #1 - 42 FR 32447 - 6/24/77
(H,Hw) - See Statewide
CARROLL COUNTY
(D) - See Andrew County
(H,Hw) - See Statewide
CARTER COUNTY
(Hw) - See Statewide
CASS COUNTY
Decision #MO77-4075 (B)
42 FR 18815 - 4/8/77
Mod. #1 - 42 FR 26100 - 5/20/77
Mod. #2 - 42 FR 27558 - 5/27/77
Decision #MO77-4076 (R)
42 FR 18820 - 4/8/77
Mod. #1 - 42 FR 27558 - 5/27/77
(H,Hw) - See Statewide
CEDAR COUNTY
(H,Hw) - See Statewide

MISSOURI (Cont'd.)

CHARITON COUNTY
(D) - See Andrew County
(H,Hw) - See Statewide
CHRISTIAN COUNTY
(Hw) - See Statewide
CLARK COUNTY
(D) - See Cape Girardeau County
(H,Hw) - See Statewide
CLAY COUNTY
(B,R) - See Cass County
(D) - See Andrew County
(H,Hw) - See Statewide
CLINTON COUNTY
(H,Hw) - See Statewide
COLE COUNTY
(D) - See Andrew County
(H,Hw) - See Statewide
COOPER COUNTY
(D) - See Andrew County
(H,Hw) - See Statewide
CRAWFORD COUNTY
(H,Hw) - See Statewide
DADE COUNTY
(H,Hw) - See Statewide
DALLAS COUNTY
(H,Hw) - See Statewide
DAVIESS COUNTY
(H,Hw) - See Statewide
DE KALB COUNTY
(H,Hw) - See Statewide
DENT COUNTY
(Hw) - See Statewide
DOUGLAS COUNTY
(Hw) - See Statewide
DUNKLIN COUNTY
(Hw) - See Statewide
FRANKLIN COUNTY
Decision #MO77-4134 (B)
42 FR 34195 - 7/1/77
Decision #MO77-4148 (R)
42 FR 34198 - 7/1/77
(D) - See Andrew County
(H,Hw) - See Statewide
GASCONADE COUNTY
(D) - See Andrew County
(H,Hw) - See Statewide
GENTRY COUNTY
(H,Hw) - See Statewide
GREENE COUNTY
(H,Hw) - See Statewide

MISSOURI (Cont'd.

GRUNDY COUNTY
(H,Hw) - See Statewide
HARRISON COUNTY
(H,Hw) - See Statewide
HENRY COUNTY
(H,Hw) - See Statewide
(B,R,Hw) - See Cass County
HICKORY COUNTY
(H,Hw) - See Statewide
HOLT COUNTY
(D) - See Andrew County
(H,Hw) - See Statewide
HOWARD COUNTY
(D) - See Andrew County
(H,Hw) - See Statewide
HOWELL COUNTY
(Hw) - See Statewide
IRON COUNTY
(Hw) - See Statewide
JACKSON COUNTY
(B,R) - See Cass County
(D) - See Andrew County
(H,Hw) - See Statewide
JASPER COUNTY
Decision #M077-4033 (B)
42 FR 10240 - 2/18/77
Mod. #1 - 42 FR 13718 - 3/11/77
Mod. #2 - 42 FR 26101 - 5/20/77
Mod. #3 - 42 FR 30086 - 6/10/77
JEFFERSON COUNTY
(D) - See Cape Girardeau County
(H,Hw) - See Statewide
JOHNSON COUNTY
(B,H,Hw) - See Cass County
(H,Hw) - See Statewide
KNOX COUNTY
(H,Hw) - See Statewide
LACEDE COUNTY
(H,Hw) - See Statewide
LAFAYETTE COUNTY
(B,H,Hw) - See Cass County
(H,Hw) - See Statewide
(D) - See Andrew County
LAWRENCE COUNTY
(H,Hw) - See Statewide
LEWIS COUNTY
(D) - See Cape Girardeau County
(H,Hw) - See Statewide
LINCOLN COUNTY
(D) - See Cape Girardeau County
(B,R) - See Franklin County
(H,Hw) - See Statewide
LINN COUNTY
(H,Hw) - See Statewide
LIVINGSTON COUNTY
(H,Hw) - See Statewide
MC DONALD COUNTY
(B) - See Jasper County
(H,Hw) - See Statewide

MISSOURI (Cont'd)

MACON COUNTY
(H,Hw) - See Statewide
MADISON COUNTY
(H,Hw) - See Statewide
MARIES COUNTY
(H,Hw) - See Statewide
MARION COUNTY
(D) - See Cape Girardeau County
(H,Hw) - See Statewide
MERCER COUNTY
(H,Hw) - See Statewide
MILLER COUNTY
(H,Hw) - See Statewide
MISSISSIPPI COUNTY
(D) - See Cape Girardeau County
(Hw) - See Statewide
MONITEAU COUNTY
(D) - See Andrew County
(H,Hw) - See Statewide
MONROE COUNTY
(H,Hw) - See Statewide
MONTGOMERY COUNTY
(D) - See Andrew County
(H,Hw) - See Statewide
MORGAN COUNTY
(H,Hw) - See STatewide
NEW MADRID COUNTY
(D) - See Cape Girardeau County
(Hw) - See Statewide
NEWTON COUNTY
(B) - See Jasper County
(H,Hw) - See Statewide
NODAWAY COUNTY
(H,Hw) - See STatewide
OREGON COUNTY
(Hw) - See Statewide
OSAGE COUNTY
(D) - See Andrew County
(H,Hw) - See Statewide
OZARK COUNTY
(Hw) - See Statewide
PEMISCOT COUNTY
(D) - See Cape Girardeau County
(Hw) - See Statewide
PERRY COUNTY
(D) - See Cape Girardeau County
(H,Hw) - See Statewide
PETTIS COUNTY
(H,Hw) - See Statewide
PHELPS COUNTY
(H,Hw) - See Statewide
PIKE COUNTY
(D) - See Cape Girardeau County
(H,Hw) - See Statewide
PLATTE COUNTY
(B,R,H,Hw) - See Cass County
(D) - See Andrew County
POLK COUNTY
(H,Hw) - See Statewide

MISSOURI (Cont'd.

PULASKI COUNTY
(H,Hw) - See Statewide
PUTNAM COUNTY
(H,Hw) - See Statewide
RALLS COUNTY
(D) - See Cape Girardeau County
(H,Hw) - See Statewide
RANDOLPH COUNTY
(H,Hw) - See Statewide
RAY COUNTY
(B,R) - See Cass County
(H,Hw) - See Statewide
(D) - See Andrew County
REYNOLDS COUNTY
(Hw) - See Statewide
RIPLEY COUNTY
(Hw) - See Statewide
ST. CHARLES COUNTY
(D) - See Cape Girardeau County
(B,R) - See Franklin County
(D) - See Andrew County
(H,Hw) - See Statewide
ST. CLAIR COUNTY
(H,Hw) - See Statewide
ST. FRANCOIS COUNTY
(H,Hw) - See Statewide
ST. LOUIS COUNTY
(B,R) - See Franklin County
(D) - See Cape Girardeau County
(D) - See Andrew County
(H,Hw) - See Statewide
ST. GENEVIEVE COUNTY
(D) - See Cape Girardeau County
(H,Hw) - See Statewide
SALINE COUNTY
(D) - See Andrew County
(H,Hw) - See Statewide
SCHUYLER COUNTY
(H,Hw) - See Statewide
SCOTLAND COUNTY
(H,Hw) - See Statewide
SCOTT COUNTY
(D) - See Cape Girardeau County
(H,Hw) - See Statewide
SHANNON COUNTY
(Hw) - See Statewide
SHELBY COUNTY
(H,Hw) - See Statewide
STODDARD COUNTY
(Hw) - See Statewide

MISSOURI (Cont'd.)

STONE COUNTY
(Hw) - See Statewide
SULLIVAN COUNTY
(H,Hw) - See Statewide
TANEY COUNTY
(Hw) - See Statewide
TEXAS COUNTY
(Hw) - See Statewide
VERNON COUNTY
(H,Hw) - See Statewide
WARREN COUNTY
(D) - See Andrew County
(H,Hw) - See Statewide
WASHINGTON COUNTY
(H,Hw) - See Statewide
WAYNE COUNTY
(Hw) - See Statewide
WEBSTER COUNTY
(Hw) - See Statewide
WORTH COUNTY
(H,Hw) - See Statewide
WRIGHT COUNTY
(Hw) - See Statewide

MONTANA

STATEWIDE
Decision #MT77-5021 (B)
42 FR 12631 - 3/4/77
Mod. #1 - 42 FR 15255 - 3/18/77
Mod. #2 - 42 FR 17744 - 4/1/77
Mod. #3 - 42 FR 20984 - 4/22/77
Mod. #4 - 42 FR 26105 - 5/20/77
Decision #MT77-5034 (H,Hw)
42 FR 13765 - 3/11/77
Mod. #1 - 42 FR 15256 - 3/18/77
Mod. #2 - 42 FR 17744 - 4/1/77
Mod. #3 - 42 FR 26108 - 5/20/77
Mod. #4 - 42 FR 30086 - 6/10/77
BEAVERHEAD COUNTY
(B,H,Hw) - See Statewide
BIG HORN COUNTY
(B,H,Hw) - See Statewide
BLAINE COUNTY
(B,H,Hw) - See Statewide
BROADWATER COUNTY
(B,H,Hw) - See Statewide
CARBON COUNTY
(B,H,Hw) - See Statewide
CARTER COUNTY
(B,H,Hw) - See Statewide
CASCADE COUNTY
Decision #MT77-5057 (R)
42 FR 28769 - 6/3/77
Mod. #1 - 42 FR 34145 - 7/1/77
(B,H,Hw) - See Statewide
CHOUTEAU COUNTY
(B,H,Hw) - See Statewide
CUSTER COUNTY
(B,H,Hw) - See Statewide
DANIELS COUNTY
(B,H,Hw) - See Statewide
DAWSON COUNTY
(B,H,Hw) - See Statewide
DEER LODGE COUNTY
(B,H,Hw) - See Statewide
(R) - See Cascade County
FALLON COUNTY
(B,H,Hw) - See Statewide
FERGUS COUNTY
(B,H,Hw) - See Statewide
FLATHEAD COUNTY
(B,H,Hw) - See Statewide
GALLATIN COUNTY
(B,H,Hw) - See Statewide
(R) - See Cascade County
GARFIELD COUNTY
(B,H,Hw) - See Statewide
GLACIER COUNTY
(R) - See Cascade County
(B,H,Hw) - See Statewide

MONTANA (Cont'd.)

GOLDEN VALLEY COUNTY
(B,H,Hw) - See Statewide
GRANITE COUNTY
(B,H,Hw) - See Statewide
HILL COUNTY
(B,H,Hw) - See Statewide
(R) - See Cascade County
JEFFERSON COUNTY
(B,H,Hw) - See Statewide
JUDITH COUNTY
(B,H,Hw) - See Statewide
LAKE COUNTY
(B,H,Hw) - See Statewide
LEWIS & CLARK COUNTY
(B,H,Hw) - See Statewide
LIBERTY COUNTY
(B,H,Hw) - See Statewide
LINCOLN COUNTY
(B,H,Hw) - See Statewide
MC CONE COUNTY
(B,H,Hw) - See Statewide
MADISON COUNTY
(B,H,Hw) - See Statewide
MEAGHER COUNTY
(B,H,Hw) - See Statewide
MINERAL COUNTY
(B,H,Hw) - See Statewide
MISSOULA COUNTY
(B,H,Hw) - See Statewide
(R) - See Cascade County
MUSSELSHELL COUNTY
(B,H,Hw) - See Statewide
PARK COUNTY
(B,H,Hw) - See Statewide
PETROLEUM COUNTY
(B,H,Hw) - See Statewide
PHILLIPS COUNTY
(B,H,Hw) - See Statewide
PONDERA COUNTY
(B,H,Hw) - See Statewide
POWDER RIVER COUNTY
(B,H,Hw) - See Statewide
POWELL COUNTY
(B,H,Hw) - See Statewide
PRAIRIE COUNTY
(B,H,Hw) - See Statewide
RAVALLI COUNTY
(B,H,Hw) - See Statewide
RICHLAND COUNTY
(B,H,Hw) - See Statewide
ROOSEVELT COUNTY
(B,H,Hw) - See Statewide

MONTANA (Cont'd.

ROSEBUD COUNTY
(B,H,Hw) - See Statewide
SANDERS COUNTY
(B,H,Hw) - See Statewide
SHERIDAN COUNTY
(B,H,Hw) - See Statewide
SILVER BOW COUNTY
(B,H,Hw) - See Statewide
(R) - See Cascade County
STILLWATER COUNTY
(B,H,Hw) - See Statewide
SWEET GRASS COUNTY
(B,H,Hw) - See Statewide
TETON COUNTY
(B,H,Hw) - See Statewide
TOOLE COUNTY
(B,H,Hw) - See Statewide
TREASURE COUNTY
(B,H,Hw) - See Statewide
VALLEY COUNTY
(B,H,Hw) - See Statewide
(R) - See Cascade County
WHEATLAND COUNTY
(B,H,Hw) - See Statewide
WIBAUX COUNTY
(B,H,Hw) - See Statewide
YELLOWSTONE COUNTY
(B,H,Hw) - See Statewide

NEBRASKA

ADAMS COUNTY
Decision #NE77-4001 (H,Hw)
42 FR 1685 - 1/7/77
ANTELOPE COUNTY
(H,Hw) - See Adams County
ARTHUR COUNTY
(H,Hw) - See Adams County
BANNER COUNTY
Decision #NE77-4040 (B)
42 FR 11223 - 2/25/77
(H,Hw) - See Adams County
BLAINE COUNTY
(H,Hw) - See Adams County
BOONE COUNTY
(H,Hw) - See Adams County
BOX BUTTE COUNTY
(B) - See Banner County
(H,Hw) - See Adams County
BOYD COUNTY
(H,Hw) - See Adams County
Decision #NE76-4184 (Channel Stabilizatic
41 FR 53259 - 12/3/76
BROWN COUNTY
(H,Hw) - See Adams County
BUFFALO COUNTY
(H,Hw) - See Adams County
BURT COUNTY
(H,Hw) - See Adams County
(Chann. Stab.) - See Boyd County
BUTLER COUNTY
(H,Hw) - See Adams County
CASS COUNTY
(Chann. Stab.) - See Boyd County
Decision #NE77-4021 (H,Hw)
42 FR 8946 - 2/11/77
CEDAR COUNTY
Decision #NE77-4067 (B)
42 FR 15272 - 3/18/77
(H,Hw) - See Adams County
(Chann. Stab.) - See Boyd County
CHASE COUNTY
(H,Hw) - See Adams County
CHERRY COUNTY
(H,Hw) - See Adams County
CHEYENNE COUNTY
(B) - See Banner County
(H,Hw) - See Adams County
CLAY COUNTY
(H,Hw) - See Adams County
COLFAX COUNTY
(H,Hw) - See Adams County

NEBRASKA (Cont'd.

CUMING COUNTY
(B) - See Cedar County
(H,Hw) - See Adams County
CUSTER COUNTY
(H,Hw) - See Adams County
DAKOTA COUNTY
(Chann. Stab.) - See Boyd County
(H,Hw) - See Adams County
DAWES COUNTY
(B) - See Banner County
(H,Hw) - See Adams County
DAWSON COUNTY
(H,Hw) - See Adams County
DEUEL COUNTY
(B) - See Banner County
(H,Hw) - See Adams County
DIXON COUNTY
(Chann. Stab.) - See Boyd County
(H,Hw) - See Adams County
DODGE COUNTY
(H,Hw) - See Adams County
DOUGLAS COUNTY
Decision #NE77-4115 (B,R)
42 FR 30131 - 6/10/77
Mod. #1 - 42 FR 34145 - 7/1/77
(H,Hw) - See Cass County
(Chann. Stab.) - See Boyd County
DUNDY COUNTY
(H,Hw) - See Adams County
FILLMORE COUNTY
(H,Hw) - See Adams County
FRANKLIN COUNTY
(H,Hw) - See Adams County
FRONTIER COUNTY
(H,Hw) - See Adams County
FURNAS COUNTY
(H,Hw) - See Adams County
GAGE COUNTY
(H,Hw) - See Adams County
GARDEN COUNTY
(B) - See Banner County
(H,Hw) - See Adams County
GARFIELD COUNTY
(H,Hw) - See Adams County
GOSPER COUNTY
(H,Hw) - See Adams County
GRANT COUNTY
(H,Hw) - See Adams County
GREELEY COUNTY
(H,Hw) - See Adams County

NEBRASKA (Cont'd.

HALL COUNTY
Decision #NE76-4107 (B)
41 FR 33158 - 8/6/76
(H,Hw) - See Adams County
HAMILTON COUNTY
(B) - See Hall County
(H,Hw) - See Adams County
HARLAN COUNTY
(H,Hw) - See Adams County
HAYES COUNTY
(H,Hw) - See Adams County
HITCHCOCK COUNTY
(H,Hw) - See Adams County
HOLT COUNTY
(H,Hw) - See Adams County
HOOKER COUNTY
(H,Hw) - See Adams County
HOWARD COUNTY
(B) - See Hall County
(H,Hw) - See Adams County
JEFFERSON COUNTY
(H,Hw) - See Adams County
JOHNSON COUNTY
(H,Hw) - See Adams County
KEARNEY COUNTY
(H,Hw) - See Adams County
KEITH COUNTY
(H,Hw) - See Adams County
KEYAPAHA COUNTY
(H,Hw) - See Adams County
KIMBALL COUNTY
(B) - See Banner County
(H,Hw) - See Adams County
KNOX COUNTY
(H,Hw) - See Adams County
(Chann. Stab.) - See Boyd County
LANCASTER COUNTY
Decision #NE77-4135 (B)
42 FR 34201 - 7/1/77
Decision #NE76-4178 (R)
41 FR 45813 - 10/15/76
(H,Hw) - See Adams County
LINCOLN COUNTY
(H,Hw) - See Adams County
LOGAN COUNTY
(H,Hw) - See Adams County
LOUP COUNTY
(H,Hw) - See Adams County
MC PHERSON COUNTY
(H,Hw) - See Adams County
MADISON COUNTY
(H,Hw) - See Adams County
MERRICK COUNTY
(B) - See Hall County
(H,Hw) - See Adams County

NEBRASKA (Cont'd.

MORRILL COUNTY
(B) - See Banner County
(H,H) - See Adams County
NANCE COUNTY
(H,Hw) - See Adams County
NEMAHA COUNTY
Decision #ND75-4070 (D)
40 FR 14225 - 3/28/75
(H,Hw) - See Adams County
(Chann. Stab.) - See Boyd County
NUCKOLLS COUNTY
(H,Hw) - See Adams County
OTOE COUNTY
(Chann. Stab.) - See Boyd County
(H,Hw) - See Adams County
PAWNEE COUNTY
(H,Hw) - See Adams County
PERKINS COUNTY
(H,Hw) - See Adams County
PHELPS COUNTY
(H,Hw) - See Adams County
PIERCE COUNTY
(B) - See Cedar County
(H,Hw) - See Adams County
PLATTE COUNTY
(H,Hw) - See Adams County
POLK COUNTY
(H,Hw) - See Adams County
RED WILLOW COUNTY
(H,Hw) - See Adams County
RICHARDSONCOUNTY
(Chann. Stab.) - See Boyd County
(D) - See Nemaha County
(H,Hw) - See Adams County
ROCK COUNTY
(H,Hw) - See Adams County
SALINE COUNTY
(H,Hw) - See Adams County
SARPY COUNTY
(Chann. Stab.) - See Boyd County
(B,R) - See Douglas County
(H,Hw) - See Cass County
SAUNDERS COUNTY
(H,Hw) - See Adams County
SCOTTS BLUFF COUNTY
(B) - See Banner County
(H,Hw) - See Adams County
SEWARD COUNTY
(H,Hw) - See Adams County
SHERIDAN COUNTY
(B) - See Banner County
(H,Hw) - See Adams County
SHERMAN COUNTY
(H,Hw) - See Adams County
SIOUX COUNTY
(B) - See Banner County
(H,Hw) - See Adams County

NEBRASKA (Cont'd.

