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federal register

FRIDAY, APRIL 7, 1978

highlights

SIGN LANGUAGE INTERPRETER

HOW TO USE THE FEDERAL REGISTER

WHO: The Office of the Federal Register will provide a sign language interpreter at a workshop on how to use the Federal Register.

FOR: Any deaf person who must use the Federal Register and Code of Federal Regulations.

WHAT: Free public workshop (approximately 3 hours) to present:

1. Brief history of the Federal Register system.
2. Difference between legislation and regulations.
3. Relationship of Federal Register and the Code of Federal Regulations.
4. Introduction to the finding aids of FR/CFR system.

WHEN: 9 a.m., Friday, April 21, 1978.

WHERE: 1100 L Street NW., Washington, D.C., Room 9409.

WHY: To give deaf persons an opportunity to learn about publication of Federal regulations and encourage their fuller participation in the Government rulemaking process.

INFORMATION: Marty Franks, 202-523-3517.

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR notice 41 FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/COAST GUARD	USDA/ASCS		DOT/COAST GUARD	USDA/ASCS
DOT/NHTSA	USDA/APHIS		DOT/NHTSA	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/OHMO	USDA/FSQS		DOT/OHMO	USDA/FSQS
DOT/OPSO	USDA/REA		DOT/OPSO	USDA/REA
	CSC			CSC
	LABOR			LABOR
	HEW/ADAMHA			HEW/ADAMHA
	HEW/CDC			HEW/CDC
	HEW/FDA			HEW/FDA
	HEW/HRA			HEW/HRA
	HEW/HSA			HEW/HSA
	HEW/NIH			HEW/NIH
	HEW/PHS			HEW/PHS

Documents normally scheduled for publication 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.

federal register

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NOTE: There were no items eligible for inclusion in the list of RULES GOING INTO EFFECT TODAY.

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. 10982 ..... Pub. L. 95–254
To rescind certain budget authority contained in the message of the President of January 27, 1978 (H. Doc. 95–285), transmitted pursuant to the Impoundment Control Act of 1974. (Apr. 4, 1978; 92 Stat. 187) Price $.50.

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

[6325-01]

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Department of Labor, Department of Energy, Equal Employment Opportunity Commission

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment excepts under Schedule C certain positions at the Department of Labor, Department of Energy, and Equal Employment Opportunity Commission because they are confidential in nature.

EFFECTIVE DATE: March 23, 1978.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5CFR 213.3315(a)(1), 213.3331(j)(2), and 213.3377(i) are amended as set out below:

§ 213.3315 Department of Labor.

(a) *Office of the Secretary.* (1) One Private Secretary, one Secretary, three Special Assistants, and one Confidential Assistant to the Secretary.

* * * * *

§ 213.3331 Department of Energy.

* * * * *

(j) *Office of the Assistant Secretary for Resource Applications.* * * *

(2) Two Staff Assistants to the Assistant Secretary.

* * * * *

§ 213.3377 Equal Employment Opportunity Commission.

* * * * *

(i) Two Special Assistants to the Executive Director.

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

For the United States Civil Service Commission.

JAMES C. SPRY,
Executive Assistant to the Commissioners

[FR Doc. 78-8955 Filed 4-6-78; 8:45 am]

[6325-01]

PART 213—EXCEPTED SERVICE

Department of Energy, National Foundation on the Arts and the Humanities

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment excepts under Schedule C certain positions at the Department of Energy and National Foundation on the Arts and the Humanities because they are confidential in nature.

EFFECTIVE DATE: Department of Energy, March 27, 1978, National Foundation on the Arts and the Humanities, March 24, 1978.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3331(a)(8), and 213.3382(q) are added as set out below:

§ 213.3331 Department of Energy.

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

(8) One Confidential Assistant (Secretary) to the Deputy Under Secretary.

* * * * *

§ 213.3382 National Foundation on the Arts and the Humanities.

* * * * *

(q) One Secretary to the Deputy Chairman, National Endowment for the Humanities.

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

For the United States Civil Service Commission.

JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 78-9128 Filed 4-6-78; 8:45 am]

[6325-01]

PART 213—EXCEPTED SERVICE

Department of Energy, Equal Employment Opportunity Commission

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment (1) changes the title of certain positions in the Department of Energy and (2) excepts under Schedule C a position at the Equal Employment Opportunity Commission because it is confidential in nature.

EFFECTIVE DATE: March 28, 1978.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3331(e)(1), (l)(1), and 213.3377(a) are amended as set out below:

§ 213.3331 Department of Energy.

* * * * *

(e) *Office of the Administrator of the Economic Regulatory Administration.*

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

* * * * *

(l) *Office of the Assistant Secretary for Defense Programs.*

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

* * * * *

§ 213.3377 Equal Employment Opportunity Commission.

(a) Two Special Assistants to the Chair.

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

For the United States Civil Service Commission.

JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 78-9129 Filed 4-6-78; 8:45 am]

[6325-01]

PART 213—EXCEPTED SERVICE

Department of State, Department of Energy

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment (1) excepts under Schedule C a position at the Department of State because it is confidential in nature, and (2) changes the title of one Confidential Assistant for Legislation to the Administrator, Federal Energy Administration, formerly excepted under Schedule C and subsequently transferred to the Department of Energy on September 30, 1977, to one Confidential Assistant for Legislation to the Deputy Secretary, Department of Energy.

EFFECTIVE DATES: Department of State March 27, 1978, Department of Energy March 28, 1978.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3304(a)(18) and 213.3331(a)(9) are added as set out below:

§ 213.3304 Department of State.

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

(18) One Assistant Chief of Protocol for Ceremonials and Public Diplomacy.

* * * * *

§ 213.3331 Department of Energy.

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

(9) One Confidential Assistant for Legislation to the Deputy Secretary.

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

For the United States Civil Service Commission.

JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 78-9130 Filed 4-6-78; 8:45 am]

[6325-01]

PART 213—EXCEPTED SERVICE

Department of State

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment shows title changes in certain positions at the Department of State. These changes are necessary to reflect current title of Superior and to reflect more appropriately the duties of the positions.

EFFECTIVE DATE: March 22, 1978.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3304(a)(11) is amended as set out below:

§ 213.3304 Department of State.

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

(11) One Secretary (Steno) and two Special Assistants to the Under Secretary for Security Assistance, Science and Technology.

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

For the United States Civil Service Commission.

JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 78-9041 Filed 4-6-78; 8:45 am]

[3410-08]

Title 7—Agriculture

CHAPTER IV—FEDERAL CROP INSURANCE CORP., DEPARTMENT OF AGRICULTURE

[Amdt. No. 92]

PART 401—FEDERAL CROP INSURANCE

Subpart—Regulations for the 1969 and Succeeding Crop Years

CANNING AND FREEZING SWEET CORN ENDORSEMENT

AGENCY: Federal Crop Insurance Corp.

ACTION: Final rule.

SUMMARY: The Federal Crop Insurance Corp., is amending its regulations to establish a section which contains the provisions of the Canning and Freezing Sweet Corn Endorsement for the purpose of insuring such crop for the first time effective with the 1978 crop year.

EFFECTIVE DATE: April 7, 1978.

FOR FURTHER INFORMATION CONTACT:

Peter F. Cole, Secretary, Federal Crop Insurance Corp., U.S. Department of Agriculture, Washington, D.C., 20250, 202-447-3325.

SUPPLEMENTARY INFORMATION: Under the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 et seq.), the Federal Crop Insurance Corp., hereby establishes a new section to Title 7, Part 401, of the Code of Federal Regulations to be known as 7 CFR 401.156 The Canning and Freezing Sweet Corn Endorsement. This section contains the provisions for insuring sweet corn in those counties where such insurance is otherwise authorized to be offered. In establishing these provisions, the Corporation has determined that the closing date for the acceptance of applications shall be April 25. Notification of any changes in the provisions for insuring crops must be placed on file 15 days prior to the closing date in the Corporation's office for the county. In addition, notification of such changes must be given to insureds for their review by the same date.