STANTON COUNTY
(B) - See Cedar County
(H,Hw) - See Adams County
THAYER COUNTY
(H,Hw) - See Adams County
THOMAS COUNTY
(H,Hw) - See Adams County
THURSTON COUNTY
(Chann. Stab.) - See Boyd County
(H,Hw) - See Adams County
VALLEY COUNTY
(H,Hw) - See Adams County
WASHINGTON COUNTY
(H,Hw) - See Cass County
(Chann. Stab.) - See Boyd County
WAYNE COUNTY
(B) - See Cedar County
(H,Hw) - See Adams County
WEBSTER COUNTY
(H,Hw) - See Adams County
WHEELER COUNTY
(H,Hw) - See Adams County
YORK COUNTY
(H,Hw) - See Adams County

NEVADA

STATEWIDE (Excluding the Nevada Test Site & Tonopah Test Range)
Decision #NV77-5146 (B,H,Hw)
42 FR 22082 - 4/29/77
Mod. #1 - 42 FR 24572 - 5/13/77
Mod. #2 - 42 FR 28751 - 6/3/77
Mod. #3 - 42 FR 31048 - 6/17/77
CARSON COUNTY
(B,H,Hw) - See Statewide
CHURCHILL COUNTY
(B,H,Hw) - See Statewide
CLARK COUNTY
Decision #NV77-5061 (R)(Excluding Nevada Test Site)
42 FR 31074 - 6/17/77
(B,H,Hw) - See Statewide
Decision #NV77-5012 (B,H,Hw)(Nevada Test Site including the Tonopah Test Range)
42 FR 8947 - 2/11/77
Mod. #1 - 42 FR 20051 - 4/15/77
Mod. #2 - 42 FR 22073 - 4/29/77
Mod. #3 - 42 FR 28751 - 6/3/77
Mod. #4 - 42 FR 31047 - 6/17/77
DOUGLAS COUNTY
(B,H,Hw) - See Statewide
ELKO COUNTY
(B,H,Hw) - See Statewide
ESMERALDA COUNTY
(B,H,Hw) - See Statewide
EUREKA COUNTY
(B,H,Hw) - See Statewide
HUMBOLDT COUNTY
(B,H,Hw) - See Statewide
LANDER COUNTY
(B,H,Hw) - See STatewide
LINCOLN COUNTY
(B,H,Hw) - See Statewide
LYON COUNTY
(B,H,Hw) - See Statewide
MINERAL COUNTY
(B,H,Hw) - See Statewide
NYE COUNTY
(B,H,Hw) - See Clark Co. (Nevada Test Site)
(B,H,Hw) - See Statewide
PERSHING COUNTY
(B,H,Hw) - See Statewide
STOREY COUNTY
(B,H,Hw) - See Statewide
WASHOE COUNTY
Decision #NV77-5031 (R)
42 FR 15278 - 3/18/77
Mod. #1 - 42 FR 18792 - 4/8/77
Mod. #2 - 42 FR 22073 - 4/29/77
Mod. #3 - 42 FR 31047 - 6/17/77
WHITE PINE COUNTY
(B,H,Hw) - See Statewide

NEW HAMPSHIRE

BELKNAP COUNTY
None
CARROLL COUNTY
None
CHESHIRE COUNTY
None
COOS COUNTY
None
GRAFTON COUNTY
None
HILLSBORO COUNTY
Decision #NH77-2001 (B,H,Hw,R)
42 FR 4087 - 1/21/77
Mod. #1 - 42 FR 23275 - 5/6/77
MERRIMACK COUNTY
Decision #NH77-2002 (B,H,Hw, & Marine)
42 FR 4090 - 1/21/77
Mod. #1 - 42 FR 23275 - 5/6/77
ROCKINGHAM COUNTY
Decision #CT77-5001 (D)
42 FR 999 - 1/4/77
Decision #NH77-2003 (B,H,Hw,R, & Marine)
42 FR 5625 - 1/28/77
Mod. #1 - 42 FR 23275 - 5/6/77
Mod. #2 - 42 FR 24573 - 5/13/77
STRAFFORD COUNTY
Decision #NH77-2004 (B,H,Hw, & Marine)
42 FR 5629 - 1/28/77
Mod. #1 - 42 FR 23275 - 5/6/77
SULLIVAN COUNTY
None

NEW JERSEY

ATLANTIC COUNTY
Decision #NJ77-3079 (B,H,Hw)
42 FR 31080 - 6/17/77
Decision #CT77-5001 (D)
42 FR 999 - 1/4/77
BERGEN COUNTY
Decision #NJ76-3252 (R)
41 FR 47827 - 10/29/76
Mod. #1 - 41 FR 52182 - 11/26/76
Mod. #2 - 42 FR 7034 - 2/[illegible]/77
Mod. #3 - 42 FR 12570 - 3/4/77
Mod. #4 - 42 FR 20985 - 4/22/77
Decision #NJ77-3038 (B,H,Hw)
42 FR 28779 - 6 /3/77
(D) - See Atlantic County
BURLINGTON COUNTY
Decision #NJ75-3096 (R)
40 FR 43413 - 9/19/75
Mod. #1 - 42 FR 30086 - 5/10/77
(B,H,Hw) - See Atlantic County
(D) - See Atlantic County
CAMDEN COUNTY
(B,H,Hw) - See Atlantic County
(D) - See Atlantic County
CAPE MAY COUNTY
Decision #NJ75-3068 (R)
40 FR 29437 - 7/11/75
(B,H,Hw,D) - See Atlantic County
CUMBERLAND COUNTY
(B,H,Hw) - See Atlantic County
(D) - See Atlantic County
ESSEX COUNTY
(B,H,Hw,R) - See Bergen County
(D) - See Atlantic County
GLOUCESTER COUNTY
(B,H,Hw) - See Atlantic County
(D) - See Atlantic County
HUDSON COUNTY
(B,H,Hw,R) - See Bergen County
(D) - See Atlantic County
HUNTERDON COUNTY
(B,H,Hw) - See Bergen County
(D) - See Atlantic County
MERCER COUNTY
(B,D,H,Hw) - See Atlantic County
MIDDLESEX COUNTY
(B,H,Hw) - See Bergen County
(D) - See Atlantic County
MONMOUTH COUNTY
(B,H,Hw) - See Atlantic County
(D) - See Atlantic County

NEW JERSEY (Cont'd.)

MORRIS COUNTY
(B,H,Hw) - See Bergen County
(D) - See Atlantic County
OCEAN COUNTY
(B,H,Hw) - See Atlantic County
(D) - See Atlantic County
PASSAIC COUNTY
(B,H,Hw,R) - See Bergen County
(D) - See Atlantic County
SALEM COUNTY
(B,H,Hw) - See Atlantic County
(D) - See Atlantic County
SOMERSET COUNTY
(B,H,Hw) - See Bergen County
(D) - See Atlantic County
SUSSEX COUNTY
(B,H,Hw) - See Bergen County
(D) - See Atlantic County
UNION COUNTY
Decision #NJ75-3097 (R)
40 FR 43414 - 9/19/75
(B,H,Hw) - See Bergen County
(D) - See Atlantic County
WARREN COUNTY
(B,H,Hw) - See Bergen County
(D) - See Atlantic County

NEW MEXICO

STATEWIDE
Decision #NM77-4103 (Streets, Highways, Utilities and Light Engineering Construction)
42 FR 26169 - 5/20/77
Decision #NM77-4116 (Building, including residential in Mckinley, Santa Fe, San Juan, Bernalillo, Rio Arriba, Taos, Sandoval, & Valencia Cos., but not on the Navajo Indian Reservation, and Heavy construction.
42 FR 31094 - 6/17/77
Mod. #1 - 42 FR 34146 - 7/1/77
BERNALILLO COUNTY
(B,H,Hw,R) - See Statewide
CATRON COUNTY
(B,H,Hw) - See Statewide
CHAVES COUNTY
(B,H,Hw) - See Statewide
COLFAX COUNTY
(B,H,Hw) - See Statewide
CURRY COUNTY
(B,H,Hw) - See Statewide
DE BACA COUNTY
(B,H,Hw) - See Statewide
DONA ANA COUNTY
(B,H,Hw) - See Statewide
Decision #NM77-4039 (R)
42 FR 10254 - 2/18/77
EDDY COUNTY
(B,H,Hw) - See Statewide
GRANT COUNTY
(B,H,Hw) - See Statewide
GUADALUPE COUNTY
(B,H,Hw) - See Statewide
HARDING COUNTY
(B,H,Hw) - See Statewide
HIDALGO COUNTY
(B,H,Hw) - See Statewide
LEA COUNTY
(B,H,Hw) - See Statewide
LINCOLN COUNTY
(B,H,Hw) - See Statewide
LOS ALAMOS COUNTY
(B,H,Hw) - See Statewide
LUNA COUNTY
(B,H,Hw) - See Statewide
McKINLEY COUNTY
(B,H,Hw,R) - See Statewide

NEW MEXICO (Cont'd.)

MORA COUNTY
(B,H,Hw) - See Statewide
OTERO COUNTY
(R) - See Dona Ana County
(B,H,Hw) - See Statewide
QUAY COUNTY
(B,H,Hw) - See Statewide
RIO ARRIBA COUNTY
(B,H,Hw,R) - See Statewide
ROOSEVELT COUNTY
(B,H,Hw) - See Statewide
SANDOVAL COUNTY
(B,H,Hw,R) - See Statewide
SAN JUAN COUNTY
(B,H,Hw,R) - See Statewide
SAN MIGUEL COUNTY
(B,H,Hw) - See Statewide
SANTE FE COUNTY
(B,H,Hw,R) - See Statewide
SIERRA COUNTY
(B,H,Hw) - See Statewide
SOCORRO COUNTY
(B,H,Hw) - See Statewide
TAOS COUNTY
(B,H,Hw,R) - See Statewide
TORRANCE COUNTY
(B,H,Hw) - See Statewide
UNION COUNTY
(B,H,Hw) - See Statewide
VALENCIA COUNTY
(B,H,Hw,R) - See Statewide

NEW YORK

ALBANY COUNTY
Decision #NY77-3000 (B,H,Hw)
42 FR 22098 - 4/29/77
ALLEGANY COUNTY
None
BRONX COUNTY
Decision #NY77-3025 (B,H,Hw)
42 FR 31105 - 6/17/77
Decision #NY77-3044 (R)
42 FR 31110 - 6/17/77
Decision #CT77-5001 (D)
42 FR 999 - 1/4/77
BROOME COUNTY
Decision #NY77-3011 (B,H,Hw)
42 FR 24621 - 5/13/77
CATTARAUGUS COUNTY
None
CAYUGA COUNTY
Decision #IL77-5038 (D)
42 FR 18802 - 4/8/77
Mod. #1 - 42 FR 22070 - 4/29/77
CHAUTAUQUA COUNTY
Decision #NY77-3008 (B,H,Hw)

42 FR 26171 - 5/20/77
(D) - See Cayuga County
CHEMUNG COUNTY
Decision #NY77-3001 (B)
42 FR 17766 - 4/1/77
CHENANGO COUNTY
None
CLINTON COUNTY
None
COLUMBIA COUNTY
None
CORTLAND COUNTY
None
DELAWARE COUNTY
None

NEW YORK (Cont'd)

DUTCHESS COUNTY
Decision #NY77-3012 (B,H,Hw)
42 FR 24625 - 5 /13/77
(D) - See Bronx County
ERIE COUNTY
Decision #NY77-3015 (B,H,Hw)
42 FR 8973 - 2/11/77
Mod. #1 - 42 FR 20051 - 4/15/77
(D) - See Cayuga County
ESSEX COUNTY
None
FRANKLIN COUNTY
(D) - See Cayuga County
FULTON COUNTY
None
GENESEE COUNTY
None
GREENE COUNTY
None
HAMILTON COUNTY
None
HERKIMER COUNTY
None
JEFFERSON COUNTY
Decision #NY77-3009 (B,H,Hw)
42 FR 8956 - 2/11/77
Mod. #1 - 42 FR 11189 - 2/25/77
(D) - See Cayuga County
KINGS COUNTY
(B,H,Hw,R,D) - See Bronx County
LEWIS COUNTY
None
LIVINGSTON COUNTY
None
MADISON COUNTY
None

NEW YORK (Cont'd)

MONROE COUNTY
Decision #NY77-3004 (B,H,Hw)
42 FR 34208 - 7/1/77
(D) - See Cayuga County
MONTGOMERY COUNTY
None
NASSAU COUNTY
Decision #NY77-3013 (B,H,Hw)
42 FR 24631 - 5/13/77
Mod. #1 - 42 FR 31049 - 6/17/77
(D) - See Bronx County
NEW YORK COUNTY
(B,H,Hw,R,D) - See Bronx County
NIAGARA COUNTY
Decision #NY77-3003 (B,H,Hw)
42 FR 34204 - 7/1/77
(D) - See Cayuga County
ONEIDA COUNTY
Decision #NY77-3081 (B,H,Hw)
42 FR 34215 - 7/1/77
ONONDAGA COUNTY
Decision #NY77-3006 (B,H,Hw)
42 FR 8951 - 2/11/77
ONTARIO COUNTY
None
ORANGE COUNTY
Decision #NY77-3084 (B,H,Hw)
42 FR 34220 - 7/1/77
(D) - See Bronx County
OSWEGO COUNTY
(D) - See Cayuga County
OTSEGO COUNTY
(D) - See Cayuga County
None
PUTNAM COUNTY
(D) - See Bronx County
QUEENS COUNTY
(B,D,H,Hw,R) - See Bronx County

NEW YORK (Cont'd)

RENSSELAER COUNTY
(B,H,Hw) - See Albany County
RICHMOND COUNTY
(B,H,Hw,R,D) - See Bronx County
ROCKLAND COUNTY
(D) - See Bronx County
ST LAWRENCE COUNTY
(D) - See Cayuga County
SARATOGA COUNTY
(B,H,Hw) - See Albany County
SCHENECTADY COUNTY
(B,H,Hw) - See Albany County
SCHOHARIE COUNTY
None
SCHUYLER COUNTY
None
SENECA COUNTY
None
STEUBEN COUNTY
Decision #NY77-3007 (B,H,Hw)
42 FR 17771 - 4/1/77
SUFFOLK COUNTY
(B,H,Hw) - See Nassau County
(D) - See Bronx County
SULLIVAN COUNTY
None
TIOGA COUNTY
None

NEW YORK (Cont'd.)

TOMPKINS COUNTY
None
ULSTER COUNTY
None
WARREN COUNTY
None
WASHINGTON COUNTY
None
WAYNE COUNTY
Decision #NY77-3005 (B,H,Hw)
42 FR 28795 - 6/3/77
(D) - See Cayuga County
WESTCHESTER COUNTY
Decision #NY77-3076 (B,H,Hw)
42 FR 28801 - 6/3/77
(D) - See Bronx County
WYOMING COUNTY
None
YATES COUNTY
None

NORTH CAROLINA

STATEWIDE
Decision #NC75-1015 (Hw)
40 FR 4857 - 1/31/75
Mod. #1 - 40 FR 41351 - 9/5/75
Decision #NC75-1078 (Sewer & Water, H)
40 FR 41367 - 9/5/75
ALAMANCE COUNTY
Decision #NC76-1095 (R)
41 FR 37507 - 9/3/76
(Sewer & Water, H,Hw) - See Statewide
ALEXANDER COUNTY
Decision #NC77-1076 (R)
42 FR 30079 - 6/10/77
(Sewer & Water, H,Hw) - See Statewide
ALLEGHANY COUNTY
(R) - See Alexander County
(Sewer & Water, H,Hw) - See Statewide
ANSON COUNTY
(Sewer & Water, H,Hw) - See Statewide
ASHE COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Alexander County
AVERY COUNTY
Decision #NC77-1012 (B)
42 FR 12662 - 3/4/77
Mod. #1 - 42 FR 15257 - 3/18/77
(Sewer & Water, H,Hw) - See Statewide
BEAUFORT COUNTY
Decision #NC76-1109 (R)
41 FR 42128 - 9/24/76
Decision #GA77-S035 (D)
42 FR 13756 - 3/11/77
(Sewer & Water, H,Hw) - See Statewide
BERTIE COUNTY
(D,R) - See Beaufort County
(Sewer & Water, H,Hw) - See Statewide
BLADEN COUNTY
(Sewer & Water, H,Hw) - See Statewide
BRUNSWICK COUNTY
(D) - See Beaufort County
(Sewer & Water, H,Hw) - See Statewide
Decision #NC77-1013 (R)
42 FR 7065 - 2/4/77
BUNCOMBE COUNTY
Decision #NC76-1062 (B)
41 FR 21119 - 5/21/76
Mod. #1 - 41 FR 29614 - 7/16/76
Mod. #2 - 41 FR 34486 - 8/13/76
Decision #NC75-1014 (R)
40 FR 6111 - 2/7/75
(Sewer & Water, H,Hw) - See Statewide

NORTH CAROLINA (Cont'd.)

BURKE COUNTY
Decision #NC77-1014 (B)
42 FR 7065 - 2/4/77
Decision #NC77-1018 (R)
42 FR 8979 - 2/11/77
(Sewer & Water, H,Hw) - See Statewide
CABARRUS COUNTY
(Sewer & Water, H,Hw) - See Statewide
CALDWELL COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Alexander County
CAMDEN COUNTY
Decision #NC76-1042 (B)
41 FR 11721 - 3/19/76
(D) - See Beaufort County
(Sewer & Water, H,Hw) - See Statewide
CARTERET COUNTY
Decision #NC76-1019 (B)
41 FR 4796 - 1/30/76
Mod. #1 - 41 FR 21995 - 5/28/76
Decision #NC76-1073 (R)
41 FR 28469 - 7/9/76
(D) - See Beaufort County
(Sewer & Water, H,Hw) - See Statewide
CASWELL COUNTY
(Sewer & Water, H,Hw) - See Statewide
CATAWBA COUNTY
(R) - See Burke County
(Sewer & Water, H,Hw) - See Statewide
CHATHAM COUNTY
Decision #NC75-1049 (B)
40 FR 18273 - 4/25/75
Mod. #1 - 41 FR 20128 - 5/14/76
Decision #NC76-1094 (R)
41 FR 37506 - 9/3/76
(Sewer & Water, H,Hw) - See Statewide
CHEROKEE COUNTY
(Sewer & Water, H,Hw) - See Statewide
CHOWAN COUNTY
(D,R) - See Beaufort County
(Sewer & Water, H,Hw) - See Statewide
CLAY COUNTY
(Sewer & Water, H,Hw) - See Statewide
CLEVELAND COUNTY
(R) - See Burke County
(Sewer & Water, H,Hw) - See Statewide
COLUMBUS COUNTY
(Sewer & Water, H,Hw) - See Statewide
CRAVEN COUNTY
(B,R) - See Carteret County
(Sewer & Water, H,Hw) - See Statewide
(D) - See Beaufort County

NORTH CAROLINA (Cont'd.)

CUMBERLAND COUNTY
Decision #NC76-1024 (B)
41 FR 6945 - 2/13/76
(R) - See Chatham County
(Sewer & Water, H,Hw) - See Statewide
CURRITUCK COUNTY
(Sewer & Water, H,Hw) - See Statewide
(D) - See Beaufort County
(B) - See Camden County
DARE COUNTY
(B) - See Camden County
(Sewer & Water, H,Hw) - See Statewide
(D,R) - See Beaufort County
DAVIDSON COUNTY
(Sewer & Water, H,Hw) - See Statewide
DAVIE COUNTY
(Sewer & Water, H,Hw) - See Statewide
DUPLIN COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Carteret County
DURHAM COUNTY
Decision #NC77-1046 (
42 FR 18778 - 4/8/77
Decision #NC76-1085 (R)
41 FR 35317 - 8/20/76
(Sewer & Water, H,Hw) - See Statewide
EDGECOMBE COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Beaufort County
Decision #NC76-1046 (B)
41 FR 15231 - 4/9/76
FORSYTH COUNTY
Decision #NC77-1017 (R)
42 FR 8979 - 2/11/77
(Sewer & Water, H,Hw) - See Statewide
FRANKLIN COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Beaufort County
GASTON COUNTY
(Sewer & Water, H,Hw) - See Statewide
GATES COUNTY
(Sewer & Water, H,Hw) - See Statewide
(D) - See Beaufort County
GRAHAM COUNTY
(Sewer & Water, H,Hw) - See Statewide
GRANVILLE COUNTY
Decision #NC76-1121 (B)
41 FR 46805 - 10/22/76
(Sewer & Water, H,Hw) - See Statewide
GREENE COUNTY
(B) - See Edgecombe County
(Sewer & Water, H,Hw) - See Statewide
(R) - See Carteret County
GUILDFORD COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Alamance County
HALIFAX COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Beaufort County

NORTH CAROLINA (Con't.d)

HARNETT COUNTY
(B,R) - See Chatham County
(Sewer & Water, H,Hw) - See Statewide
HAYWOOD COUNTY
(Sewer & Water, H,Hw) - See Statewide
HENDERSON COUNTY
(R) - See Buncombe County
(Sewer & Water, H,Hw) - See Statewide
HERTFORD COUNTY
(Sewer & Water, H,Hw) - See Statewide
(D,R) - See Beaufort County
HOKE COUNTY
(R) - See Chatham County
(Sewer & Water, H,Hw) - See Statewide
HYDE COUNTY
(D) - See Beaufort County
(Sewer & Water, H,Hw) - See Statewide
IREDELL COUNTY
(Sewer & Water, H,Hw) - See Statewide
JACKSON COUNTY
(Sewer & Water, H,Hw) - See Statewide
JOHNSTON COUNTY
(B) - See Edgecombe County
(Sewer & Water, H,Hw) - See Statewide
(R) - See Carteret County
JONES COUNTY
(B,R) - See Carteret County
(Sewer & Water, H,Hw) - See Statewide
LEE COUNTY
(B,R) - See Chatham County
(Sewer & Water, H,Hw) - See Statewide
LENOIR COUNTY
(Sewer & Water, H,Hw) - See Statewide
(B,R) - See Carteret County
LINCOLN COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Burke County
MCDOWELL COUNTY
(R) - See Buncombe County
(Sewer & Water, H,Hw) - See Statewide
MACON COUNTY
(Sewer & Water, H,Hw) - See Statewide
MADISON COUNTY
(R) - See Buncombe County
(Sewer & Water, H,Hw) - See Statewide
MARTIN COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Beaufort County
MECKLENBURG COUNTY
Decision #NC75-1115 - (B)
40 FR 59177 - 12/19/75
Mod. #1 - 41 FR 9721 - 3/5/76
(Sewer & Water, H,Hw) - See Statewide
MITCHELL COUNTY
(B) - See Avery County
(Sewer & Water, H,Hw) - See Statewide
MONTGOMERY COUNTY
(Sewer & Water, H,Hw) - See Statewide

NORTH CAROLINA (Cont'd.)

MOORE COUNTY
(B,R) - See Chatham County
(Sewer & Water, H,Hw) - See Statewide
NASH COUNTY
(B) - See Edgecombe County
(R) - See Beaufort County
(Sewer & Water, H,Hw) - See Statewide
NEW HANOVER COUNTY
Decision #NC75-1054 (B)
40 FR 22723 - 5/23/75
Mod. #1 - 41 FR 43420 - 9/19/75
Mod. #2 - 41 FR 20128 - 5/14/76
(R) - See Brunswick County
(D) - See Beaufort County
(Sewer & Water, H,Hw) - See Statewide
NORTHAMPTON COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Beaufort County
ONSLOW COUNTY
(D) - See Beaufort County
(B,R) - See Carteret County
(Sewer & Water, H,Hw) - See Statewide
ORANGE COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Durham County
PAMLICO COUNTY
(B,R) - See Carteret County
(D) - See Beaufort County
(Sewer & Water, H,Hw) - See Statewide
PASQUOTANK COUNTY
(B) - See Camden County
(D) - See Beaufort County
(Sewer & Water, H,Hw) - See Statewide
PENDER COUNTY
(R) - See Brunswick County
(D) - See Beaufort County
(Sewer & Water, H,Hw) - See Statewide
PERQUIMANS COUNTY
(B) - See Camden County
(D) - See Beaufort County
(Sewer & Water, H,Hw) - See Statewide
PERSONS COUNTY
(Sewer & Water, H,Hw) - See Statewide
PITT COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Beaufort County
POLK COUNTY
(R) - See Burke County
(Sewer & Water, H,Hw) - See Statewide
RANDOLPH COUNTY
(R) - See Alamance County
(Sewer & Water, H,Hw) - See Statewide
RICHMOND COUNTY
(Sewer & Water, H,Hw) - See Statewide
ROBESON COUNTY
(Sewer & Water, H,Hw) - See Statewide
ROCKINGHAM COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Alamance County

NORTH CAROLINA (Cont'd)

ROWAN COUNTY
(Sewer & Water, H,Hw) - See Statewide
RUTHERFORD COUNTY
(R) - See Burke County
(Sewer & Water, H,Hw) - See STatewide
SAMPSON COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Chatham County
SCOTLAND COUNTY
(Sewer & Water, H,Hw) - See Statewide
STANLY COUNTY
(Sewer & Water, H,Hw) - See Statewide
STOKES COUNTY
(Sewer & Water, H,Hw) - See Statewide
SURRY COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Forsyth County
SWAIN COUNTY
(Sewer & Water, H,Hw) - See Statewide
TRANSYLVANIA COUNTY
Decision #NC76-1087 (B)
41 FR 36399 - 8/27/76
(R) - See Buncombe County
(Sewer & Water, H,Hw) - See Statewide
TYRRELL County
(B) - See Camden County
(D) - See Beaufort County
(Sewer & Water, H,Hw) - See Statewide
UNION COUNTY
(Sewer & Water, H,Hw) - See Statewide
VANCE COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Beaufort County
WAKE COUNTY
Decision #NC76-1044 (B)
41 FR 14294 - 4/2/76
(R) - See Durham County
(Sewer & Water, H,Hw) - See Statewide
WARREN COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Beaufort County
WASHINGTON COUNTY
(D) - See Beaufort County
(Sewer & Water, H,Hw) - See Statewide
WATAUGA COUNTY
(R) - See Alexander County
(B) - See Avery County
(Sewer & Water, H,Hw) - See Statewide
WAYNE COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Carteret County
WILKES COUNTY
Decision #NC76-1068 (B)
41 FR 22011 - 5/28/76
(Sewer & Water, H,Hw) - See Statewide
(R) - See Alexander County
WILSON COUNTY
(B) - See Edgecombe County
(Sewer & Water, H,Hw) - See Statewide
(R) - See Beaufort County
YADKIN COUNTY
(Sewer & Water, H,Hw) - See Statewide
YANCEY COUNTY
(Sewer & Water, H,Hw) - See Statewide

NORTH DAKOTA

STATEWIDE
Decision #ND75-5109 (Hw)
40 FR 40022 - 8/29/75
Mod. #1 - 42 FR 13719 - 3/11/77
ADAMS COUNTY
(Hw) - See Statewide
BARNES COUNTY
(Hw) - See Statewide
BENSON COUNTY
(Hw) - See Statewide
BILLINGS COUNTY
(Hw) - See Statewide
BOTTINEAU COUNTY
(Hw) - See Statewide
BOWMAN COUNTY
(Hw) - See Statewide
BURKE COUNTY
(Hw) - See Statewide
BURLEIGH COUNTY
Decision #ND77-5062 (B)
42 FR 30125 - 6/10/77
Mod. #1 - 42 FR 34147 - 7/1/77

(Hw) - See Statewide
CASS COUNTY
(B) - See Burleigh County
(Hw) - See Statewide
CAVALIER COUNTY
(Hw) - See Statewide
DICKEY COUNTY
(Hw) - See Statewide
DIVIDE COUNTY
(Hw) - See Statewide
DUNN COUNTY
(Hw) - See Statewide
EDDY COUNTY
(Hw) - See Statewide
EMMONS COUNTY
(Hw) - See Statewide
FOSTER COUNTY
(Hw) - See Statewide
GOLDEN VALLEY COUNTY
(Hw) - See Statewide

NORTH DAKOTA (Cont'd)

GRAND FORKS COUNTY
(Hw) - See Statewide
(B) - See Burleigh County
GRANT COUNTY
(Hw) - See Statewide
GRIGGS COUNTY
(Hw) - See Statewide
HETTINGER COUNTY
(Hw) - See Statewide
KIDDER COUNTY
(Hw) - See Statewide
LA MOURE COUNTY
(Hw) - See Statewide
LOGAN COUNTY
(Hw) - See Statewide
McHENRY COUNTY
(Hw) - See Statewide
McINTOSH COUNTY
(Hw) - See Statewide
McKENZIE COUNTY
(Hw) - See Statewide
McLEAN COUNTY
(Hw) - See Statewide
MERCER COUNTY
(Hw) - See Statewide
MORTON COUNTY
(Hw) - See Statewide
(B) - See Burleigh County
MOUNTRAIL COUNTY
(Hw) - See Statewide
NELSON COUNTY
(Hw) - See Statewide
OLIVER COUNTY
(Hw) - See Statewide
PEMBINA COUNTY
(Hw) - See Statewide
PIERCE COUNTY
(Hw) - See Statewide
RAMSEY COUNTY
(Hw) - See Statewide
RANSOM COUNTY
(Hw) - See Statewide
RENVILLE COUNTY
(Hw) - See Statewide
RICHLAND COUNTY
(Hw) - See Statewide
(B) - See Burleigh County

NORTH DAKOTA (Cont'd)

ROLETTE COUNTY
(Hw) - See Statewide
SARGENT COUNTY
(Hw) - See Statewide
SHERIDAN COUNTY
(Hw) - See Statewide
SIOUX COUNTY
(Hw) - See Statewide
SLOPE COUNTY
(Hw) - See Statewide
STARK COUNTY
(Hw) - See Statewide
STEELE COUNTY
(Hw) - See Statewide
(B) - See Burleigh County
STUTSMAN COUNTY
(Hw) - See Statewide
TOWNER COUNTY
(Hw) - See Statewide
TRAILL COUNTY
(Hw) - See Statewide
WALSH COUNTY
(Hw) - See Statewide
(B) - See Burleigh County
WARD COUNTY
(Hw) - See Statewide
(B) - See Burleigh County
WELLS COUNTY
(Hw) - See Statewide
WILLIAMS COUNTY
(Hw) - See Statewide

OHIO

STATEWIDE
Decision #OH77-2063 (H,Hw)
42 FR 20036 - 4/15/77
Mod. #1 - 42 FR 23276 - 5/6/77
Mod. #2 - 42 FR 30086 - 6/10/77
ADAMS COUNTY
Decision #IL77-5056 (D)
42 FR 28759 - 6/3/77
Mod. #1 - 42 FR 32447 - 6/24/77
(H,Hw) - See Statewide
ALLEN COUNTY
Decision #OH77-2069 (B)
42 FR 24636 - 5/13/77
Mod. #1 - 42 FR 30089 - 6/10/77
(H,Hw) - See Statewide
ASHLAND COUNTY
Decision #OH77-2088 (R)
42 FR 26096 - 5/20/77
(H,Hw) - See Statewide
ASHTABULA COUNTY
Decision #OH77-2080 (B,R)
42 FR 24655 - 5/13/77
Mod. #1 - 42 FR 30091 - 6/10/77
Mod. #2 - 42 FR 31050 - 6/17/77
Decision #IL77-5038 (D)
42 FR 18802 - 4/8/77
Mod. #1 - 42 FR 22070 - 4/29/77
(H,Hw) - See Statewide
ATHENS COUNTY
(D) - See Adams County
(H,Hw) - See Statewide
AUGLAIZE COUNTY
(B) - See Allen County
(H,Hw) - See Statewide
BELMONT COUNTY
Decision #OH77-2086 (R)
42 FR 26095 - 5/20/77
(H,Hw) - See Statewide
BROWN COUNTY
(D) - See Adams County
(H,Hw) - See Statewide
BUTLER COUNTY
Decision #OH77-2079 (B)
42 FR 24652 - 5/13/77
Mod. #1 - 42 FR 30091 - 6/10/77
Decision #OH76-2030 (R)
41 FR 9800 - 3/5/76
(H,Hw) - See Statewide

OHIO (Cont'd.)

CARROLL COUNTY
Decision #OH77-2090 (R)
42 FR 26097 - 5/20/77
(H,Hw) - See Statewide
CHAMPAIGN COUNTY
Decision #OH77-2057 (R)
42 FR 20045 - 4/15/77
(H,Hw) - See Statewide
CLARK COUNTY
Decision #OH77-2081 (B)
42 FR 24661 - 5/13/77
Mod. #1 - 42 FR 30092 - 6/10/77
Mod. #2 - 42 FR 32452 - 6/24/77
Decision #AP-684 (R)
38 FR 14049 - 5/25/73
(H,Hw) - See Statewide
CLERMONT COUNTY
Decision #OH76-2029 (R)
41 FR 8739 - 2/27/76
Mod. #1 - 42 FR 17744 - 4/1/77
(B) - See Butler County
(D) - See Adams County
(H,Hw) - See Statewide
CLINTON COUNTY
Decision #OH77-2058 (R)
42 FR 20045 - 4/15/77
(H,Hw) - See Statewide
COLUMBIANA COUNTY
Decision #OH77-2075 (B)
42 FR 24638 - 5/13/77
Mod. #1 - 42 FR 30089 - 6/10/77
(H,Hw) - See Statewide
COSHOCTON COUNTY
Decision #OH77-2059 (R)
42 FR 20046 - 4/15/77
(H,Hw) - See Statewide
CRAWFORD COUNTY
Decision #OH77-2060 (R)
42 FR 20046 - 4/15/77
(H,Hw) - See Statewide
CUYAHOGA COUNTY
(B,D,R) - See Ashtabula County
(H,Hw) - See Statewide

OHIO (Cont'd)

DARKE COUNTY
Decision #OH77-2072 (R)
42 FR 24566 -5/13/77
(H,Hw) - See Statewide
DEFIANCE COUNTY
(H,Hw) - See Statewide
DELAWARE COUNTY
Decision #OH77-2067 (R)
42 FR 23421 - 5/6/77
(H,Hw) - See Statewide
ERIE COUNTY
Decision #OH77-2078 (B)
42 FR 24649 - 5/13/77
Mod. #1 - 42 FR 30090 - 6/10/77
(D) - See Ashtabula County
(H,Hw) - See Statewide
FAIRFIELD COUNTY
(R) - See Delaware County
(H,Hw) - See Statewide
FAYETTE COUNTY
Decision #OH77-2089 (R)
42 FR 26096 - 5/20/77
(H,Hw) - See Statewide
FRANKLIN COUNTY
(B) - See Clark County
(R) - See Delaware County
(H,Hw) - See Statewide
FULTON COUNTY
(B) - See Lucas County
(H,Hw) - See Statewide
Decision #OH77-2073 (B,R)
42 FR 24642 - 5/13/77
Mod. #1 - 42 FR 30089 - 6/10/77
GALLIA COUNTY
(D) - See Adams County
(H,Hw) - See Statewide
GEAUGA COUNTY
(H,Hw) - See Statewide
GREENE COUNTY
(B) - See Clarke County
Decision #OH75-2109 (R)
40 FR 42498 - 9/12/75
(H,Hw) - See Statewide
GUERNSEY COUNTY
(R) - See Coshocton County
(H,Hw) - See Statewide
HAMILTON COUNTY
(B) - See Butler County
(D) - See Adams County
(R) - See Clermont County
(H,Hw) - See Statewide
HANCOCK COUNTY
(H,Hw) - See Statewide
(R) - See Crawford County
Decision #OH77-2077 (B)
42 FR 24647 - 5/13/77
Mod. #1 - 42 FR 30090 - 6/10/77
HARDIN COUNTY
(H,Hw) - See Statewide

OHIO (Cont'd)

HARRISON COUNTY
(H,Hw) - See Statewide
(R) - See Carroll County
HENRY COUNTY
(H,Hw) - See Statewide
HIGHLAND COUNTY
(H,Hw) - See Statewide
HOCKING COUNTY
(H,Hw) - See Statewide
HOLMES COUNTY
(H,Hw) - See Statewide
HURON COUNTY
(B) - See Erie County
(H,Hw) - See Statewide
JACKSON COUNTY
(H,Hw) - See Statewide
JEFFERSON COUNTY
(H,Hw) - See Statewide
KNOX COUNTY
Decision #OH/7-2087 (R)
42 FR 26095 - 5/20/77
Mod. #1 - 42 FR 31050 - 6/17/77
(H,Hw) - See Statewide
LAKE COUNTY
(B,R) - See Ashtabula County
(D) - See Ashtabula County
(H,Hw) - See Statewide
LAWRENCE COUNTY
(B) - See Clark County
(D) - See Adams County
(H,Hw) - See Statewide
LICKING COUNTY
(B)- See Clark County
(H,Hw) - See Statewide
(R) - See Delaware County
LOGAN COUNTY
(R) - See Champaign County
(H,Hw) - See Statewide
LORAIN COUNTY
(B,D,R) - See Ashtabula County
(H,Hw) - See Statewide
LUCAS COUNTY
(B) - See Fulton County
(H,Hw) - See Statewide
MADISON COUNTY
(B) - See Clark County
(R) - See Delaware County
(H,Hw) - See Statewide
MAHONING COUNTY
Decision #OH77-2076 (B,R)
42 FR 24644 - 5/13/77
Mod. #1 - 42 FR 30090 - 6/10/77
Mod. #2 - 42 FR 34147 - 7/1/77
(H,Hw) - See Statewide

OHIO (Cont'd)

MARION COUNTY
(H,Hw) - See Statewide
MEDINA COUNTY
Decision #OH77-2061 (R)
42 FR 20047 - 4/15/77
(H,Hw) - See Statewide
MEIGS COUNTY
(D) - See Adams County
(H,Hw) - See Statewide
MERCER COUNTY
(B) - See Allen County
(H,Hw) - See Statewide
MIAMI COUNTY
(R) - See Greene County
(H,Hw) - See Statewide
MONROE COUNTY
(R) - See Belmont County
(D) - See Adams County
(H,Hw) - See Statewide
MONTGOMERY COUNTY
(B) - See Clark County
(R) - See Greene County
(H,Hw) - See Statewide
MORGAN COUNTY
(H,Hw) - See Statewide
MORROW COUNTY
(R) - See Knox County
(H,Hw) - See Statewide
MUSKINGUM COUNTY
Decision #OH77-2062 (R)
42 FR 20047 - 4/15/77
(B) - See Clark County
(H,Hw) - See Statewide
NOBLE COUNTY
(R) - See Belmont County
(H,Hw) - See Statewide
OTTAWA COUNTY
(B) - See Erie County
(D) - See Ashtabula County
(H,Hw) - See Statewide
PAULDING COUNTY
(H,Hw) - See Statewide
PERRY COUNTY
(H,Hw) - See Statewide
PICKAWAY COUNTY
(B) - See Clark County
(R) - See Delaware County
(H,Hw) - See Statewide
PIKE COUNTY
(B) - See Clark County
(H,Hw) - See Statewide
PORTAGE COUNTY
(B,R) - See Ashtabjla County
(H,Hw) - See Statewide

OHIO (Cont'd.)

PREBLE COUNTY
(R) - See Greene County
(H,Hw) - See Statewide
PUTNAM COUNTY
(H,Hw) - See Statewide
RICHLAND COUNTY
(B) - See Erie County
(R) - See Ashland County
(H,Hw) - See Statewide
ROSS COUNTY
(R) - See Fayette County
(B) - See Clark County
(H,Hw) - See Statewide
SANDUSKY COUNTY
(B) - See Erie County
(D) - See Ashtabula County
(H,Hw) - See Statewide
SCIOTO COUNTY
(B) - See Clark County
(D) - See Adams County
(H,Hw) - See Statewide
SENECA COUNTY
(R) - See Crawford County
(H,Hw) - See Statewide
SHELBY COUNTY
(H,Hw) - See Statewide
(R) - See Darke County
STARK COUNTY
(B,R) - See Ashtabula County
(H,Hw) - See Statewide
SUMMIT COUNTY
(B,R) - See Ashtabula County
(H,Hw) - See Statewide
TRUMBULL COUNTY
(B,R) - See Mahoning County
(H,Hw) - See Statewide
TUSCARAWAS COUNTY
Decision #OH77-2074 (B)
42 FR 24640 - 5/13/77
Mod. #1 - 42 FR 30089 - 6/10/77
(H,Hw) - See Statewide
UNION COUNTY
(R) - See Champaign County
(H,Hw) - See Statewide
VAN WERT COUNTY
(B) - See Allen County
(H,Hw) - See Statewide
VINTON COUNTY
(H,Hw) - See Statewide

OHIO (Cont'd.