Inasmuch as the Canning and Freezing Sweet Corn Endorsement is being issued for the first time, it has been found and determined that good cause exists for not complying with the provisions of the Administrative Procedures Act (5 U.S.C. 553(b) and (c)), relative to notice and public participation. The Corporation has determined that compliance with such procedure in the issuance of these new regulations would be impracticable and contrary to the public interest. Accordingly, the provisions of the Canning and Freezing Sweet Corn Endorsement (7 CFR 401.156), as set forth below, are hereby issued without compliance with such procedure.

FINAL RULE

Pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 CFR, Parts 1501 et seq.), the Federal Crop Insurance Regulations for the 1969 and Succeeding Crop Years are hereby amended, effective with the 1978 crop, by adding a new § 401.156 of Title 7 of the Code of Federal Regulations to read as follows:

§ 401.156 The Canning and Freezing Sweet Corn Endorsement.

1. *Insured crop.* The crop insured shall be canning and freezing sweet corn (hereinafter called "corn") grown under a contract with a processor executed by the date established by the Corporation for reporting acreage. An instrument in the form of a "lease" under which the insured grower retains possession of the land on which the corn is grown and which provides for delivery of the corn under certain conditions and at a stipulated price(s) shall, for the purpose of this contract, be treated as a processor contract under which the insured has the interest in the crop.

2. *Causes of loss.* In addition to the causes of loss not insured against enumerated in section 1(b) of the policy, the Corporation shall consider as uninsured any loss of production resulting solely from acreage not being timely harvested *unless* the Corporation determines that, due to unusual weather conditions, a substantial percentage of contracted acreage in the area was ready for havest at the same time. The uninsured loss of production resulting from failure to timely harvest will be appraised and counted as production by the Corporation as tons of corn which were available for timely havesting.

3. *Production guarantee.* The production guarantee per acre (ears and husks) shall be

in tons as shown on the county actuarial table and the guarantee for any unharvested acreage shall be decreased 20 percent.

4. *Insurance period.* Insurance on insured acreage shall attach at the time the corn is planted and shall cease in the same calendar year as follows: The earliest of (1) final adjustment of a loss, (2) harvest, or (3) September 20: *Provided, however,* That if any acreage is not timely harvested, insurance shall be deemed to have ceased when the acreage should have been harvested, as determined by the Corporation, *unless* the Corporation determines that, due to unusual weather conditions, a substantial percentage of contracted acreage in the area was ready for harvest at the same time.

5. *Immediate notice required.* In addition to the notices of loss required in section 8 of the Policy, written notice shall be given the Corporation at the office for the county (1) no later than 48 hours after harvesting of the corn has been discontinued on a unit, or (2) before harvest would normally start if any acreage on a unit is not to be harvested. If such notice is not given, the Corporation shall appraise the tons of unharvested production, and if there is insufficient evidence upon which to base an appraisal, the appraisal on such acreage shall be the production guarantee.

6. *Claims for loss.* (a) Any claim for loss on a unit shall be submitted to the Corporation on a form prescribed by the Corporation not later than 60 days after the end of the time of loss. The Corporation reserves the right to provide additional time if it determines that circumstances beyond the control of either party prevent compliance with this provision.

(b) It shall be a condition precedent to the payment of any loss that the insured (1) establish the production of the insured corn on the unit, and that any loss of production has been directly caused by one or more of the causes insured against during the insurance period of the crop year for which the loss is claimed, and (2) furnish any other information regarding the manner and extent of loss as may be required by the Corporation.

(c) Losses shall be determined separately for each unit. The amount of loss with respect to any unit shall be determined by (1) multiplying the insured acreage on the unit by the applicable guarantee per acre, which product shall be the total production guarantee for the unit, (2) subtracting therefrom the total production to be counted for the unit, (3) multiplying the remainder by the price election per ton, and (4) multiplying the result obtained in step (3) by the insured share: *Provided,* That if the premium computed on the determined acreage and share is more than the premium computed on the reported acreage and share, the amount of loss shall be computed on the determined acreage and share and then reduced proportionately.