WARREN COUNTY
(R) - See Butler County
(H,Hw) - See Statewide
WASHINGTON COUNTY
(D) - See Adams County
(H,Hw) - See Statewide
WAYNE COUNTY
Decision #OH77-2091 (R)
42 FR 26097 - 5/20/77
(H,Hw) - See Statewide
WILLIAMS COUNTY
(H,Hw) - See Statewide
WOOD COUNTY
(B) - See Hancock County
(H,Hw) - See Statewide
WYANDOT COUNTY
(R) - See Crawford County
(H,Hw) - See Statewide

OKLAHOMA

STATEWIDE (Except the City of Muskogee)
Decision #OK77-4073 (Constr., Alteration, and/or repair of streets, highways, runways, erosion control structures, well drilling, and water, and sewer utilities)
42 FR 17777 - 4/1/77
Mod. #1 - 42 FR 23279 - 5/6/77
ADAIR COUNTY
(B) - See Muskogee County
(H,Hw) - See Statewide
ALFALFA COUNTY
(H,Hw) - See Statewide
ATOKA COUNTY
(H,Hw) - See Statewide
BEAVER COUNTY
(H,Hw) - See Statewide
BECKHAM COUNTY
(H,Hw) - See Statewide
BLAINE COUNTY
(H,Hw) - See Statewide
BRYAN COUNTY
(H,Hw) - See Statewide
Decision #OK77-4036 (R)
42 FR 10261 - 2/18/77
CADDO COUNTY
(B) - See Canadian County
(H,Hw) - See Statewide
CANADIAN COUNTY
Decision #OK77-4038 (R)
42 FR 10262 - 2/18/77
Decision #OK77-4109 (B)
42 FR 28807 - 6/3/77
Mod. #1 - 42 FR 32452 - 6/24/77
Mod. #2 - 42 FR 34148 - 7/1/77
CARTER COUNTY
(H,Hw) - See Statewide
CHEROKEE COUNTY
(B) - See Muskogee County
(H,Hw) - See Statewide
CHOCTAW COUNTY
(H,Hw) - See Statewide
CIMARRON COUNTY
(H,Hw) - See Statewide
CLEVELAND COUNTY
(H,Hw) - See Statewide
(B,R) - See Canadian County
COAL COUNTY
(H,Hw) - See Statewide
COMANCHE COUNTY
(H,Hw) - See Statewide
Decision #OK77-4060 (R)
42 FR 13786 - 3/11/77
Decision #OK77-4150 (B)
42 FR 34227 - 7/1/77

OKLAHOMA (cont'd)

COTTON COUNTY
(H,Hw) - See Statewide
CRAIG COUNTY
(B) - See Tulsa County
(H,Hw) - See Statewide
CREEK COUNTY
(B) - See Tulsa County
(H,Hw) - See Statewide
CUSTER COUNTY
(H,Hw) - See Statewide
DELAWARE COUNTY
(B) - See Tulsa County
(H,Hw) - See Statewide
DEWEY COUNTY
(H,Hw) - See Statewide
ELLIS COUNTY
(H,Hw) - See Statewide
GARFIELD COUNTY
Decision #OK76-4160 (B)
41 FR 43629 - 10/1/76
Mod. #1 - 42 FR 4069 - 1/21/77
Mod. #2 - 42 FR 11189 - 2/25/77
Mod. #3 - 42 FR 22074 - 4/29/77
Mod. #4 - 42 FR 34148 - 7/1/77
(H,Hw) - See Statewide
GARVIN COUNTY
(H,Hw) - See Statewide
GRADY COUNTY
(B) - See Canadian County
(H,Hw) - See Statewide
GRANT COUNTY
(H,Hw) - See Statewide
GREER COUNTY
(H,Hw) - See Statewide
HARMON COUNTY
(H,Hw) - See Statewide
HARPER COUNTY
(H,Hw) - See Statewide
HASKELL COUNTY
(H,Hw) - See Statewide
HUGHES COUNTY
(H,Hw) - See Statewide
JACKSON COUNTY
(H,Hw) - See Statewide
JEFFERSON COUNTY
(H,Hw) - See Statewide
JOHNSTON COUNTY
(H,Hw) - See Statewide
KAY COUNTY
(H,Hw) - See Statewide
KINGFISHER COUNTY
(B) - See Canadian County
(H,Hw) - See Statewide

OKLAHOMA (cont'd)

KIOWA COUNTY
(H,Hw) - See Statewide
LATIMER COUNTY
(H,Hw) - See Statewide
LEFLORE COUNTY
(H,Hw) - See Statewide
LINCOLN COUNTY
(H,Hw) - See Statewide
(B,R) - See Canadian County
LOGAN COUNTY
(B) - See Canadian County
(H,Hw) - See Statewide
LOVE COUNTY
(H,Hw) - See Statewide
McCLAIN COUNTY
H,Hw) - See Statewide
(B) - See Canadian County
McCURTAIN COUNTY
(H,Hw) - See Statewide
McINTOSH COUNTY
Decision #OK77-4065 (B)
42 FR 15287 - 3/18/77
Mod. #1 - 42 FR 17744 - 4/1/77
Mod. #2 - 42 FR 22075 - 4/29/77
Mod. #3 - 42 FR 26111 - 5/20/77
Mod. #4 - 42 FR 28752 - 6/3/77
(H,Hw) - See Statewide
MAJOR COUNTY
(H,Hw) - See Statewide
MARSHALL COUNTY
(H,Hw) - See Statewide
MAYES COUNTY
(B) - See Tulsa County
(H,Hw) - See Statewide
MURRAY COUNTY
(H,Hw) - See Statewide
MUSKOGEE COUNTY
Decision #OK77-4062 (B,H,Hw)
42 FR 13787 - 3/11/77
Mod. #1 - 42 FR 16350 - 3/25/77
Mod. #2 - 42 FR 22075 - 4/29/77
Mod. #3 - 42 FR 26111 - 5/20/77
Mod. #4 - 42 FR 34148 - 7/1/77
(H,Hw) - See Statewide
NOBLE COUNTY
(H,Hw) - See Statewide
NOWATA COUNTY
(H,Hw) - See Statewide
OKFUSKEE COUNTY
(H,Hw) - See Statewide
OKLAHOMA COUNTY
(B,R) - See Canadian County
(H,Hw) - See Statewide
OKMULGEE COUNTY
(H,Hw) - See Statewide
OSAGE COUNTY
(H,Hw) - See Statewide
(R) - See Tulsa County
OTTAWA COUNTY
(B) - See Tulsa County
(H,Hw) - See Statewide
PAWNEE COUNTY
(H,Hw) - See Statewide

OKLAHOMA (Cont'd.

PAYNE COUNTY
(H,Hw) - See Statewide
PITTSBURG COUNTY
Decision #OK77-4066 (B)
42 FR 15289 - 3/18/77
Mod. #1 - 42 FR 22075 - 4/29/77
Mod. #2 - 42 FR 26111 - 5/20/77
Mod. #3 - 42 FR 28752 - 6/3/77
(H,Hw) - See Statewide
PONTOTOC COUNTY
(H,Hw) - See Statewide
POTTAWATOMIE COUNTY
(H,Hw) - See Statewide
(B,R) - See Canadian County
PUSHMATAHA COUNTY
(H,Hw) - See Statewide
ROGERS COUNTY
(B) - See Tulsa County
(H,Hw) - See Statewide
ROGERS MILLS COUNTY
(H,Hw) - See Statewide
SEMINOLE COUNTY
(B) - See Canadian County
(H,Hw) - See Statewide
SEQUOYAH COUNTY
(H,Hw) - See Statewide
STEPHENS COUNTY
(H,Hw) - See Statewide
TEXAS COUNTY
(H,Hw) - See Statewide
TILLMAN COUNTY
(H,Hw) - See Statewide
TULSA COUNTY
Decision #OK77-4037 (R)
42 FR 10262 - 2/18/77
Decision #OK77-4087 (B)
42 FR 22107 - 4/29/77
Mod. #1 - 42 FR 26112 - 5/20/77
Mod. #2 - 42 FR 32452 - 6/24/77
Mod. #3 - 42 FR 34148 - 7/1/77
WAGONER COUNTY
Decision #OK77-4088 (B)
42 FR 22110 - 4/29/77
(H,Hw) - See Statewide
WASHINGTON COUNTY
(H,Hw) - See Statewide
WASHITA COUNTY
(H,Hw) - See Statewide
WOODS COUNTY
(H,Hw) - See Statewide
WOODWARD COUNTY
(H,Hw) - See Statewide

OREGON

STATEWIDE
Decision #OR77-5063 (B,H,Hw,D)
42 FR 34230 - 7/1/77
BAKER COUNTY
(B,H,Hw,D) - See Statewide
BENTON COUNTY
(B,H,Hw,D) - See Statewide
CLACKAMAS COUNTY
Decision #OR75-5042 (R)
40 FR 15312 - 4/4/75
Mod. #1 - 40 FR 48001 - 10/10/75
Mod. #2 - 40 FR 52244 - 11/7/75
(B,H,Hw,D) - See Statewide
CLATSOP COUNTY
(B,H,Hw,D) - See Statewide
COLUMBIA COUNTY
(B,H,Hw,D) - See Statewide
COOS COUNTY
(B,H,Hw,D) - See Statewide
CROOK COUNTY
(B,H,Hw,D) - See Statewide
CURRY COUNTY
(B,H,Hw,D) - See Statewide
DESCHUTES COUNTY
(B,H,Hw,D) - See Statewide
DOUGLAS COUNTY
(B,H,Hw,D) - See Statewide
GILLIAM COUNTY
(B,H,Hw,D) - See Statewide
GRANT COUNTY
(B,H,Hw,D) - See Statewide
HARNEY COUNTY
(B,H,Hw,D) - See Statewide
HOOD RIVER COUNTY
(B,H,Hw,D) - See Statewide
JACKSON COUNTY
(B,H,Hw,D) - See Statewide
JEFFERSON COUNTY
(B,H,Hw,D) - See Statewide
JOSEPHINE COUNTY
(B,H,Hw,D) - See Statewide
KLAMATH COUNTY
(B,H,Hw,D) - See Statewide
LAKE COUNTY
(B,H,Hw,D) - See Statewide
LANE COUNTY
(B,H,Hw,D) - See Statewide
Decision #OR75-5122 (R)
40 FR 45989 - 10/3/75
Mod. #1 - 40 FR 52244 - 11/7/75

OREGON (Cont'd.)

LINCOLN COUNTY
(B,H,Hw,D) - See Statewide
LINN COUNTY
(B,H,Hw,D) - See Statewide
(R) - See Lane County
MALHEUR COUNTY
(B,H,Hw,D) - See Statewide
MARION COUNTY
(R) - See Lane County
(B,H,Hw,D) - See Statewide
MORROW COUNTY
(B,H,Hw,D) - See Statewide
MULTNOMAH COUNTY
(R) - See Clackamas County
(B,H,Hw,D) - See Statewide
POLK COUNTY
(B,H,Hw,D) - See Statewide
SHERMAN COUNTY
(B,H,Hw,D) - See Statewide
TILLAMOOK COUNTY
(B,H,Hw,D) - See Statewide
UMATILLA COUNTY
(B,H,Hw,D) - See Statewide
UNION COUNTY
(B,H,Hw,D) - See Statewide
WALLOWA COUNTY
(B,H,Hw,D) - See Statewide
WASCO COUNTY
(B,H,Hw,D) - See Statewide
WASHINGTON COUNTY
(B,H,Hw,D) - See Statewide
(R) - See Clackamas County
WHEELER COUNTY
(B,H,Hw,D) - See Statewide
YAMHILL COUNTY
(B,H,Hw,D) - See Statewide

PENNSYLVANIA

ADAMS COUNTY
Decision #PA77-3060 (H,Hw)
42 FR 26179 - 5/20/77
Mod. #1 - 42 FR 32455 - 6/24/77
Mod. #2 - 42 FR 34150 - 7/1/77
Decision #PA77-3028 (B)
42 FR 20098 - 4/15/77
Mod. #1 - 42 FR 23284 - 5/6/77
Mod. #2 - 42 FR 31051 - 6/17/77
ALLEGHENY COUNTY
(B) - See Armstrong County
(H,Hw) - See Butler County
Decision #PA75-3070 (R)
40 FR 30433 - 8/18/75
Mod. #1 - 40 FR 34555 - 8/15/75
Mod. #2 - 41 FR 4738 - 1/30/76
Mod. #3 - 41 FR 26428 - 6/25/76
Mod. #4 - 42 FR 8937 - 2/11/77
ARMSTRONG COUNTY
(H,Hw) - See Butler County
Decision #PA77-3061 (B)
42 FR 30133 - 6/10/77
BEAVER COUNTY
(H,Hw) - See Armstrong County
(B) - See Butler County
BEDFORD COUNTY
Decision #PA77-3054 (B)
42 FR 24677 - 5/13/77
Mod. #1 - 42 FR 30096 - 6/10/77
(H,Hw) - See Butler County
BERKS COUNTY
Decision #PA77-3029 (B)
42 FR 10263 - 2/18/77
Mod. #1 - 42 FR 16351 - 3/25/77
Mod. #2 - 42 FR 20986 - 4/22/77
Mod. #3 - 42 FR 23284 - 5/6/77
(H,Hw) - See Adams County
BLAIR COUNTY
Decision #PA76-3165 (B)
41 FR 18274 - 4/30/76
Mod. #1 - 42 FR 12574 - 3/4/77
(Hw) - See Butler County

PENNSYLVANIA (Cont'd.

BRADFORD COUNTY
Decision #PA76-3208 (B)
41 ER 27535 - 7/2/76
Mod. #1 - 41 FR 43567 - 10/1/76
Mod. #2 - 41 FR 44604 - 10/8/76
Mod. #3 - 42 FR 10217 - 2/18/77
Mod. #4 - 42 FR 16352 - 3/25/77
Mod. #5 - 42 FR 23283 - 5/6/77
(H,Hw) - See Adams County
BUCKS COUNTY
Decision #PA77-3016 (B,R)
42 FR 5632 - 1/28/77
Mod. #1 - 42 FR 10218 - 2/18/77
Mod. #2 - 42 FR 20986 - 4//22/77
Mod. #3 - 42 FR 22078 - 4/29/77
Mod. #4 - 42 FR 23280 - 5/6/77
Mod. #5 - 42 FR 32454 - 6/24/77
Decision #PA76-3169 (H,Hw)
41 FR 21133 - 5/21/76
Mod. #1 - 41 FR 45797 - 6/25/76
Mod. #2 - 41 FR 45797 - 10/15/76
Mod. #3 - 41 FR 53235 - 12/3/76
Mod. #4 - 42 FR 24574 - 5/13/77
Mod. #5 - 42 FR 32453 - 6/24/77
BUTLER COUNTY
(B) - See Armstrong County
Decision #PA77-3023 (H,Hw)
42 FR 5640 - 1/28/77
Mod. #1 - 42 FR 10218 - 2/18/77
Mod. #2 - 42 FR 22076 - 4/29/77
Mod. #3 - 42 FR 32454 - 6/24/77
Mod. #4 - 42 FR 34149 - 7/1/77
CAMBRIA COUNTY
(H,Hw) - See Butler County
(B) - See Bedford County
CAMERON COUNTY
(B) - See Bedford County
(H,Hw) - See Butler County
CARBON COUNTY
Decision #PA77-3043 (B)
42 FR 18783 - 4/8/77
Mod. #1 - 42 FR 26112 - 5/20/77
(H,Hw) - See Adams County
CENTRE COUNTY
(B) - See Clinton County
(H,Hw) - See Butler County
CHESTER COUNTY
(B,H,Hw,R) - See Bucks County
CLARION COUNTY
(B) - See Bedford County
(H,Hw) - See Butler County
CLEARFIELD COUNTY
(B) - See Bedford County
(H,Hw) - See Butler County

PENNSYLVANIA (Cont'd.

CLINTON COUNTY
Decision #PA77-3039 (B)
42 FR 18778 - 4/8/77
Mod. #1 - 42 FR 20986 - 4/22/77
Mod. #2 - 42 FR 23281 - 5/6/77
Mod. #3 - 42 FR 30095 - 6/10/77
Mod. #4 - 42 FR 31054 - 6/17/77
COLUMBIA COUNTY
Decision #PA76-3210 (B)
41 FR 30486 - 7/23/76
Mod. #1 - 41 FR 44605 - 10/8/76
Mod. #2 - 42 FR 10218 - 2/18/77
Mod. #3 - 42 FR 16352 - 3/25/77
Mod. #4 - 42 FR 23283 - 5/6/77
Mod. #5 - 42 FR 32453 - 6/24/77
(H,Hw) - See Adams County
CRAWFORD COUNTY
(B) - See Bedford County
(H,Hw) - See Butler County
CUMBERLAND COUNTY
Decision #PA77-3030 (B)
42 FR 10266 - 2/18/77
Mod. #1 - 42 FR 22078 - 4/29/77
Mod. #2 - 42 FR 23284 - 5/6/77
Mod. #3 - 42 FR 31051 - 6/17/77
(H,Hw) - See Adams County
DAUPHIN COUNTY
(B) - See Cumberland County
(H,Hw) - See Adams County
DELAWARE COUNTY
(B,H,Hw,R) - See Bucks County
ELK COUNTY
Decision #PA77-3053 (B)
42 FR 24672 - 5/13/77
Mod. #1 - 42 FR 31055 - 6/17/77
(H,Hw) - See Butler County
ERIE COUNTY
Decision #PA77-3058 (B)
42 FR 24702 - 5/13/77
Mod. #1 - 42 FR 30099 - 6/10/77
Decision #IL77-5038 (D)
42 FR 18802 - 4/8/77
Mod. #1 - 42 FR 22070 - 4/29/77
(H,Hw) - See Butler County

PENNSYLVANIA (cont'd.

FAYETTE COUNTY
(B) - See Armstrong County
(H,Hw) - See Butler County
FOREST COUNTY
(B) - See Elk County
(H,Hw) - See Butler County
FRANKLIN COUNTY
(H,Hw) - See Butler County
FULTON COUNTY
(B) - See Clinton County
(H,Hw) - See Butler County
GREENE COUNTY
Decision #PA77-3055 (B)
42 FR 24688 - 5/13/77
Mod. #1 - 42 FR 30097 - 6/10/77
(H,Hw) - See Butler County
HUNTINGDON COUNTY
(B) - See Clinton County
(H,Hw) - See Butler County
INDIANA COUNTY
(B) - See Armstrong County
(H,Hw) - See Butler County
JEFFERSON COUNTY
(B) - See Bedford County
(H,Hw) - See Butler County
JUNIATA COUNTY
(B) - See Cumberland County
(H,Hw) - See Adams County
LACKAWANNA COUNTY
Decision #PA77-3050 (B)
42 FR 24669 - 5/13/77
Mod. #1 - 42 FR 32455 - 6/24/77
(H,Hw) - See Adams County
LANCASTER COUNTY
Decision #PA77-3026 (B)
42 FR 7066 - 2/4/77
Mod. #1 - 42 FR 10218 - 2/18/77
Mod. #2 - 42 FR 20052 - 4/15/77
Mod. #3 - 42 FR 22076 - 4/29/77
Mod. #4 - 42 FR 23284 - 5/6/77
Mod. #5 - 42 FR 31051 - 5/17/77
(H,Hw) - See Adams County
LAWRENCE COUNTY
Decision #PA77-3078 (B)
42 FR 32478 - 6/24/77
(H,Hw) - See Butler County

PENNSYLVANIA (Cont'd.

LEBANON COUNTY
Decision #PA77-3031 (B)
42 FR 18839 - 4/8/77
Mod. #1 - 42 FR 20986 - 4/22/77
Mod. #2 - 42 FR 23284 - 5/6/77
Mod. #3 - 42 FR 31052 - 6/17/77
(H,Hw) - See Adams County
LEHIGH COUNTY
Decision #PA77-3056 (B)
42 FR 24698 - 5/13/77
Mod. #1 - 42 FR 34149 - 7/1/77
(H,Hw) - See Adams County
LUZERNE COUNTY
Decision #PA77-3059 (B)
42 FR 26176 - 5/20/77
(H,Hw) - See Adams County
LYCOMING COUNTY
(H,Hw) - See Adams County
Decision #PA77-3032 (B)
42 FR 16373 - 3/25/77
Mod. #1 - 42 FR 23284 - 5/6/77
Mod. #2 - 42 FR 31053 - 6/17/77
MC KEAN COUNTY
(B) - See Forest County
(H,Hw) - See Butler County
MERCER COUNTY
(B) - See Lawrence County
(H,Hw) - See Butler County
MIFFLIN COUNTY
(B) - See Clinton County
(H,Hw) - See Butler County
MONROE COUNTY
(B) - See Carbon County
(H,Hw) - See Adams County
MONTGOMERY COUNTY
(B,H,Hw,R) - See Bucks County
MONTOUR COUNTY
(B) - See Columbia County
(H,Hw) - See Adams County

PENNSYLVANIA (Cont'd.

NORTHAMPTON COUNTY
(H,Hw) - See Adams County
Decision PA77-3033 (B)
42 FR 10268 - 2/18/77
Mod. #1 - 42 FR 22076 - 4/29/77
Mod. #2 - 42 FR 23285 - 5/6/77
Mod. #3 - 42 FR 34149 - 7/1/77
NORTHUMBERLAND COUNTY
Decision #PA77-3049 (B)
42 FR 21043 - 4/22/77
Mod. #1 - 42 FR 23285 - 5/6/77
Mod. #2 - 42 FR 31054 - 6/17/77
(H,Hw) - See Adams County
PERRY COUNTY
(B) - See Cumberland County
(H,Hw) - See Adams County
PHILADELPHIA COUNTY
Decision #CT77-5001 (D)
42 FR 999 - 1/4/77
(B,H,Hw,R) - See Bucks County
PIKE COUNTY
(B) - See Carbon County
(H,Hw) - See Adams County
POTTER COUNTY
(B) - See Greene County
(H,Hw) - See Butler County
SCHUYKILL COUNTY
Decision #PA77-3034 (B)
42 FR 20100 - 4/15/77
Mod. #1 - 42 FR 22078 - 4/29/77
Mod. #2 - 42 FR 23285 - 5/6/77
Mod. #3 - 42 FR 31053 - 6/17/77
(H,Hw) - See Adams County
SNYDER COUNTY
(B) - See Columbia County
(H,Hw) - See Adams County
SOMERSET COUNTY
(B) - See Greene County
(H,Hw) - See Butler County
SULLIVAN COUNTY
Decision #PA77-3057 - (B)
42 FR 24700 - 5/13/77
(H,Hw) - See Adams County

PENNSYLVANIA (Cont'd.

SUSQUEHANNA COUNTY
(B) - See Lackawanna County
(H,Hw) - See Adams County
TIOGA COUNTY
(B) - See Bradford County
(H,Hw) - See Adams County
UNION COUNTY
(B) - See Bradford County
(H,Hw) - See Adams County
VENANGO COUNTY
(H,Hw) - See Butler County
(B) - See Bedford County
WARREN COUNTY
(B) - See Elk County
(H,Hw) - See Butler County
WASHINGTON COUNTY
(B) - See Armstrong County
(H,Hw) - See Butler County
WAYNE COUNTY
(B) - See Lackawanna County
(H,Hw) - See Adams County
WESTMORELAND COUNTY
(B) - See Armstrong County
(H,Hw) - See Butler County
WYOMING COUNTY
(B) - See Lackawanna County
(H,Hw) - See Adams County
YORK COUNTY
(B,H,Hw) - See Adams Co. (Excluding New Cumberland Depot)
(B) - See Cumberland County (New Cumberland Depot)
(H,Hw) - See Adams County (New Cumberland Depot)

PUERTO RICO

PUERTO RICO
Decision #PR75-3091 (R)
40 FR 33644 - 8/8/75
Mod. #1 - 40 FR 59664 - 12/29/75
Mod. #2 - 42 FR 4069 - 1/21/77
Decision #PR75-3090 (B)
40 FR 33643 - 8/8/75
Mod. #1 - 40 FR 59664 - 12/29/75
Mod. #2 - 42 FR 4069 - 1/21/77
Decision #PR75-3089 (H,Hw)
40 FR 33643 - 8/8/75
Mod. #1 - 42 FR 4069 - 1/21/77

RHODE ISLAND

STATEWIDE
Decision #CT77-5001 (D)
42 FR 999 - 1/4/77
BRISTOL COUNTY
Decision #RI76-2150 (B,H,Hw,R, & Marine)
41 FR 48996 - 11/5/76
Mod. #1 - 42 FR 20052 - 4/15/77
(D) - See Statewide
KENT COUNTY
(B,H,Hw, R, & Marine) - See Bristol Co.
(D) - See Statewide
NEWPORT COUNTY
Decision #RI76-2151 (B,H,Hw,R, & Marine)
41 FR 50186 - 11/12/76
Mod. #1 - 42 FR 20053 - 4/15/77
(D) - See Statewide
PROVIDENCE COUNTY
(D) - See Statewide
(B,H,Hw, R, & Marine) - See Bristol County
WASHINGTON COUNTY
Decision #RI76-2152 (B,H,Hw,R, & Marine)
41 FR 51362 - 11/19/76
Mod. #1 - 42 FR 20053 - 4/15/77
(D) - See Statewide

SOUTH CAROLINA

STATEWIDE
Decision #SC75-1031 (Hw)
40 FR 12058 - 3/14/75
Mod. #1 - 40 FR 41355 - 9/5/75
Mod. #2 - 41 FR 10825 - 3/12/76
Mod. #3 - 41 FR 51251 - 11/19/76
Decision #SC75-1079 (H, W&S)
40 FR 41380 - 9/5/75
ABBEVILLE COUNTY
Decision #SC76-1053 (B)
41 FR 20146 - 5/14/76
(Sewer & Water, H,Hw) - See Statewide
AIKEN COUNTY
Decision #SC75-1029 (R)
40 FR 10900 - 3/7/75
Mod. #1 - 41 FR 1692 - 1/9/76
(Sewer & Water, H,Hw) - See Statewide

SOUTH CAROLINA

ALLENDALE COUNTY
Decision #SC75-1045 (R)
40 FR 16636 - 4/11/77
Mod. #1 - 41 FR 1692 - 1/9/76
(Sewer & Water, H,Hw) - See Statewide
ANDERSON COUNTY
Decision #SC76-1115 (R)
41 FR 44657 - 10/8/76
(Sewer & Water, H,Hw) - See Statewide
BAMBERG COUNTY
(R) - See Allendale County
(Sewer & Water, H,Hw) - See Statewide
BARNWELL COUNTY
(R) - See Aiken County
(Sewer & Water, H,Hw) - See Statewide
BEAUFORT COUNTY
Decision #SC77-1070 (B)
42 FR 26182 - 5/20/77
Decision #GA77-5035 (D)
42 FR 13756 - 3/11/77
(Sewer & Water, H,Hw) - See Statewide
BERKELEY COUNTY
(D) - See Beaufort County
(Sewer & Water, H,Hw) - See Statewide
Decision #SC76-1067 (R)
41 FR 22024 - 5/28/76
Mod. #1 - 41 FR 23889 - 6/11/76
Decision #SC75-1055 (B)
40 FR 22785 - 5/23/75
Mod. #1 - 40 FR 25336 - 6/13/75
Mod. #2 - 41 FR 18267 - 4/30/76
Mod. #3 - 41 FR 20129 - 5/14/76
CALHOUN COUNTY
(R) - See Allendale County
(Sewer & Water, H,Hw) - See Statewide
CHARLESTON COUNTY
(B,R) - See Berkeley County
(D) - See Beaufort County
(Sewer & Water, H,Hw) - See Statewide
CHEROKEE COUNTY
Decision #SC76-1100 (R)
41 FR 38739 - 9/10/76
(B) - See Abbeville County
(Sewer & Water, H,Hw) - See Statewide
CHESTER COUNTY
Decision #SC77-1077 (R)
42 FR 30080 - 6/10/77
Decision #SC77-1019 (B)
42 FR 8990 - 2/11/77
Mod. #1 - 42 FR 12574 - 3/4/77
(Sewer & Water, H,Hw) - See Statewide
CHESTERFIELD COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Chester County

SOUTH CAROLINA (Cont'd.)

CLARENDON COUNTY
Decision #SC76-1008 (R)
41 FR 36399 - 8/27/76
(Sewer & Water, H,Hw) - See Statewide
COLLETON COUNTY
(D) - See Beaufort County
(Sewer & Water, H,Hw) - See Statewide
DARLINGTON COUNTY
Decision #SC75-1041 (B)
40 FR 14194 - 3/28/75
(R) - See Clarendon County
(Sewer & Water, H,Hw) - See Statewide
DILLON COUNTY
(R) - See Clarendon County
(Sewer & Water, H,Hw) - See Statewide
DORCHESTER COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Berkeley County
EDGEFIELD COUNTY
(R) - See Aiken County
(Sewer & Water, H,Hw) - See Statewide
FAIRFIELD COUNTY
(B,R) - See Chester County
(Sewer & Water, H,Hw) - See Statewide
FLORENCE COUNTY
(R) - See Clarendon County
(Sewer & Water, H,Hw) - See Statewide
GEORGETOWN COUNTY
(D) - See Beaufort County
(Sewer & Water, H,Hw) - See Statewide
GREENVILLE COUNTY
Decision #SC75-1038 (B)
40 FR 12951 - 3/21/75
Mod. #1 - 40 FR 16496 - 4/11/75
Mod. #2 - 41 FR 43422 - 9/19/75
(R) - See Anderson County
(Sewer & Water, H,Hw) - See Statewide
GREENWOOD COUNTY
(Sewer & Water, H,Hw) - See Statewide
HAMPTON COUNTY
(Sewer & Water, H,Hw) - See Statewide
HORRY COUNTY
(D) - See Beaufort County
(Sewer & Water, H,Hw) - See Statewide
JASPER COUNTY
(D) - See Beaufort County
(Sewer & Water, H,Hw) - See Statewide
KERSHAW COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Chester County

SOUTH CAROLINA (Cont'd.)

LANCASTER COUNTY
(B) - See Chester County
(Sewer & Water, H,Hw) - See Statewide
LAURENS COUNTY
(B) - See Abbeville County
(Sewer & Water, H,Hw) - See Statewide
LEE COUNTY
(R) - See Clarendon County
(Sewer & Water, H,Hw) - See Statewide
LEXINGTON COUNTY
Decision #SC77-1008 (B)
42 FR 4101 - 1/21/77
Decision #SC76-1126 (R)
41 FR 47907 - 10/29/76
(Sewer & Water, H,Hw) - See Statewide
McCORMIC COUNTY
(Sewer & Water, H,Hw) - See Statewide
MARION COUNTY
(R) - See Clarendon County
(Sewer & Water, H,Hw) - See Statewide
MARLBORO COUNTY
(R) - See Clarendon County
(Sewer & Water, H,Hw) - See Statewide
NEWBERRY COUNTY
(B) - See Abbeville County
(Sewer & Water, H,Hw) - See Statewide
OCONEE COUNTY
(R) - See Anderson County
(Sewer & Water, H,Hw) - See Statewide
ORANGEBURG COUNTY
(R) - See Allendale County
(Sewer & Water, H,Hw) - See Statewide
PICKENS COUNTY
(R) - See Anderson County
(Sewer & Water, H,Hw) - See Statewide
RICHLAND COUNTY
(B,R) - See Lexington County
(Sewer & Water, H,Hw) - See Statewide
SALUDA COUNTY
(Sewer & Water, H,Hw) - See Statewide
SPARTANBURG COUNTY
(R) - See Cherokee County
(Sewer & Water, H,Hw) - See Statewide
SUMTER COUNTY
Decision #SC76-1008 (B)
41 FR 1699 - 1/9/76
Mod. #1 - 41 FR 19013 - 5/7/76
(Sewer & Water, H,Hw) - See Statewide
(R) - See Clarendon County
UNION COUNTY
(R) - See Cherokee County
(Sewer & Water, H,Hw) - See Statewide
(B) - See Abbeville County
WILLIAMSBURG COUNTY
(R) - See Clarendon County
(Sewer & Water, H,Hw) - See Statewide
YORK COUNTY
(Sewer & Water, H,Hw) - See Statewide
(R) - See Chester County

SOUTH DAKOTA

STATEWIDE
Decision #SD76-5039 (H,Hw)
41 FR 17300 - 4/23/76
AURORA COUNTY
(H,Hw) - See Statewide
BEADLE COUNTY
(H,Hw) - See Statewide
BENNET COUNTY
(H,Hw) - See Statewide
BON HOMME COUNTY
(H,Hw) - See Statewide
BROOKINGS COUNTY
(H,Hw) - See Statewide
BROWN COUNTY
(H,Hw) - See Statewide
BRULE COUNTY
(H,Hw) - See Statewide
BUFFALO COUNTY
(H,Hw) - See Statewide
BUTTE COUNTY
(H,Hw) - See Statewide
CAMPBELL COUNTY
(H,Hw) - See Statewide
CHARLES MIX COUNTY
(H,Hw) - See Statewide
CLARK COUNTY
(H,Hw) - See Statewide
CLAY COUNTY
(H,Hw) - See Statewide
CODINGTON COUNTY
(H,Hw) - See Statewide
CORSON COUNTY
(H,Hw) - See Statewide
CUSTER COUNTY
(H,Hw) - See Statewide
DAVISON COUNTY
(H,Hw) - See Statewide
DAY COUNTY
(H,Hw) - See Statewide
DEUEL COUNTY
(H,Hw) - See Statewide
DEWEY COUNTY
(H,Hw) - See Statewide
DOUGLAS COUNTY
(H,Hw) - See Statewide
EDMUNDS COUNTY
(H,Hw) - See Statewide
FALL RIVER COUNTY
(H,Hw) - See Statewide
FAULK COUNTY
(H,Hw) - See Statewide
GRANT COUNTY
(H,Hw) - See Statewide

SOUTH DAKOTA (Cont'd.

GREGORY COUNTY
(H,Hw) - See Statewide
HAAKON COUNTY
(H,Hw) - See Statewide
HAMLIN COUNTY
(H,Hw) - See Statewide
HAND COUNTY
(H,Hw) - See Statewide
HANSON COUNTY
(H,Hw) - See Statewide
HARDING COUNTY
(H,Hw) - See Statewide
HUGHES COUNTY
(H,Hw) - See Statewide
HUTCHINSON COUNTY
(H,Hw) - See Statewide
HYDE COUNTY
(H,Hw) - See Statewide
JACKSON COUNTY
(H,Hw) - See Statewide
JERAULD COUNTY
(H,Hw) - See Statewide
JONES COUNTY
(H,Hw) - See Statewide
KINGSBURY COUNTY
(H,Hw) - See Statewide
LAKE COUNTY
(H,Hw) - See Statewide
LAWRENCE COUNTY
(H,Hw) - See Statewide
LINCOLN COUNTY
(H,Hw) - See Statewide
LYMAN COUNTY
(H,Hw) - See Statewide

SOUTH DAKOTA (Cont'd)

MARSHALL COUNTY
(H,Hw) - See Statewide
Mc COOK COUNTY
(H,Hw) - See Statewide
Mc PHERSON COUNTY
(H,Hw) - See Statewide
MEADE COUNTY
Decision #SD77-5065 (B)
42 FR 31114 - 6/17/77
(H,Hw) - See Statewide
MELLETTE COUNTY
(H,Hw) - See Statewide
MINER COUNTY
(H,Hw) - See Statewide
MINNEHAHA COUNTY
Decision #SD77-5064 (B)
42 FR 31113 - 6/17/77
(H,Hw) - See Statewide
Decision #SD77-5019 (R)
42 FR 8990 - 2/11/77
MOODY COUNTY
(H,Hw) - See Statewide
PENNINGTON COUNTY
(B) - See Meade County
(H,Hw) - See Statewide
PERKINS COUNTY
(H,Hw) - See Statewide
POTTER COUNTY
(H,Hw) - See Statewide
ROBERTS COUNTY
(H,Hw) - See Statewide
SANBORN COUNTY
(H,Hw) - See Statewide
SHANNON COUNTY
(H,Hw) - See Statewide
SPINK COUNTY
(H,Hw) - See Statewide
STANLEY COUNTY
(H,Hw) - See Statewide
SULLY COUNTY
(H,Hw) - See Statewide

SOUTH DAKOTA (Cont'd.)

TODD COUNTY
(H,Hw) - See Statewide
TRIPP COUNTY
(H,Hw) - See Statewide
TURNER COUNTY
(H,Hw) - See Statewide
UNION COUNTY
(H,Hw) - See Statewide
WALWORTH COUNTY
(H,Hw) - See Statewide
WASHABAUGH COUNTY
(H,Hw) - See Statewide
YANKTON COUNTY
(H,Hw) - See Statewide
ZIEBACH COUNTY
(H,Hw) - See Statewide

TENNESSEE

STATEWIDE
Decision #TN77-1041 (Hw)
42 FR 17784 - 4/1/77
ANDERSON COUNTY
Decision #TN77-1052 (B)(Oak Ridge, Energy Research Development Administration Only)
42 FR 25427 - 5/6/77
Mod. #1 - 42 FR 32456 - 6/24/77
Decision #AR76-5041 (F)
41 FR 13017 - 5/7/76
Mod. #1 - 41 FR 21981 - 5/28/76
(Hw) - See Statewide
BEDFORD COUNTY
(F) - See Anderson County
(Hw) - See Statewide
BENTON COUNTY
(F) - See Anderson County
(Hw) - See Statewide
BLEDSOE COUNTY
(F) - See Anderson County
(Hw) - See Statewide
BLOUNT COUNTY
(F) - See Anderson County
(Hw) - See Statewide
BRADLEY COUNTY
(F) - See Anderson County
(Hw) - See Statewide
CAMPBELL COUNTY
(F) - See Anderson County
(Hw) - See Statewide
CANNON COUNTY
(F) - See Anderson County
(Hw) - See Statewide
CARROLL COUNTY
(F) - See Anderson County
(Hw) - See Statewide
CARTER COUNTY
Decision #TN76-1052 (B)
41 FR 17391 - 4/23/76
Decision #TN75-1098 (R)
40 FR 44476 - 9/26/75
(F) - See Anderson County
(Hw) - See Statewide
CHEATHAM COUNTY
(F) - See Anderson County
(Hw) - See Statewide
CHESTER COUNTY
(F) - See Anderson County
(Hw) - See Statewide
CLAIBORNE COUNTY
(F) - See Anderson County
(Hw) - See Statewide

TENNESSEE (CONT'D.)

CLAY COUNTY
(F) - See Anderson County
(Hw) - See Statewide
COCKE COUNTY
(F) - See Anderson County
(Hw) - See Statewide
COFFEE COUNTY
(F) - See Anderson County
(Hw) - See Statewide
CROCKETT COUNTY
(F) - See Anderson County
(Hw) - See Statewide
CUMBERLAND COUNTY
(Hw) - See Statewide
DAVIDSON COUNTY
Decision #TN77-1036 (B)
42 FR 16375 - 3/25/77
(F) - See Anderson County
(Hw) - See Statewide
DECATUR COUNTY
(F) - See Anderson County
(Hw) - See Statewide
DEKALB COUNTY
(F) - See Anderson County
(Hw) - See Statewide
DICKSON COUNTY
(F) - See Anderson County
(Hw) - See Statewide
DYER COUNTY
Decision #TN76-1140 (R)
42 FR 56593 - 12/28/76
Decision #TN76-1054 (B)
41 FR 21140 - 5/21/76
Decision #AL76-5090 (D)
41 FR 44609 - 10/8/76
Mod. #1 - 42 FR 18788 - 4/8/77
(F) - See Anderson County
(Hw) - See Statewide
FAYETTE COUNTY
(F) - See Anderson County
(Hw) - See Statewide
FENTRESS COUNTY
(F)- See Anderson County
(Hw) - See Statewide
FRANKLIN COUNTY
(F) - See Anderson County
(Hw) - See Statewide
GIBSON COUNTY
(F) - See Anderson County
(Hw) - See Statewide
(B,R) - See Dyer County

TENNESSEE (Cont'd)

GILES COUNTY
(F) - See Anderson County
(Hw) - See Statewide
GRAINGER COUNTY
(F) - See Anderson County
(Hw) - See Statewide
GREENE COUNTY
(F) - See Anderson County
(Hw) - See Statewide
GRUNDY COUNTY
(F) - See Anderson County
(Hw) - See Statewide
HAMBLEN COUNTY
(F) - See Anderson County
(Hw) - See Statewide
HAMILTON COUNTY
Decision #TN77-1033 (B,H)
42 FR 17782 - 4/1/77
Mod. #1 - 42 FR 20063 - 4/15/77
(F) - See Anderson County
(Hw) - See Statewide
HANCOCK COUNTY
(F) - See Anderson County
(Hw) - See Statewide
HARDEMAN COUNTY
(F) - See Anderson County
(Hw) - See Statewide
HARDIN COUNTY
(F) - See Anderson County
(Hw) - See Statewide
HAWKINS COUNTY
(F) - See Anderson County
(Hw) - See Statewide
HAYWOOD COUNTY
(F) - See Anderson County
(Hw) - See Statewide
HENDERSON COUNTY
(F) - See Anderson County
(Hw) - See Statewide
HENRY COUNTY
(F) - See Anderson County
(Hw) - See Statewide
HICKMAN COUNTY
(F) - See Anderson County
(Hw) - See Statewide
HOUSTON COUNTY
(F) - See Anderson County
(Hw) - See Statewide
HUMPHREYS COUNTY
(F) - See Anderson County
(Hw) - See Statewide
JACKSON COUNTY
(F) - See Anderson County
(Hw) - See Statewide

TENNESSEE (CONT'D)

JEFFERSON COUNTY
(F) - See Anderson County
(Hw) - See Statewide
JOHNSON COUNTY
(F) - See Anderson County
(Hw) - See Statewide
KNOX COUNTY
Decision #TN77-1037 (B)
42 FR 17780 - 4/1/77
Mod. #1 - 42 FR 23288 - 5/6/77
Decision #TN76-1055 (R)
41 FR 27648 - 7/2/76
(F) -See Anderson County
(Hw) - See Statewide
LAKE COUNTY
(F) - See Anderson County
(Hw) - See Statewide
(R) - See Dyer County
LAUDERDALE COUNTY
(D,R) - See Dyer County
(F) - See Anderson County
(Hw) - See Statewide
LAWRENCE COUNTY
(F) - See Anderson County
(Hw) - See Statewide
LEWIS COUNTY
(F) - See Anderson County
(Hw) - See Statewide
LINCOLN COUNTY
(F) - See Anderson County
(Hw) - See Statewide
LOUDON COUNTY
(F) - See Anderson County
(Hw) - See Statewide
MC MINN COUNTY
(F) - See Anderson County
(Hw) - See Statewide
MC NAIRY COUNTY
(F) - See Anderson County
(Hw) - See Statewide
MACON COUNTY
(F) - See Anderson County
(Hw) - See Statewide
MADISON COUNTY
Decision #TN77-1051 (B)
42 FR 23426 - 5/6/77
(F) - See Anderson County
(Hw) - See Statewide
MARION COUNTY
(F) - See Anderson County
(Hw) - See Statewide

TENNESSEE (Cont'd)

MARSHALL COUNTY
(F) - See Anderson County
(Hw) - See Statewide
MAURY COUNTY
(F) - See Anderson County
(Hw) - See Statewide
MEIGS COUNTY
(F) - See Anderson County
(Hw) - See Statewide
MONROE COUNTY
(F) - See Anderson County
(Hw) - See Statewide
MONTGOMERY COUNTY
Decision #KY77-1084 (B)
42 FR 32473 - 6/24/77
(F) - See Anderson County
(Hw) - See Statewide
MOORE COUNTY
(F) - See Anderson County
(Hw) - See Statewide
MORGAN COUNTY
(F) -See Anderson County
(Hw) - See Statewide
OBION COUNTY
(R) - See Dyer County
(F) - See Anderson County
(Hw) - See Statewide
OVERTON COUNTY
(F) - See Anderson County
(Hw) - See Statewide
PERRY COUNTY
(F) - See Anderson County
(Hw) - See Statewide
PICKETT COUNTY
(F) - See Anderson County
(Hw) - See Statewide
POLK COUNTY
(F) - See Anderson County
(Hw) - See Statewide
PUTNAM COUNTY
(F) - See Anderson County
(Hw) - See Statewide
RHEA COUNTY
(Hw) - See Statewide
(F) - See Anderson County
ROANE COUNTY
(B) - See Anderson Co. (Oak Ridge Energy Research Development Administration Only)
(F) - See Anderson County
(Hw) - See Statewide
ROBERTSON COUNTY
(F) - See Anderson County
(Hw) - See Statewide