(d) The total production to be counted for a unit shall be determined by the Corporation, and subject to the provisions hereinafter, shall include all harvested and appraised production including any appraisals for (1) potential production not harvested, (2) poor farming practices, (3) other uninsured causes of loss, and (4) acreage abandoned or put to another use without the consent of the Corporation: *Provided,* That the total production to be counted on any acreage shall be as follows for the conditions described: (1) The greater of the appraised production or 50 percent of the applicable guarantee for any acreage which, with the consent of the Corporation, is planted before harvest of corn becomes general in the current crop year to any other crop insurable on such acreage (*excluding small grains normally maturing for harvest in the following calendar year*). (2) Not less than the applicable guarantee for any acreage which is abandoned, put to another use without prior written consent of the Corporation, or damaged solely by an uninsured cause.

7. *Termination and cancellation dates.* For each crop year of the contract the cancellation date shall be the December 31 and the termination date for indebtedness the April 25 immediately preceding the beginning of the crop year for which the cancellation or termination is to become effective.

8. *Meaning of terms.* For the purpose of canning and freezing sweet corn insurance, the term "Harvest" means the removal of the ears and husks from the stalks and the delivery thereof to the processor; corn used for any other purpose shall be considered as unharvested.

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; (7 U.S.C. 1501, 1516).)

NOTE.—The reporting requirements contained herein have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

NOTE.—The Federal Crop Insurance Corp., 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.

Approved by the Board of Directors on February 14, 1978.

Effective: April 7, 1978.

Dated: March 22, 1978.

PETER F. COLE,
Secretary, Federal Crop Insurance Corporation.

Dated: April 4, 1978.

Approved by:
BOB BERGLAND,
Secretary.

[FR Doc. 78-9254 Filed 4-6-78; 8:45 am]

[3410-08]

[Amdt. No. 94]

PART 401—FEDERAL CROP INSURANCE

Subpart—Regulations for the 1969 and Succeeding Crop Years

Potato Endorsement

AGENCY: Federal Crop Insurance Corporation.

ACTION: Final rule.

SUMMARY: The Federal Crop Insurance is amending its regulations to establish a section which contains the provisions of the potato endorsement for the purpose of insuring such crop for the first time effective with the 1978 crop year.

EFFECTIVE DATE: April 7, 1978.

FOR FURTHER INFORMATION CONTACT:

Peter F. Cole, Secretary Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, 202-447-3325.

SUPPLEMENTARY INFORMATION: Under the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 et seq.), the Federal Crop Insurance Corporation hereby establishes a new section to Title 7, Part 401, of the Code of Federal Regulations to be known as 7 CFR 401.155 The Potato Endorsement.

This section contains the provisions for insuring potatoes in those counties where such insurance is otherwise authorized to be offered. In establishing these provisions, the Corporation has determined that the closing date for the acceptance of applications shall be April 15 in North Dakota, and March 31 in all other states. Notification of any changes in the provisions for insuring crops must be placed on file 15 days prior to the closing date in the Corporation's office for the county. In addition, notification of such changes must be given to insured for their review by the same date.

It is desirable that Amendment No. 94 be made effective with the 1978 crop year and the proposed Potato Endorsement must be placed on file in the office for the county by not later than April 1, 1978, in order to be effective for the 1978 crop year. It is estimated that about 30 days will be required to print new program documents and to attend to the many other administrative details prior to this program becoming operative. Accordingly, there would not be sufficient time to put the program into effect if it were to be delayed until after issuance of a notice of proposed rule making and opportunity for comments. Therefore, the Corporation has found and determined that compliance with the procedure for notice and public participation is impracticable and contrary to the public interest, and that this amendment is issued without compliance with such procedure.

FINAL RULE

Pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 CFR Parts 1501 et seq.), the Federal Crop Insurance Regulations for the 1969 and Succeeding Crop Years are hereby amended, effective with the 1978 crop year, by adding a new § 401.155 of Title 7 of the Code of Federal Regulations to read as follows:

§ 401.155 The potato endorsement.

1. *Insured crop.* The crop insured shall be potatoes planted for harvest. Insurance shall not attach on (a) acreage planted with

non-certified seed or (b) acreage on which potatoes or sunflowers were planted in either of the two preceding crop years unless otherwise provided on the actuarial table; however, if acreage has previously not been cultivated, potatoes shall be insurable for the first two crop years on such land.

2. *Causes of loss.* In addition to causes of loss not insured against enumerated in subsection 1(b) of the Policy, the Corporation shall consider as uninsured any loss of production due to damage that occurs or becomes evident after the potatoes have been placed in storage.

3. *Production guarantee.* The production guarantee per acre shall be as shown on the actuarial table and such guarantee for any unharvested acreage shall be decreased 20 percent.

4. *Insurance period.* Insurance on insured acreage shall attach at the time of planting and shall cease in the same calendar year as follows: The earliest of (a) final adjustment of a loss, (b) harvest, or (c) October 31 in all states except North Dakota (where insurance ceases October 15).

5. *Additional notice of loss requirement.* In addition to the provisions of section 8 of the Policy, if a loss is to be claimed on any unit, written notice of damage shall be given to the Corporation at the office for the county at least 72 hours prior to the start of harvest, unless all of the production is to be delivered directly to a processing plant.

6. *Claims for loss.* (a) Any claim for loss on a unit shall be submitted to the Corporation on a form prescribed by the Corporation not later than 60 days after the time of loss. The Corporation reserves the right to provide additional time if it determines that circumstances beyond the control of either party prevent compliance with this provision.

(b) It shall be a condition precedent to the payment of any loss that the insured (1) establish the production of the insured crop on the unit and that any loss of production has been directly caused by one or more of the causes insured against during the insurance period of the crop year for which the loss is claimed, and (2) furnish any other information regarding the manner and extent of loss as may be required by the Corporation.

(c) Losses shall be determined separately for each unit. The amount of loss with respect to any unit shall be determined by (1) multiplying the insured acreage on the unit by the applicable production guarantee(s) per acre, which product shall be the total production guarantee for the unit, (2) subtracting therefrom the total production to be counted for the unit, (3) multiplying the remainder by the applicable price for computing indemnities, and (4) multiplying the result obtained in step (3) by the insured share: *Provided,* That if the premium computed on the determined acreage and share is more than the premium computed on the reported acreage and share, the amount of loss shall be computed on the determined acreage and share and then reduced proportionately.

(d) The total production to be counted for a unit shall be on the basis of marketable potatoes as determined by the Corporation and shall include all harvested production and any appraisals made by the Corporation for (1) potential production not harvested, (2) poor farming practices, (3) other uninsured causes of loss, (4) acreage abandoned or put to another use without the consent of the Corporation, or (5) any disposition of production which prevents accurate determination of marketable potatoes: *Provided,* That the total production to be counted shall not be less than the applicable guarantee on any acreage (1) which is abandoned or put to another use without prior written consent of the Corporation, (2) which is damaged solely by an uninsured cause, or (3) from which the harvested production is disposed of without the prior written consent of the Corporation and such disposition prevents accurate determination of marketable potatoes.

(e) The Corporation reserves the right to adjust any loss at the time the potatoes are placed in storage or delivered to a processor.

(f) Notwithstanding the provisions of subsection (d) of this section, if potatoes are marketed or stored without an acceptable inspection the production to count for such potatoes shall be 90 percent of the gross weight so marketed or stored.

7. *Meaning of terms.* For the purpose of potato insurance the terms: (a) "Harvest" means the digging of potatoes.

(b) "Marketable potatoes" means potatoes acceptable for use as certified seed or for human consumption and meets the standards for sale through market outlets for the area and as may be further defined on the county actuarial table. The determination of marketable potatoes shall be made by the Corporation.

8. *Cancellation and termination for indebtedness dates.* For each crop year of the contract, the cancellation date shall be the December 31 and the termination date for indebtedness shall be the April 15 in North Dakota and March 31 in all other states immediately preceding the beginning of the crop year for which the cancellation or the termination is to become effective.

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; (7 U.S.C. 1501, 1516).)

NOTE.—The reporting requirements contained herein have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

NOTE.—The Federal Crop Insurance Corporation 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.

Approved by the Board of Directors on February 14, 1978.

Effective: April 7, 1978.

Dated: March 22, 1978.