TENNESSEE (Cont'd)

RUTHERFORD COUNTY
Decision #TN77-1022 (B)
42 FR 12667 - 3/4/77
(F) -See Anderson County
(Hw) - See Statewide
SCOTT COUNTY
(F) - See Anderson County
(Hw) - See Statewide
SEQUATCHIE COUNTY
(F) - See Anderson County
(Hw) - See Statewide
SEVIER COUNTY
(F) - See Anderson County
(Hw) - See Statewide
SHELBY COUNTY
Decision #TN77-1047 (B,H,W&S, & Utility)
42 FR 23422 - 5/6/77
Decision #TN76-1057 (R)
41 FR 20148 - 5/14/76
(D) - See Dyer County
(F) - See Anderson County
(Hw) - See Statewide
SMITH COUNTY
(F) - See Anderson County
(Hw) - See Statewide
STEWART COUNTY
(F) - See Anderson County
(Hw) - See Statewide
SULLIVAN COUNTY
Decision #TN76-1061 (B)
41 FR 20148 - 5/14/76
(F) - See Anderson County
(Hw) - See Statewide
(R) - See Carter County
SUMNER COUNTY
(F) - See Anderson County
(Hw) - See Statewide
TIPTON COUNTY
(D) - See Dyer County
(F) - See Anderson County
(Hw) - See Statewide
TROUSDALE COUNTY
(F) - See Anderson County
(Hw) - See Statewide

TEXAS

ANDERSON COUNTY
Decision #TX77-4136 (R)
42 FR 34241 - 7/1/77
Decision #TX77-4130 (H (Excluding tunnels and dams), Hw, Incidental shore work, and paving and utilities incidental to general building construction)
42 FR 32505 - 6/24/77
ANDREWS COUNTY
Decision #TX77-4120 (H (Excluding tunnels and dams), Hw and Paving and utilities incidental to general building construction)
42 FR 32485 - 6/24/77
ANGELINA COUNTY
(H,Hw) - See Anderson County
ARANSAS COUNTY
Decision #TX77-4124 (H (Excluding tunnels and dams,) (Hw)
Incidental shore work, and paving and utilities incidental to general building construction)
42 FR 32493 - 6/24/77
Decision #AL77-5090 (D)
41 FR 44609 - 10/8/76
Mod. #1 - 42 FR 18788 - 4/6/77
ARCHER COUNTY
Decision #TX77-4118 (H (Excluding tunnels and dams), Hw and Paving and utilities incidental to general building construction)
42 FR 32482 - 6/24/77
ARMSTRONG COUNTY
Decision #TX77-4044 (B)
42 FR 11226 - 2/25/77
Mod. #1 - 42 FR 17746 - 4/1/77
Mod. #2 - 42 FR 20054 - 4/15/77
Mod. #3 - 42 FR 23289 - 5/5/77
Mod. #4 - 42 FR 26114 - 5/20/77
Mod. #5 - 42 FR 28753 - 6/3/77
Mod. #6 - 42 FR 34150 - 7/1/77
Decision #TX77-4137 (R)
42 FR 34243 - 7/1/77
(H,Hw) - See Archer County

TEXAS (Cont'd.)

ATASCOSA COUNTY
Decision #TX77-4122 (H (Excluding tunnels and dams), Hw and Paving and utilities incidental to general building construction)
42 FR 32489 - 6/24/77
AUSTIN COUNTY
Decision #TX77-4125 (H (Excluding tunnels and dams), Hw and Paving and utilities incidental to general building construction)
42 FR 32495 - 6/24/77
BAILEY COUNTY
Decision #TX77-4119 (H (Excluding tunnels and dams), Hw and Paving and utilities incidental to general building construction)
42 FR 32484 - 6/24/77
Decision #TX77-4138 (R)
42 FR 34245 - 7/1/77
BANDERA COUNTY
(H,Hw) - See Atascosa County
BASTROP COUNTY
Decision #TX77-4026 (R)
42 FR 10270 - 2/18/77
(H,Hw) - See Austin County
BAYLOR COUNTY
(H,Hw) - See Archer County
BEE COUNTY
Decision #TX77-4111 (B)
42 FR 30141 - 6/10/77
Mod. #1 - 42 FR 34151 - 7/1/77
Decision #TX77-4139 (R)
42 FR 34247 - 7/1/77
(H,Hw) - See Aransas County
BELL COUNTY
Decision #TX77-4126 (H (Excluding tunnels and dams), Hw and Paving and utilities incidental to general building construction)
42 FR 32497 - 6/24/77
Decision #TX77-4053 (B)
42 FR 12668 - 3/4/77
Mod. #1 - 42 FR 23289 - 4/8/77
Mod. #2 - 42 FR 26114 - 5/20/77
Mod. #3 - 42 FR 27561 - 5/27/77
Mod. #4 - 42 FR 30100 - 6/10/77
BEXAR COUNTY
Decision #TX76-4080 (R)
41 FR 19037 - 5/7/76
Decision #TX77-4101 (B)
42 FR 24705 - 5/13/77
Mod. #1 - 42 FR 27562 - 5/27/77
Mod. #2 - 42 FR 30100 - 6/10/77
(H,Hw) - See Atascosa County

TEXAS (Cont'd)

BLANCO COUNTY
(H,Hw) - See Austin County
(R) - See Bastrop County
BORDEN COUNTY
(H,Hw) - See Bailey County
BOSQUE COUNTY
Decision #TX77-4140 (R)
42 FR 34247 - 7/1/77
(B,H,Hw) - See Bell County
BOWIE COUNTY
Decision #TX77-4070 (B)
42 FR 17785 - 4/1/77
Mod. #1 - 42 FR 23290 - 5/6/77
Mod. #2 - 42 FR 34151 - 7/1/77
Decision #TX77-4129 (H (Excluding tunnel and dams), Hw and Paving and utilities incidental to general building construction)
42 FR 32503 - 6/24/77
BRAZORIA COUNTY
Decision #TX77-4132 (H (Excluding tunnels and dams), Hw, Incidental shore work, and paving and utilities incidental to general building construction)
42 FR 32507 - 6/24/77
Decision #TX77-4027 (R)
42 FR 10270 - 2/18/77
(D) - See Aransas County
BRAZOS COUNTY
Decision #TX77-4054 (B)
42 FR 12671 - 3/4/77
Mod. #1 - 42 FR 16354 - 3/25/77
Mod. #2 - 42 FR 17746 - 4/1/77
Mod. #3 - 42 FR 23289 - 5/6/77
Mod. #4 - 42 FR 24574 - 5/13/77
Mod. #5 - 42 FR 28754 - 6/3/77
Mod. #6 - 42 FR 31056 - 6/17/77
Decision #TX77-4131 (H (Excluding tunnels and dams), Hw and Paving and utilities incidental to general building construction)
42 FR 32506 - 6/24/77
BREWSTER COUNTY
Decision #TX77-4121 (H (Excluding tunnels and dams), Hw and Paving and utilities incidental to general building construction)
42 FR 32487 - 6/24/77
BRISCOE COUNTY
(H,Hw) - See Archer County

BROOKS COUNTY
Decision #TX77-4123 (H (Excluding tunnels and dams), Hw, Incidental shore work, and paving and utilities incidental to general building construction)
42 FR 32491 - 6/24/77

TEXAS (Cont'd)

BROWN COUNTY
(H,Hw) - See Andrews County
BURLESON COUNTY
(H,Hw) - See Brazos County
BURNETT COUNTY
(H,Hw) - See Austin County
CALDWELL COUNTY
(H,Hw) - See Austin County
(R) - See Bastrop County
CALHOUN COUNTY
(H,Hw) - See Aransas County
(D) - See Aransas County
CALLAHAN COUNTY
(H,Hw) - See Andrews County
CAMERON COUNTY
Decision #TX77-4105 (B)
42 FR 26182 - 5/20/77
(H,Hw) - See Brooks County
CAMP COUNTY
Decision #TX77-4141 (R)
42 FR 34249 - 7/1/77
(H,Hw) - See Bowie County
CARSON COUNTY
(B,R) - See Armstrong County
(H,Hw) - See Archer County
CASS COUNTY
(H,Hw) - See Bowie County
CASTRO COUNTY
(B,R) - See Armstrong County
(H,Hw) - See Archer County
CHAMBERS COUNTY
Decision #TX77-4133 (H (Excluding tunnels and dams), Hw, Incidental shore work, and paving and utilities incidental to general building construction)
42 FR 32509 - 6/24/77
(D) - See Aransas County
CHEROKEE COUNTY
(H,Hw,R) - See Anderson County
CHILDRESS COUNTY
(B,R) - See Armstrong County
(H,Hw) - See Archer County
CLAY COUNTY
(H,Hw) - See Archer County
COCHRAN COUNTY
(H,Hw,R) - See Bailey County
COKE COUNTY
(H,Hw) - See Andrews County
COLEMAN COUNTY
(H,Hw) - See Andrews County
COLLIN COUNTY
Decision #TX77-4028 (R)
42 FR 10271 - 2/18/77
Decision #TX77-4097 (B-excluding Dallas-Fort Worth Regional Airport)
42 FR 23429 - 5/6/77

TEXAS (Cont'd.)

COLLIN COUNTY (Cont'd.)
Decision #TX77-4128 (H (Excluding tunnel and dams), Hw and Paving and utilities incidental to general building construction)
42 FR 32501 - 6/24/77
COLLINGSWORTH COUNTY
(B,R) - See Armstrong County
(H,Hw) - See Archer County
COLORADO COUNTY
(H,Hw) - See Austin County
COMAL COUNTY
(H,Hw) - See Atascosa County
COMANCHE COUNTY
(H,Hw) - See Andrews County
CONCHO COUNTY
(H,Hw) - See Andrews County
COOKE COUNTY
Decision #TX77-4127 (H (Excluding tunnel: and dams), Hw and Paving and utilities incidental to general building construction)
42 FR 32499 - 6/24/77
CORYELL COUNTY
(B,H,Hw) - See Bell County
COTTLE COUNTY
(H,Hw) - See Bailey County
CRANE COUNTY
(H,Hw) - See Andrews County
Decision #TX76-4038 (R)
41 FR 7009 - 2/13/76
CROCKETT COUNTY
(H,Hw) - See Andrews County
CROSBY COUNTY
(H,Hw,R) - See Bailey County
CULBERSON COUNTY
(H,Hw) - See Brewster County
DALLAM COUNTY
(B,R) - See Armstrong County
(H,Hw) - See Archer County
DALLAS COUNTY
(B,H,Hw,R) - See Collin County
DAWSON COUNTY
(H,Hw) - See Bailey County
DEAF SMITH COUNTY
(B,R) - See Armstrong County
(H,Hw) - See Archer County
DELTA COUNTY
(R) - See Camp County
(H,Hw) - See Bowie County
DENTON COUNTY
(B,R) - See Collin County
(H,Hw) - See Cooke County
DE WITT COUNTY
(H,Hw) - See Aransas County
DICKENS COUNTY
(H,Hw) - See Bailey County

TEXAS (Cont'd.)

DIMMIT COUNTY
Decision #TX76-4039 (B,R)
41 FR 7014 - 2/13/76
(H,Hw) - See Atascosa County
DONLEY COUNTY
(B,R) - See Armstrong County
(H,Hw) - See Archer County
DUVAL COUNTY
(H,Hw) - See Brooks County
EASTLAND COUNTY
(H,Hw) - See Andrews County
ECTOR COUNTY
Decision #TX76-4118 (B)
41 FR 29605 - 7/16/76
Mod. #1 - 41 FR 33129 - 8/16/76
Mod. #2 - 41 FR 42058 - 9/24/76
Mod. #3 - 41 FR 56554 - 12/28/76
Mod. #4 - 42 FR 4070 - 1/21/77
Mod. #5 - 42 FR 12575 - 3/4/77
(H,Hw) - See Andrews County
(R) - See Crane County
EDWARDS COUNTY
(H,Hw) - See Atascosa County
ELLIS COUNTY
(B,H,Hw,R) - See Collin County
EL PASO COUNTY
Decision #TX77-4071 (B)
42 FR 17787 - 4/1/77
Mod. #1 - 42 FR 20054 - 4/15/77
Mod. #2 - 42 FR 20986 - 4/22/77
Mod. #3 - 42 FR 23290 - 5/6/77
Mod. #4 - 42 FR 34151 - 7/1/77
(H,Hw) - See Brewster County
ERATH COUNTY
(H,Hw) - See Andrews County
FALLS COUNTY
(B,H,Hw) - See Bell County
FANNIN COUNTY
(R) - See Camp County
(H,Hw) - See Bowie County
FAYETTE COUNTY
(H,Hw) - See Austin County
(R) - See Bastrop County
FISHER COUNTY
(H,Hw) - See Bailey County
FLOYD COUNTY
(H,Hw,R) - See Bailey County
FOARD COUNTY
(H,Hw) - See Bailey County
FORT BEND COUNTY
(H,Hw,R) - See Brazoria County
FRANKLIN COUNTY
(R) - See Camp County
(H,Hw) - See Bowie County
FREESTONE COUNTY
(R) - See Bosque County
(H,Hw) - See Bell County

TEXAS (Cont'd.

FRIO COUNTY
(H,Hw) - See Atascosa County
GAINES COUNTY
(H,Hw) - See Bailey County
GALVESTON COUNTY
(D) - See Aransas County
(H,Hw,R) - See Brazoria County
Decision #TX77-4102 (B)
42 FR 24707 - 5/13/77
Mod. #1-42 FR 27562 - 5/27/77
Mod. #2-42 FR 28754 - 6/3/77
Mod. #3-42 FR 31056 - 6/17/77
Mod. #4-42 FR 34151 - 7/1/77
GARZA COUNTY
(H,Hw,R) - See Bailey County
GILLESPIE COUNTY
(H,Hw) - See Austin County
GLASSCOCK COUNTY
(H,Hw) - See Andrews County
GOLIAD COUNTY
(H,Hw) - See Aransas County
GONZALES COUNTY
(H,Hw) - See Austin County
GRAY COUNTY
(B,R) - See Armstrong County
(H,Hw) - See Archer County
GRAYSON COUNTY
(B,H,Hw) - See Collin County
GREGG COUNTY
Decision #TX77-4055 (B)
42 FR 12673 - 3/4/77
Mod. #1 - 42 FR 23290 - 5/6/77
Decision #TX77-4142 (R)
42 FR 34251 - 7/1/77
(H,Hw) - See Bowie County
GRIMES COUNTY
(H,Hw) - See Brazos County
GUADALUPE COUNTY
(H,Hw) - See Atascosa County
HALE COUNTY
(H,Hw,R) - See Bailey County
HALL COUNTY
(H,Hw) - See Archer County
HAMILTON COUNTY
(H,Hw) - See Bell County
HANSFORD COUNTY
(B,R) - See Armstrong County
(H,Hw) - See Archer County
HARDEMAN COUNTY
(H,Hw) - See Archer County
HARDIN COUNTY
(H,Hw) - See Chambers County
HARRIS COUNTY
(B) - See Galveston County
(H,Hw,R) - See Brazoria County
(D) - See Aransas County

TEXAS (Cont'd.

HARRISON COUNTY
Decision #TX76-4196 (B)
41 FR 56601 - 12/28/76
Mod. #1 - 42 FR 12575 - 3/4/77
(H,Hw) - See Bowie County
(R) - See Gregg County
HARTLEY COUNTY
(B,R) - See Armstrong County
(H,Hw) - See Archer County
HASKELL COUNTY
(H,Hw) - See Bailey County
HAYES COUNTY
(H,Hw) - See Austin County
(R) - See Bastrop County
HEMPHILL COUNTY
(B,R) - See Armstrong County
(H,Hw) - See Archer County
HENDERSON COUNTY
(H,Hw,R) - See Anderson County
HIDALGO COUNTY
(B) - See Cameron County
(H,Hw) - See Brooks County
HILL COUNTY
(B,H,Hw) - See Bell County
(R) - See Bosque County
HOCKLEY COUNTY
(H,Hw,R) - See Bailey County
HOOD COUNTY
(B) - See Collin County
(H,Hw) - See Cooke County
Decision #TX77-4143 (R)
42 FR 34253 - 7/1/77
HOPKINS COUNTY
(R) - See Camp County
(H,Hw) - See Bowie County
HOUSTON COUNTY
(H,Hw) - See Anderson County
HOWARD COUNTY
Decision #TX77-4144 (B,R)
42 FR 34255 - 7/1/77
(H,Hw) - See Andrews County
HUDSPETH COUNTY
(H,Hw) - See Brewster County
HUNT COUNTY
(B,R) - See Collin County
(H,Hw) - See Bowie County
HUTCHINSON COUNTY
(B,R) - See Armstrong County
(H,Hw) - See Archer County
IRION COUNTY
(H,Hw) - See Andrews County
JACK COUNTY
(H,Hw) - See Cooke County
JACKSON COUNTY
(D,H,Hw) - See Aransas County
JASPER COUNTY
(H,Hw) - See Anderson County

TEXAS (Cont'd.)

JEFF DAVIS COUNTY
(H,Hw) - See Brewster County
JEFFERSON COUNTY
Decision #TX77-4098 (B,R)
42 FR 23433 - 5/6/77
Mod. #1 - 42 FR 34151 - 7/1/77
(D) - See Aransas County
(Hw) - See Chambers County
JIM HOGG COUNTY
(B,R) - See Dimmit County
(H,Hw) - See Brooks County
JIM WELLS COUNTY
(H,Hw) - See Aransas County
JOHNSON COUNTY
(B) - See Collin County
(H,Hw) - See Cooke County
(R) - See Hood County
JONES COUNTY
(H,Hw) - See Bailey County
KARNES COUNTY
(H,Hw) - See Aransas County
KAUFMAN COUNTY
(B,R) - See Collin County
(H,Hw) - See Bowie County
KENDALL COUNTY
(H,Hw) - See Atascosa County
KENEDY COUNTY
(D) - See Aransas County
(H,Hw) - See Brooks County
KENT COUNTY
(H,Hw) - See BAiley County
KERR COUNTY
(H,Hw) - See Atascosa County
KIMBLE COUNTY
(H,Hw) - See Andrews County
KING COUNTY
(H,Hw) - See Bailey County
KINNEY COUNTY
(H,Hw) - See Atascosa County
KLEBERG COUNTY
(B) - See Bee County
(D,H,Hw) - See Aransas County
(R) - See Bee County
KNOX COUNTY
(H,Hw) - See Bailey County
LAMAR COUNTY
(R) - See Camp County
(H,Hw) - See Bowie County
LAMB COUNTY
(H,Hw,R) - See Bailey County
LAMPASAS COUNTY
(H,Hw) - See Bell County
LA SALLE COUNTY
(B,R) - See Dimmit County
(H,Hw) - See Atascosa County
LAVACA COUNTY
(H,Hw) - See Aransas County

TEXAS (Cont'd)

LEE COUNTY
(H,Hw) - See Austin County
(R) - See Bastrop County
LEON COUNTY
(H,Hw) - See Brazos County
LIBERTY COUNTY
(H,Hw) - See Chambers County
LIMESTONE COUNTY
(R) - See Bosque County
(H,Hw) - See Bell County
LIPSCOMB COUNTY
(H,Hw) - See Archer County
(B)(R) - See Armstrong County
LIVE OAK COUNTY
(H,Hw) - See Aransas County
LLANO COUNTY
(H,Hw) - See Austin County
LOVING COUNTY
(H,Hw) - See Andrews County
(R) - See Crane County
LUBBOCK COUNTY
(H,Hw,R) - See Bailey County
Decision #TX76-4197 (B)
41 FR 56602 - 12/28/76
Mod. #1 - 42 FR 4072 - 1/21/77
Mod. #2 - 42 FR 8940 - 2/11/77
Mod. #3 - 42 FR 12575 - 3/4/77
Mod. #4 - 42 FR 23288 - 5/6/77
Mod. #5 - 42 FR 28753 - 6/3/77
Mod. #6 - 42 FR 31056 - 6/17/77
LYNN COUNTY
(H,Hw,R) - See Bailey County
McCULLOCH COUNTY
(H,Hw) - See Andrews County
McLENNAN COUNTY
(R) - See Bosque County
(B,H,Hw) - See Bell County
(H,Hw) - See Statewide
McMULLEN COUNTY
(H,Hw) - See Atascosa County
MADISON COUNTY
(H,Hw) - See Brazos County
MARION COUNTY
(H,Hw) - See Bowie County
MARTIN COUNTY
(H,Hw) - See Andrews County