PETER F. COLE,
Secretary, Federal Crop Insurance Corporation.

Dated: April 4, 1978.

Approved by:
BOB BERGLAND,
Secretary.

[FR Doc. 78-9255 Filed 4-6-78; 8:45 am]

[3410-02]

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

[Lemon Regulation 140, Lemon Regulation 139, Amendment 1]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action establishes the quantity of California-Arizona lemons that may be shipped to the fresh market during the period April 9-15, 1978, and increases the quantity of such lemons that may be so shipped during the period April 2-8, 1978. Such action is needed to provide for orderly marketing of fresh lemons for the periods specified due to the marketing situation confronting the lemon industry.

DATES: The regulation becomes effective April 9, 1978, and the amendment is effective for the period April 2-8, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

SUPPLEMENTARY INFORMATION: *Findings.* Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee, established under this marketing order, and upon other information, it is found that the limitation of handling of lemons, as hereafter provided, will tend to effectuate the declared policy of the act.

The committee met on April 4, 1978, to consider supply and market conditions and other factors affecting the need for regulation, and recommended quantities of lemons deemed advisable to be handled during the specified weeks. The committee reports the demand for lemons of all sizes appears to be in line with supply, and for size 115's and larger it seems to be improving.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days

after publication in the FEDERAL REGISTER (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation and amendment are based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting, and the amendment relieves restrictions on the handling of lemons. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

§ 910.440 Lemon Regulation 140.

Order. (a) The quantity of lemons grown in California and Arizona which may be handled during the period April 9, 1978 through April 15, 1978, is established at 250,000 cartons.

(b) As used in this section, "handled" and "carton(s)" mean the same as defined in the marketing order.

2. Paragraph (a) of § 910.439 Lemon Regulation 139 (43 FR 13492) is amended to read as follows: "The quantity of lemons grown in California and Arizona which may be handled during the period April 2, 1978 through April 8, 1978, is established at 255,000 cartons."

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

Dated: April 6, 1978.

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

[FR Doc. 78-9532 Filed 4-6-78; 11:56 am]

[7590-01]

Title 10—Energy

CHAPTER I—NUCLEAR REGULATORY COMMISSION

[Docket No. RM-50-3]

PART 51—LICENSING AND REGULATORY POLICY AND PROCEDURES FOR ENVIRONMENTAL PROTECTION

Environmental Effects of the Uranium Fuel Cycle

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Notice of oral argument.

SUMMARY: The Hearing Board will hold oral argument for the purpose of according the parties to this proceeding (42 FR 26987; May 26, 1977), the opportunity to request cross-examination of particular witnesses who have testified in this proceeding on specific factual issues relating to the environmental effects of the uranium fuel cycle.

DATE: Oral argument will be held on Thursday, April 20, 1978, at 10 a.m.

ADDRESS: Oral argument will be held in the Commission's Hearing Room, 5th floor, East West Towers, 4350 East-West Highway, Bethedsa, Md.

FOR FURTHER INFORMATION CONTACT:

Dr. John H. Buck, 202-492-7664.

MEMORANDUM AND ORDER

MARCH 30, 1978.

In the matter of amendment of 10 CFR Part 51 licensing of production and utilization facilities, (Environmental Effects of the Uranium Fuel Cycle), Docket No. RM 50-3.

The Hearing Board will hold oral argument on Thursday, April 20, 1978, at 10 a.m., in the Commission's Hearing Room, 5th floor, East West Towers, 4350 East-West Highway, Bethesda, Md., for the purpose of according the parties to this proceeding the opportunity to request cross-examination of particular witnesses who have testified in this proceeding on specific factual issues.

All parties requesting cross-examination will be required tc demonstrate the need for such cross-examination in accordance with the NRC's directive in January, 1978, to the Hearing Board.

The Hearing Board will require those parties requesting cross-examination to submit to the Hearing Board by April 12, 1978, a written statement of intention to request cross-examination, and to briefly identify the particular witness and specific factual issues to which such cross-examination will be directed. We will also require the requesting party to serve a copy of their statement directly on the party who sponsored the witness sought for cross-examination. At the oral argument, the parties requesting cross-examination will be expected to demonstrate with particularity that the cross-examination requested is necessary to develop an adequate record for sound discussion.