TEXAS (Cont'd)

MASON COUNTY
(H,Hw) - See Austin County
MATAGORDA COUNTY
(H,Hw,R) - See Brazoria County
(D) - See Aransas County
MAVERICK COUNTY
(B,R) - See Dimmit County
(H,Hw) - See Atascosa County
MEDINA COUNTY
(H,Hw) - See Atascosa County
MENARD COUNTY
(H,Hw) - See Andrews County
MIDLAND COUNTY
(B) - See Ector County
(H,Hw) - See Andrews County
(R) - See Crane County
MILAM COUNTY
(H,Hw) - See Brazos County
MILLS COUNTY
(H,Hw) - See Andrews County
MITCHELL COUNTY
(H,Hw) - See Andrews County
MONTAGUE COUNTY
(H,Hw) - See Archer County
MONTGOMERY COUNTY
(H,Hw,R) - See Brazoria County
MOORE COUNTY
(R)(B) - See Armstrong County
(H,Hw) - See Archer County
MORRIS COUNTY
(H,Hw) - See Bowie County
MOTLEY COUNTY
(H,Hw) - See Bailey County
NACOGDOCHES COUNTY
(H,Hw) - See Anderson County
NAVARRO COUNTY
(R) - See Bosque County
(H,Hw) - See Bell County

TEXAS (Cont'd)

NEWTON COUNTY
(H,Hw) - See Anderson County
NOLAN COUNTY
(H,Hw) - See Andrews County
NUECES COUNTY
(B) - See Bee County
(D,H,Hw) - See Aransas County
(R) - See Bee County
OCHILTREE COUNTY
(R) (B) - See Armstrong County
(H,Hw) - See Archer County
OLDHAM COUNTY
(R)(B) - See Armstrong County
(H,Hw) - See Archer County
ORANGE COUNTY
(R)(B) - See Jefferson County
(Hw) - See Chambers County
(D) - See Aransas County
PALO PINTO COUNTY
(B) - See Collin County
(H,Hw) - See Cooke County
(R) - See Hood County
PANOLA COUNTY
(H,Hw) - See Anderson County
PARKER COUNTY
(H,Hw) - See Cooke County
(R) - See Hood County
PARMER COUNTY
(H,Hw) - See Archer County
PECOS COUNTY
(H,Hw) - See Brewster County
(R) - See Crane County
POLK COUNTY
(H,Hw) - See Anderson County
POTTER COUNTY
(H,Hw) - See Archer County
(B) (R) - See Armstrong County
PRESIDIO COUNTY
(H,Hw) - See Brewster County
RAINS COUNTY
(H,Hw) - See Bowie County
RANDALL COUNTY
(H,Hw) - See Archer County
(B)(R) - See Armstrong County
REAGAN COUNTY
(H,Hw) - See Andrews County
REAL COUNTY
(H,Hw) - See Atascosa County
RED RIVER COUNTY
(H,Hw) - See Bowie County

TEXAS (Cont'd)

REEVES COUNTY
(H,Hw) - See Brewster County
(R) - See Crane County
REFUGIO COUNTY
(D,H,Hw) - See Aransas County
ROBERTS COUNTY
(H,Hw)- See Archer County
(B) (R) - See Armstrong County
ROBERTSON COUNTY
(H,Hw) - See Brazos County
ROCKWALL COUNTY
(B,H,Hw,R) - See Collin County
RUNNELS COUNTY
(H,Hw) - See Andrews County
RUSK COUNTY
(R) - See Gregg County
(H,Hw) - See Bowie County
SABINE COUNTY
(H,Hw) - See Anderson County
SAN AUGUSTINE COUNTY
(H,Hw) - See Anderson County
SAN JACINTO COUNTY
(H,Hw) - See Anderson County
SAN PATRICIO COUNTY
(R) - See Bee County
(D,H,Hw) - See Aransas County
SAN SABA COUNTY
(H,Hw) - See Andrews County
SCHLEICHER COUNTY
(H,Hw) - See Andrews County
SCURRY COUNTY
(H,Hw) - See Bailey County
SHACKELFORD COUNTY
(H,Hw) - See Bailey County
SHELBY COUNTY
(H,Hw) - See Anderson County
SHERMAN COUNTY
(H,Hw) - See Archer County
(B)(R) - See Armstrong County
SMITH COUNTY
Decision #TX77-4145 (R)
42 FR 34257 - 7/1/77
Decision #TX77-4057 (B)
42 FR 12673 - 3/4/77
Mod. #1 - 42 FR 23290 - 5/6/77
(H,Hw) - See Bowie County
SOMERVELL COUNTY
(H,Hw) - See Cooke County
STARR COUNTY
(H,Hw) - See Brooks County
(B) - See Cameron County
STEPHENS COUNTY
(H,Hw) - See Bailey County
STERLING COUNTY
(H,Hw) - See Andrews County

TEXAS (Cont'd)

STONEWALL COUNTY
(H,Hw) - See Bailey County
SUTTON COUNTY
(H,Hw) - See Andrews County
SWISHER COUNTY
(H,Hw) - See Archer County
(B)(R) - See Armstrong County
TARRANT COUNTY
(B) - See Collin County
(H,Hw) - See Cooke County
Decision #TX77-4029 (R)
42 FR 10271 - 2/10/77
TAYLOR COUNTY
Decision #TX76-4171 (B)
41 FR 44664 - 10/8/76
Mod. #1 - 41 FR 56555 - 12/20/76
Mod. #2 - 42 FR 4071 - 1/21/77
Mod. #3 - 42 FR 23288 - 5/6/77
(H,Hw) - See Andrews County
TERRELL COUNTY
(H,Hw) - See Brewster County
TERRY COUNTY
(H,Hw,R) - See Bailey County
THROCKMORTON COUNTY
(H,Hw) - See Bailey County
TITUS COUNTY
(R) - See Camp County
(H,Hw) - See Bowie County
TOM GREEN COUNTY
Decision #TX77-4108 (B)
42 FR 28810 - 6/3/77
Mod. #1 - 42 FR 32456 - 6/24/77
(H,Hw) - See Andrews County
TRAVIS COUNTY
Decision #TX77-4006 (B)
42 FR 4105 - 1/21/77
Mod. #1 - 42 FR 16354 - 3/25/77
Mod. #2 - 42 FR 20053 - 4/15/77
Mod. #3 - 42 FR 23289 - 5/6/77
Mod. #4 - 42 FR 27561 - 5/27/77
(R) - See Bastrop County
(H,Hw) - See Austin County
TRINITY COUNTY
(H,Hw) - See Anderson County
TYLER COUNTY
(H,Hw) - See Anderson County
UPSHUR COUNTY
(R) - See Gregg County
(H,Hw) - See Bowie County
UPTON COUNTY
(H,Hw) - See Andrews County
(R) - See Crane County
UVALE COUNTY
(H,Hw) - See Atascosa County
VAL VERDE COUNTY
(H,Hw) - See Atascosa County

TEXAS (Cont'd.

VAN ZANDT COUNTY
(R) - See Smith County
(H,Hw) - See Bowie County
VICTORIA COUNTY
(D,H,Hw) - See Aransas County
WALKER COUNTY
(H,Hw) - See Brazos County
(R) - See Brazoria County
WALLER COUNTY
(H,Hw) - See Brazoria County
WARD COUNTY
(H,Hw) - See Andrews County
(R) - See Crane County
WASHINGTON COUNTY
(H,Hw) - See Brazos County
WEBB COUNTY
(B,R) - See Dimmit County
(H,Hw) - See Brooks County
WHARTON COUNTY
(H,Hw) - See Brazoria County
WHEELER COUNTY
(B,R) - See Armstrong County
(H,Hw) - See Archer County
WICHITA COUNTY
Decision #TX77-4146 (R)
42 FR 34259 - 7/1/77
Decision #TX77-4007 (B)
42 FR 4107 - 1/21/77
Mod. #1 - 42 FR 11190 - 2/25/77
Mod. #2 - 42 FR 20053 - 4/15/77
Mod. #3 - 42 FR 23289 - 5/6/77
Mod. #4 - 42 FR 26114 - 5/20/77
Mod. #5 - 42 FR 28753 - 6/3/77
Mod. #6 - 42 FR 34150 - 7/1/77
(H,Hw) - See Archer County
WILBARGER COUNTY
(H,Hw) - See Archer County
WILLACY COUNTY
(B) - See Cameron County
(H,Hw) - See Brooks County
(D) - See Aransas County
WILLIAMSON COUNTY
(H,Hw) - See Austin County
(R) - See Bastrop County
WILSON COUNTY
(H,Hw) - See Atascosa County
WINKLER COUNTY
(H,Hw) - See Andrews County
(R) - See Crane County
WISE COUNTY
(B) - See Collin County
(H,Hw) - See Cooke County
(R) - See Hood County
WOOD COUNTY
(H,Hw) - See Bowie County
(R) - See Smith County

TEXAS (Cont'd.

YOAKUM COUNTY
(H,Hw,R) - See Bailey County
YOUNG COUNTY
(H,Hw) - See Bailey County
ZAPATA COUNTY
(B,R) - See Dimmit County
(H,Hw) - See Brooks County
ZAVALA COUNTY
(B,R) - See Dimmit County
(H,Hw) - See Atascosa County

UTAH

STATEWIDE
Decision #UT77-5006 (B,H,Hw)
42 FR 5668 - 1/28/77
Mod. #1 - 42 FR 10220 - 2/18/77
Mod. #2 - 42 FR 17746 - 4/1/77
Mod. #3 - 42 FR 23290 - 5/6/77
Mod. #4 - 42 FR 28754 - 6/3/77
BEAVER COUNTY
(B,H,Hw) - See Statewide
BOX ELDER COUNTY
(B,H,Hw) - See Statewide
CACHE COUNTY
(B,H,Hw) - See Statewide
CARBON COUNTY
(B,H,Hw) - See Statewide
DAGGETT COUNTY
(B,H,Hw) - See Statewide
DAVIS COUNTY
(B,H,Hw) - See Statewide
DUCHESNE COUNTY
(B,H,Hw) - See Statewide
EMERY COUNTY
(B,H,Hw) - See Statewide
GARFIELD COUNTY
(B,H,Hw) - See Statewide
GRAND COUNTY
(B,H,Hw) - See Statewide
IRON COUNTY
(B,H,Hw) - See Statewide
JUAB COUNTY
(B,H,Hw) - See Statewide
KANE COUNTY
(B,H,Hw) - See Statewide
MILLARD COUNTY
(B,H,Hw) - See Statewide
MORGAN COUNTY
(B,H,Hw) - See Statewide
PIUTE COUNTY
(B,H,Hw) - See Statewide
RICH COUNTY
(B,H,Hw) - See Statewide
SALT LAKE COUNTY
(B,H,Hw) - See Statewide
SAN JUAN COUNTY
(B,H,Hw) - See Statewide
SANPETE COUNTY
(B,H,Hw) - See Statewide
SEVIER COUNTY
(B,H,Hw) - See Statewide
SUMMIT COUNTY
(B,H,Hw) - See Statewide
TOOELE COUNTY
(B,H,Hw) - See Statewide
UINTAH COUNTY
(B,H,Hw) - See Statewide
UTAH COUNTY
(B,H,Hw) - See Statewide
WASATCH COUNTY
(B,H,Hw) - See Statewide
WASHINGTON COUNTY
(B,H,Hw) - See Statewide

UTAH (Cont'd)

WAYNE COUNTY
(B,H,Hw) - See Statewide
WEBER COUNTY
(B,H,Hw) - See Statewide

VERMONT

Statewide (Except Rutland County)
Decision #VT76-2170 (Hw)
41 FR 54146 - 12/10/76
Mod. #1 - 42 FR 3140 - 1/14/77
ADDISON COUNTY
(Hw) - See Statewide
BENNINGTON COUNTY
(Hw) - See Statewide
CALEDONIA COUNTY
(Hw) - See Statewide
CHITTENDEN COUNTY
(Hw) - See Statewide
ESSEX COUNTY
(Hw) - See Statewide
FRANKLIN COUNTY
(Hw) - See Statewide
GRAND ISLE COUNTY
(Hw) - See Statewide
LAMOILLE COUNTY
(Hw) - See Statewide
ORANGE COUNTY
(Hw) - See Statewide
ORLEANS COUNTY
(Hw) - See Statewide
RUTLAND COUNTY
None
WASHINGTON COUNTY
(Hw) - See Statewide
WINDHAM COUNTY
(Hw) - See Statewide
WINDSOR COUNTY
(Hw) - See Statewide

VIRGIN ISLANDS

ISLAND WIDE
Decision #VI76-3166 (B)
41 FR 19003 - 5/7/76
Decision #VI76-3167 (H,Hw)
41 FR 19003 - 5/7/76

VIRGINIA

ACCOMACK COUNTY
Decision #AP-805 (Hw)
38 FR 11279 - 5/4/73
Mod. #1 - 38 FR 13127 - 5/18/73
Mod. #2 - 40 FR 15284 - 4/4/75
Mod. #3 - 40 FR 23631 - 5/30/75
Mod. #4 - 41 FR 50122 - 11/12/76
Mod. #5 - 42 FR 4073 - 1/21/77
Decision #GA77-5035 (D)
42 FR 13756 - 3/11/77
ALBEMARLE COUNTY
Decision #VA76-3244 (Hw)
41 FR 38784 - 9/10/76
Decision #VA75-3094 ((B)
40 FR 43415 - 9/19/75
Mod. #1 - 40 FR 48847 - 10/17/75
Mod. #2 - 41 FR 11735 - 3/19/76
ALEXANDRIA CITY
Decision #MD77-3041 (B)
42 FR 15268 - 3/18/77
Mod. #1 - 42 FR 18794 - 4/8/77
Mod. #2 - 42 FR 20987 - 4/22/77
Mod. #3 - 42 FR 23290 - 5/6/77
Mod. #4 - 42 FR 27563 - 5/27/77
Mod. #5 - 42 FR 32456 - 6/24/77
ALLEGHANY COUNTY
Decision #VA76-3245 (Hw)
41 FR 38748 - 9/10/76
Mod. #1 - 41 FR 40374 - 9/17/76
Mod. #2 - 41 FR 43569 - 10/1/76
AMELIA COUNTY
Decision #AR-2032 (Hw)
39 FR 31871 - 8/30/74
AMHERST COUNTY
Decision #AQ-2032 (Hw)
38 FR 33259 - 11/30/73
APPOMATTOX COUNTY
(Hw) - See Amherst County
ARLINGTON COUNTY
(B) - See Alexandria City
(D) - See Accomack County
AUGUSTA COUNTY
(Hw) - See Alleghany County
BATH COUNTY
(Hw) - See Alleghany County
BEDFORD CITY
(Hw) - See Bedford County
BEDFORD COUNTY
Decision #AQ-2021 (Hw)
38 FR 27744 - 10/5/73
Mod. #1 - 41 FR 50122 - 11/12/76
BLAND COUNTY
Decision #VA76-3253 (Hw)
41 FR 42154 - 9/24/76

VIRGINIA (Cont'd.)

BOTETOURT COUNTY
(Hw) - See Bedford County
BRISTOL CITY
(Hw) - See Bland County
BRUNSWICK COUNTY
(Hw) - See Amelia County
BUCHANAN COUNTY
(Hw) - See Bland County
BUCKINGHAM COUNTY
(Hw) - See Amherst County
BUENA VISTA CITY
(Hw) - See Allegheny County
CAMPBELL COUNTY
Decision #VA75-3095 (B)
40 FR 43416 - 9/19/75
Mod. #1 - 41 FR 11735 - 3/19/76
Mod. #2 - 41 FR 50123 - 11/12/76
(Hw) - See Amherst County
CAROLINE COUNTY
Decision #AQ-2031 (Hw)
38 FR 33258 - 11/30/73
CARROLL COUNTY
(Hw) - See Bedford County
CHARLES CITY COUNTY
(Hw) - See Amelia County
CHARLOTTE COUNTY
(Hw) - See Amherst County
CHARLOTTSVILLE CITY
(B,Hw) - See Albemarle County
CHESAPEAKE CITY
Decision #VA77-3090 (B)
42 FR 34264 - 7/1/77
Decision #VA77-3082 (Hw)
42 FR 32510 - 6/24/77
(D) - See Accomack County
CHESTERFIELD COUNTY
(Hw) - See Amelia County
CLARKE COUNTY
(Hw) - See Alleghany County
CLIFTON FORGE CITY
(Hw) - See Alleghany County
COLONIAL HEIGHTS CITY
(Hw) - See Amelia County
COVINGTON CITY
(Hw) - See Alleghany County
CRAIG COUNTY
(Hw) - See Bedford County

VIRGINIA (Cont'd)

CULPEPER COUNTY
(Hw) - See Albemarle County
CUMBERLAND COUNTY
(Hw) - See Amherst County
DANVILLE CITY
(Hw) - See Amherst County
DICKENSON COUNTY
(Hw) - See Bland County
DINWIDDIE COUNTY
(Hw) - See Amelia County
EMPORIA CITY
(Hw) - See Accomack County
ESSEX COUNTY
(Hw) - See Caroline County
(D) - See Accomack County
FAIRFAX COUNTY
(B) - See Alexandria City
(D) - See Accomack County
FAIRFAX CITY
(B) - See Alexandria City
FALLS CHURCH CITY
(B) - See Alexandria City
FAUQUIER COUNTY
(Hw) - See Albemarle County
FLOYD COUNTY
(Hw) - See Bedford County
FLUVANNA COUNTY
(Hw) - See Albemarle County
FORT MONROE CITY
(Hw) - See Chesapeake City
(B, W&S) - See York County
FRANKLIN CITY
(Hw) - See Accomack County
FRANKLIN COUNTY
(Hw) - See Bedford County
FREDERICK COUNTY
(Hw) - See Alleghany County
(R) - See Clarke County

VIRGINIA (Cont'd)

FREDERICKSBURG CITY
(Hw) - See Caroline County
GALAX CITY
(Hw) - See Bedford County
GILES COUNTY
(Hw) - See Bedford County
GLOUCESTER COUNTY
(Hw) - See Caroline County
(D) - See Accomack County
GOOCHLAND COUNTY
(Hw) - See Amelia County
GRAYSON COUNTY
(Hw) - See Bland County
GREENE COUNTY
(Hw) - See Albemarle County
GREENSVILLE COUNTY
(Hw) - See Accomack County
HALIFAX COUNTY
(Hw) - See Amherst County
HAMPTON CITY
Decision #VA76-3254 (R)
41 FR 44680 - 10/8/76
Mod. #1 - 42 FR 20054 - 4/15/77
(B, W&S) - See York County
(Hw) - See Chesapeake City
(D) - See Accomack County
HANOVER COUNTY
(Hw) - See Amelia County
HARRISONBURG CITY
(Hw) - See Allegheny County
HENRICO COUNTY
Decision #VA77-3089 (B)
42 FR 34261 - 7/1/77
(Hw) - See Amelia County

VIRGINIA (Cont'd.)

HENRY COUNTY
(Hw) - See Bedford County
HIGHLAND COUNTY
(Hw) - See Alleghany County
HOPEWELL CITY
(Hw) - See Amelia County
ISLE OF WIGHT COUNTY
(D,Hw) - See Accomack County
JAMES CITY COUNTY
(D,Hw) - See Accomack County
KING AND QUEEN COUNTY
(Hw) - See Caroline County
KING GEORGE COUNTY
(Hw) - See Caroline County
(D) - See Accomack County
KING WILLIAM COUNTY
(Hw) - See Caroline County
LANCASTER COUNTY
(Hw) - See Caroline County
(D) - See Accomack County
LEE COUNTY
(Hw) - See Bland County
LOUISA COUNTY
(Hw) - See Albemarle County
LOUDOUN COUNTY
(Hw) - (See Albemarle County
LUNEBURG COUNTY
(Hw) - See Albemarle County
LUNENBURG COUNTY
(Hw) - See Amelia County
LYNCHBURG CITY
(B) - See Campbell County
(Hw) - See Amherst County
MADISON COUNTY
(Hw) - See Albemarle County
MARTINSVILLE CITY
(Hw) - See Bedford County

VIRGINIA (Cont'd)

MATHEWS COUNTY
(Hw) - See Caroline County
(D) - See Accomack County
MECKLENBURG COUNTY
(Hw) - See Amelia County
MIDDLESEX COUNTY
(Hw) - See Caroline County
(D) - See Accomack County
MONTGOMERY COUNTY
(Hw) - See Bedford County
NANSEMOND COUNTY
(D,Hw) - See Accomack County
NELSON COUNTY
(Hw) - See Amherst County
NEW KENT COUNTY
(Hw) - See Amelia County
NEWPORT NEWS CITY
(B, W&S) - See York County
(Hw) - See Chesapeake City
(D) - See Accomack County
(R) - See Hampton City
NORFOLK CITY
(Hw,B) - See Chesapeake City
(D) - See Accomack County
NORTHAMPTON COUNTY
(D,Hw) - See Accomack County
NORTON CITY
(Hw) - See Bland County
NORTHUMBERLAND COUNTY
(Hw) - See Caroline County
(D) - See Accomack County
NOTTOWAY COUNTY
(Hw) - See Amelia County
ORANGE COUNTY
(Hw) - See Albemarle County

VIRGINIA (Cont'd)

PAGE COUNTY
(Hw) - See Alleghany County
PATRICK COUNTY
(Hw) - See Bedford County
PETERSBURG CITY
(Hw) - See Amelia County
PITTSYLVANIA COUNTY
(Hw) - See Amherst County
PORTSMOUTH CITY
(D) - See Accomack County
(B,Hw) - See Chesapeake City
POWHATAN COUNTY
(Hw) - See Amelia County
PRINCE EDWARD COUNTY
(Hw) - See Amherst County
PRINCE GEORGE COUNTY
(Hw) - See Amelia County
PRINCE WILLIAM COUNTY
(D) - See Accomack County
(Hw) - See Albemarle County
PULASKI COUNTY
(Hw) - See Bedford County
RADFORD CITY (Radford Army Ammunition Plant)
Decision #VA77-3088 (B)
42 FR 34261 - 7/1/77
(Hw) - See Bedford County
RAPPAHANNOCK COUNTY
(Hw) - See Albemarle County
RICHMOND CITY
(B) - See Henrico County
(Hw) - See Amelia County
RICHMOND COUNTY
(Hw) - See Caroline County
ROANOKE CITY
(Hw) - See Bedford County
ROANOKE COUNTY
(Hw) - See Bedford County
ROCKBRIDGE COUNTY
(Hw) - See Alleghany County
ROCKINGHAM COUNTY
(Hw) - See Alleghany County
RUSSELL COUNTY
(Hw) - See Bland County
SALEM CITY
(Hw) - See Bedford County
SCOTT COUNTY
(Hw) - See Bland County
SHENANDOAH COUNTY
(Hw) - See Alleghany County
(R) - See Clarke County
SMYTH COUNTY
(Hw) - See Bland County
SOUTHAMPTON COUNTY
(Hw) - See Accomack County

VIRGINIA (Cont'd.)

SOUTH BOSTON CITY
(Hw) - See Amherst County
SPOTSYLVANIA COUNTY
(Hw) - See Caroline County
STAUNTON CITY
(Hw) - See Alleghany County
STAFFORD COUNTY
(Hw) - See Caroline County
(D) - See Accomack County
SUFFOLK CITY
(Hw) - See Accomack County
SURRY COUNTY
(Hw) - See Accomack County
(D) - See Accomack County
SUSSEX COUNTY
(Hw) - See Accomack County
TAZEWELL COUNTY
(Hw) - See Bland County
VIRGINIA BEACH CITY
(Hw,B) - See Chesapeake City
(D) - See Accomack County
WARREN COUNTY
(Hw) - See Alleghany County
WASHINGTON COUNTY
(Hw) - See Bland County
WAYNESBORO CITY
(Hw) - See Allegheny County
WESTMORELAND COUNTY
(Hw) - See Caroline County
(D) - See Accomack County
WILLIAMSBURG CITY
(Hw) - See Accomack County
WINCHESTER CITY
(Hw) - See Alleghany County
WISE COUNTY
(Hw) - See Bland County
WYTHE COUNTY
(Hw) - See Bland County
YORK COUNTY
Decision #VA77-3091 (B, W&S)
42 FR 34266 - 7/1/77
(D,Hw) - See Accomack County
(R) - See Hampton County

WASHINGTON

STATEWIDE
Decision #WA77-5055 (B,H,Hw,D)
42 FR 31115 - 6/17/77
ADAMS COUNTY
(B,H,Hw,D) - See Statewide
ASOTIA COUNTY
(B,H,Hw,D) - See Statewide
BENTON COUNTY
(B,H,Hw,D) - See Statewide
CHELAN COUNTY
(B,H,Hw,D) - See Statewide
CLALLAM COUNTY
Decision #WA76-5119 (R)
41 FR 54148 - 12/10/76
Mod. #1 - 42 FR 13721 - 3/11/77
(B,H,Hw,D) - See Statewide
CLARK COUNTY
(B,H,Hw,D) - See Statewide
COLUMBIA COUNTY
(B,H,Hw,D) - See Statewide
COWLITZ COUNTY
(B,H,Hw,D) - See Statewide
DOUGLAS COUNTY
(B,H,Hw,D) - See Statewide
FERRY COUNTY
(B,H,Hw, D) - See Statewide
FRANKLIN COUNTY
(B,H,Hw,D) - See Statewide
GARFIELD COUNTY
(B,H,Hw,D) - See Statewide
GRANT COUNTY
(B,H,Hw,D) - See Statewide
GRAYS HARBOR COUNTY
(B,H,Hw,D) - See Statewide
(R) - See Clallam County
ISLAND COUNTY
(B,H,Hw,D) - See Statewide
(R) - See Clallam County
JEFFERSON COUNTY
(B,H,Hw,D) - See Statewide
(R) - See Clallam County
KING COUNTY
(R) - See Clallam County
(B,H,Hw,D) - See Statewide
KITSAP COUNTY
(B,H,Hw,D) - See Statewide
(R) - See Clallam County
KITTITAS COUNTY
(B,H,Hw,D) - See Statewide
KLICKITAT COUNTY
(B,H,Hw,D) - See Statewide

WASHINGTON (Cont'd)

LEWIS COUNTY
(B,H,Hw,D) - See Statewide
LINCOLN COUNTY
(B,H,Hw,D) - See Statewide
MASON COUNTY
(B,H,Hw,D) - See Statewide
(R)- See Clallam County
OKANOGAN COUNTY
(B,H,Hw,D) - See Statewide
PACIFIC COUNTY
(B,H,Hw,D) - See Statewide
(R) - See Clallam County
PEND OREILLE COUNTY
(B,H,Hw,D) - See Statewide
PIERCE COUNTY
(R) - See Clallam County
(B,H,Hw,D) - See Statewide
SAN JUAN COUNTY
(B,H,Hw,D) - See Statewide
SKAGIT COUNTY
(B,H,Hw,D) - See Statewide
(R) - See Clallam County
SKAMANIA COUNTY
(B,H,Hw,D) - See Statewide
SNOHOMISH COUNTY
(R) - See Clallam County
(B,H,Hw,D) - See Statewide
SPOKANE COUNTY
(B,H,Hw,D) - See Statewide
STEVENS COUNTY
(B,H,Hw,D) - See Statewide
THURSTON COUNTY
(B,H,Hw,D) - See Statewide
(R) - See Clallam County
WAHKIAKUM COUNTY
(B,H,Hw,D) - See Statewide
WALLA WALLA COUNTY
(B,H,Hw,D) - See Statewide
WHATCOM COUNTY
(B,H,Hw,D) - See Statewide
(R) - See Clallam County
WHITMAN COUNTY
(B,H,Hw,D) - See Statewide
YAKIMA COUNTY
Decision #WA77-5008 (R)
42 FR 4109 - 1/21/77
(B,H,Hw,D) - See Statewide

WASHINGTON, D. C.

WASHINGTON, D. C.
Decision #DC77-3040 (B,Hw, W&S)
42 FR 15293 - 3/18/77
Mod. #1 - 42 FR 18794 - 4/8/77
Mod. #2 - 42 FR 20987 - 4/22/77
Mod. #3 - 42 FR 23291 - 5/6/77
Mod. #4 - 42 FR 27562 - 5/27/77
Mod. #5 - 42 FR 32457 - 6/24/77
Decision #GA77-5035 (D)
42 FR 13756 - 3/11/77
Decision #DC76-3171 (R)
41 FR 21027 - 5/21/76

WEST VIRGINIA

STATEWIDE
Decision #WV77-3024 (H,Hw)
42 FR 10272 - 2/18/77
Mod. #1 - 42 FR 13721 - 3/11/77
Mod. #2 - 42 FR 15259 - 3/18/77
Mod. #3 - 42 FR 17750 - 4/1/77
Mod. #4 - 42 FR 30101 - 6/10/77
BARBOUR COUNTY
Decision #WV77-3027 (B)
42 FR 10281 - 2/18/77
Mod. #1 - 42 FR 13721 - 3/11/77
Mod. #2 - 42 FR 15259 - 3/18/77
Mod. #3 - 42 FR 17751 - 4/1/77
(H,Hw) - See Statewide
BERKELEY COUNTY
(H,Hw) - See Statewide
BOONE COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
BRAXTON COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
BROOKE COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
CABELL COUNTY
(B) - See Barbour County
Decision #IL77-5056 (D)
42 FR 13757 - 3/11/77
Mod. #1 - 42 FR 32447 - 6/24/77
(H,Hw) - See Statewide
CALHOUN COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
CLAY COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
DODDRIDGE COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
FAYETTE COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
GILMER COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
GRANT COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
GREENBRIER COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
HAMPSHIRE COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide

WEST VIRGINIA (Cont'd)

HANCOCK COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
HARDY COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
HARRISON COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
JACKSON COUNTY
(D) - See Cabell County
(H,Hw) - See Statewide
(B) - See Barbour County
JEFFERSON COUNTY
(H,Hw) - See Statewide
KANAWHA COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
Decision #AR-2058 (R)
39 FR 35948 - 10/4/74
Mod. #1 - 39 FR 44913 - 12/27/74
(H,Hw) - See Statewide
LEWIS COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
LINCOLN COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
LOGAN COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
MC DOWELL COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
MARION COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
MARSHALL COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
MASON COUNTY
(B) - See Barbour County
(D) - See Cabell County
(H,Hw) - See Statewide
MERCER COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
MINERAL COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
MINGO COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
MONONGALIA COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide

WEST VIRGINIA (Cont'd.)

MONROE COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
MORGAN COUNTY
(H,Hw) - See Statewide
NICHOLAS COUNTY
(H,Hw) - See Statewide
OHIO COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
PENDLETON COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
PLEASANT COUNTY
(D) - See Cabell County
(H,Hw) - See Statewide
(B) - See Barbour County
POCAHONTAS COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
PRESTON COUNTY
(H,Hw) - See Statewide
PUTNAM COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
RALEIGH COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
RANDOLPH COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
RITCHIE COUNTY
(H,Hw) - See Statewide
(B) - See Barbour County
ROANE COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
SUMMERS COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
TAYLOR COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
TUCKER COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
TYLER COUNTY
(D) - See Cabell County
(B) - See Barbour County
(H,Hw) - See Statewide

WEST VIRGINIA (Cont'd.

UPSHUR COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
WAYNE COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
WEBSTER COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
WETZELL COUNTY
(D) - See Cabell County
(H,Hw) - See Statewide
WIRT COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide
WOOD COUNTY
(B) - See Barbour County
(D) - See Cabell County
(H,Hw) - See Statewide
WYOMING COUNTY
(B) - See Barbour County
(H,Hw) - See Statewide

WISCONSIN

STATEWIDE
Decision #WI77-2049 (Hw)
42 FR 20105 - 4/15/77
Decision #WI77-2042 (H, Sewer, Tunnel, & Water)
42 FR 18841 - 4/8/77
Mod. #1 - 42 FR 23293 - 5/6/77
ADAMS COUNTY
(H,Hw, W&S) - See Statewide
ASHLAND COUNTY
Decision #IL77-5038 (D)
42 FR 18802 - 4/8/77
Mod. #1 - 42 FR 22070 - 4/29/77
(H,Hw) - See Statewide
Decision #WI76-2157 (B,R)
41 FR 55292 - 12/17/76
Mod. #1 - 42 FR 18795 - 4/8/77
BARRON COUNTY
(B)- See Polk County
(H,Hw, W&S) - See Statewide
BAYFIELD COUNTY
(B,R,D) - See Ashland County
(H,Hw, W&S) - See Statewide
BROWN COUNTY
Decision #WI76-2160 (B)
41 FR 55297 - 12/17/76
Mod. #1 - 42 FR 18795 - 4/8/77
(D) - See Ashland County
(H,Hw, W&S) - See Statewide
BUFFALO COUNTY
Decision #IL77-5056 (D)
42 FR 28759 - 6/3/77
Mod. #1 - 42 FR 32447 - 6/24/77
(H,Hw) - See Statewide
BURNETT COUNTY
(H,Hw, W&S) - See Statewide
CALUMET COUNTY
(H,Hw, W&S) - See Statewide
CHIPPEWA COUNTY
(H,Hw, W&S) - See Statewide
(B,R) - See Eau Clair County
CLARK COUNTY
(H,Hw) - See Statewide
COLUMBIA COUNTY
(H,Hw, W&S) - See Statewide
CRAWFORD COUNTY
(D) - See Buffalo County
(H,Hw, W&S) - See Statewide
DANE COUNTY
Decision #WI76-2161 (B,R)
41 FR 55299 - 12/17/76
Mod. #1 - 42 FR 18795 - 4/8/77
DODGE COUNTY
(H,Hw, W&S) - See Statewide

WISCONSIN (Cont'd.

DOOR COUNTY
(D) - See Ashland County
(H,Hw, W&S) - See Statewide
DOUGLAS COUNTY
(B,D,R) - See Ashland County
DUNN COUNTY
(B) - See Polk County
(H,Hw, W&S) - See Statewide
EAU CLAIR COUNTY
Decision #WI76-2162 (B,R)
41 FR 54150 - 12/10/76
(H,Hw, W&S) - See Statewide
FLORENCE COUNTY
(H,Hw, W&S) - See Statewide
FOND DU LAC COUNTY
(H,Hw, W&S) - See Statewide
FOREST COUNTY
(H,Hw, W&S) - See Statewide
GRANT COUNTY
(D) - See Buffalo County
(H,Hw, W&S) - See Statewide
GREEN COUNTY
(B) - See Rock County
(H,Hw, W&S) - See Statewide
GREEN LAKE COUNTY
(B) - See Winnebago County
(H,Hw, W&S) - See Statewide
IOWA COUNTY
(B) - See Dane County
(H,Hw, W&S) - See Statewide
IRON COUNTY
(D) - See Ashland County
(H,Hw, W&S) - See Statewide
JACKSON COUNTY
(H,Hw, W&S) - See Statewide
JEFFERSON COUNTY
(H,Hw, W&S) - See Statewide
JUNEAU COUNTY
(H,Hw, W&S) - See Statewide
Decision #WI76-2165 (B)
41 FR 53261 - 12/3/76
KENOSHA COUNTY
(D) - See Ashland County
(H,Hw, W&S) - See Statewide
Decision #WI76-2167 (B,R)
41 FR 55301 - 12/17/76
Mod. #1 - 42 FR 20987 - 4/22/77
KEWAUNEE COUNTY
(D) - See Ashland County
(H,Hw, W&S) - See Statewide
LA CROSSE COUNTY
Decision #WI76-2155 (B,R)
41 FR 52280 - 11/26/76
Mod. #1 - 42 FR 18795 - 4/8/77
(H,Hw, W&S) - See Statewide
(D) - See Buffalo County

WISCONSIN (Cont'd.

LA FAYETTE COUNTY
(H,Hw, W&S) - See Statewide
LANGLADE COUNTY
(B) - See Marathon County
(H,Hw, W&S) - See Statewide
LINCOLN COUNTY
(B) - See Marathon County
(H,Hw, W&S) - See Statewide
MANITOWOC COUNTY
(D) - See Ashland County
(H,Hw, W&S) - See Statewide
MARATHON COUNTY
Decision #WI76-2168 (B)
41 FR 55303 - 12/17/76
Mod. #1 - 42 FR 20987 - 4/22/77
(H,Hw, W&S) - See Statewide
MARINETTE COUNTY
(D) - See Ashland County
MARQUETTE COUNTY
(B) - See Winnebago County
(H,Hw, W&S) - See Statewide
MENOMINEE COUNTY
(H,Hw, W&S) - See Statewide
MILWAUKEE COUNTY
Decision #WI77-2092 (B,R)
42 FR 32511 - 6/24/77
(D) - See Ashland County
(H,Hw, W&S) - See Statewide
MONROE COUNTY
(H,Hw, W&S) - See Statewide
ONCONTO COUNTY
(D) - See Ashland County
(H,Hw, W&S) - See Statewide
ONEIDA COUNTY
(H,Hw, W&S) - See Statewide
OUTGAMIE COUNTY
(H,Hw, W&S) - See Statewide
OZAUKEE COUNTY
(B,R) - See Milwaukee County
(D) - See Ashland County
(H,Hw, W&S) - See Statewide
PEPIN COUNTY
(B,R) - See Eau Clair County
(H,Hw, W&S) - See Statewide
PIERCE COUNTY
(D) - See Buffalo County
(H,Hw, W&S) - See Statewide
POLK COUNTY
Decision #WI76-2158 (B)
41 FR 55303 - 12/17/76
Mod. #1 - 42 FR 18795 - 4/8/77
(H,Hw, W&S) - See Statewide
PORTAGE COUNTY
(H,Hw, W&S) - See Statewide
PRICE COUNTY
(H,Hw, W&S) - See Statewide

WISCONSIN (Cont'd.

RACINE COUNTY
Decision #WI76-2169 (B,R)
41 FR 56620 - 12/28/76
Mod. #1 - 42 FR 20987 - 4/22/77
(D) - See Ashland County
(H,Hw, W&S) - See Statewide
RICHLAND COUNTY
(H,Hw, W&S) - See Statewide
ROCK COUNTY
Decision #WI76-2163 (B)
41 FR 54152 - 12/10/76
Mod. #1 - 42 FR 18795 - 4/8/77
(H,Hw, W&S) - See Statewide
RUSK COUNTY
(H,Hw, W&S) - See Statewide
SAINT CROIX COUNTY
(B) - See Polk County
(H,Hw, W&S) - See Statewide
SAUK COUNTY
(B) - See Dane County
(H,Hw, W&S) - See Statewide
SAWYER COUNTY
(H,Hw, W&S) - See Statewide
SHAWANO COUNTY
(H,Hw, W&S) - See Statewide
SHEBOYGAN COUNTY
(D) - See Ashland County
TAYLOR COUNTY
(H,Hw, W&S) - See Statewide
TREMPEALEAU COUNTY
(D) - See Buffalo County
(H,Hw, W&S) - See Statewide
VERNON COUNTY
(D) - See Buffalo County
(H,Hw, W&S) - See Statewide
VILAS COUNTY
(H,Hw, W&S) - See Statewide
WALWORTH COUNTY
(H,Hw, W&S) - See Statewide
WASHBURN COUNTY
(H,Hw, W&S) - See Statewide
WASHINGTON COUNTY
(B,R) - See Milwaukee County
(H,Hw, W&S) - See Statewide
WAUKESHA COUNTY
(B,R) - See Milwaukee County
(H,Hw, W&S) - See Statewide
WAUPACA COUNTY
(B) - See Winnebago County
(H,Hw, W&S) - See Statewide
WASHARA COUNTY
(B) - See Winnebago County
(H,Hw, W&S) - See Statewide
WINNEBAGO COUNTY
Decision #WI76-2164 (B)
41 FR 54154 - 12/10/76
Mod. #1 - 42 FR 18795 - 4/8/77
(H,Hw, W&S) - See Statewide
WOOD COUNTY
(H,Hw, W&S) - See Statewide

WYOMING

STATEWIDE
Decision #WY77-5071 (Hw)
42 FR 34269 - 7/1/77
ALBANY COUNTY
(Hw) - See Statewide
BIG HORN COUNTY
(Hw) - See Statewide
CAMPBELL COUNTY
(Hw) - See Statewide
CARBON COUNTY
(Hw) - See Statewide
CONVERSE COUNTY
Decision #WY77-5054 (B,H)
42 FR 26188 - 5/20/77
Mod. #1 - 42 FR 34152 - 7/1/77
(Hw) - See Statewide
CROOK COUNTY
(Hw) - See Statewide
FREMONT OCUNTY
(Hw) - See Statewide
GOSHEN COUNTY
(B,H) - See Converse County
(Hw) - See STatewide
HOT SPRINGS COUNTY
(Hw) - See Statewide
JOHNSON COUNTY
(Hw) - See Statewide
LARIMIE COUNTY
(B,H) - See Converse County
LINCOLN COUNTY
(Hw) - See Statewide
NATRONA COUNTY
(B,H) - See Converse County
(Hw) - See Statewide
NIOBRARA COUNTY
(B,H) - See Converse County
(Hw) - See Statewide
PARK COUNTY
(Hw) - See STatewide
PLATTE COUNTY
(B,H) - See Converse County
(Hw) - See Statewide
SHERIDAN COUNTY
(Hw) - See Statewide
SUBLETTE COUNTY
(H,Hw) - See Statewide
SWEETWATER COUNTY
(Hw) - See Statewide
TETON COUNTY
(Hw) - See Statewide
UNITA COUNTY
(Hw) - See Statewide
WASHAKIE COUNTY
(Hw) - See Statewide

WYOMING (Cont'd.

WESTON COUNTY
(Hw) - See Statewide
YELLOWSTONE NATIONAL PARK
(Hw) - See Statewide

[FR Doc.77-22311 Filed 8-4-77;8:45 am]