Upon conclusion of this oral argument, we will also allow the parties to this proceeding a brief opportunity to express their views on the need to hold rebuttal hearings.

Parties desiring to request cross-examination will make their argument in the same order of appearance as listed in our Memorandum and Order of January 4, 1978. Expression of views on the need for rebuttal hearings will be presented in the same order of appearance.

Parties opposing requests for cross-examination will be permitted to state their opposition to the requests after completion of all arguments in favor of cross-examination.

It is so ordered.

For the Hearing Board.

ROMAYNE M. SKRUTSKI,
Secretary to the Hearing Board.

[FR Doc. 78-9259 Filed 4-6-78; 8:45 am]

[4110-03]

Title 21—Food and Drugs

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

SUBCHAPTER A—GENERAL

[Docket No. 77C-0276]

PART 74—LISTING OF COLOR ADDITIVES SUBJECT TO CERTIFICATION

D&C Orange No. 4; Confirmation of Effective Date and Amendment

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document confirms the effective date of November 1, 1977, of a regulation concerning the use of D&C Orange No. 4 in externally applied drugs and cosmetics. In response to objections to the listing regulation, the specifications for total color and the sum of volatile matter and chloride and sulfates (as sodium salts) have been revised.

DATES: Effective date confirmed: November 1, 1977. Revision effective date: April 7, 1978.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: A regulation published in the FEDERAL REGISTER of September 30, 1977 (42 FR 52395) added §§ 74.1254 and 74.2254 (21 CFR 74.1254 and 74.2254) to subparts B and C of part 74 (21 CFR part 74) to provide for safe use of of D&C Orange No. 4 in externally applied drugs and cosmetics and amended § 81.1(b) (21 CFR 81.1(b)) by deleting D&C Orange No. 4 from the provisionally listed colors. The regulation also amended the identity nomenclature and specifications for the certification of D&C Orange No. 4 under

§ 82.1254 (21 CFR 82.1254) to reference § 74.1254.

Two objections were filed in response to the order. A hearing was not requested. One letter, received from a manufacturer of the color and supported by a second letter from a copetitioner for listing of the color, objected to the limitations placed on the specifications for D&C Orange No. 4. The objections stated that total color should be "not less than 87 percent" instead of "90 percent" and that the sum of volatile matter (at 135° C) and chlorides and sulfates (calculated as sodium salts) should be "not more than 13 percent" instead of "10 percent." The objections further noted that under provisional listing those specifications for D&C Orange No. 4 were 85 percent and 15 percent, respectively. The objections state that the increase in labor and energy required for all batches of D&C Orange No. 4 to meet the specifications of 90 percent for total color and 10 percent for volatile matter and salts would serve only to lower the content of moisture and salt and would lead to increased expenses to producers and consumers.

After evaluating the objections and reviewing the available data, the Commissioner concurs that specifications for the color may be safely revised by the reduction of the specification for total color from 90 percent to 87 percent and an increase of the specifications for volatile matter (water) plus salts (sodium chloride and sodium sulfate) from 10 percent to 13 percent.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 706 (b), (c), and (d), 74 Stat. 399-403 (21 U.S.C. 376 (b), (c), and (d))) and under authority delegated to the Commissioner (21 CFR 5.1), there being no other objections or any request for a hearing in response to the order of September 30, 1977, the amendments to parts 74, 81, and 82 promulgated thereby became effective on November 1, 1977, and part 74 is amended in § 74.1254(b) by revising the listings therein for "sum of volatile matter" and "total color," to read as follows:

§ 74.1254 D&C Orange No. 4.

* * * * *

(b) * * *

Sum of volatile matter (at 135° C) and chlorides and sulfates (calculated as sodium salts), not more than 13 percent.

* * * * *

Total color, not less than 87 percent.

* * * * *

Effective dates: (1) The amendments promulgated by the regulation of September 30, 1977, became effective on November 1, 1977; (2) the amendment set forth above is effective April 7, 1978.

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

Dated: March 20, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc. 78-8941 Filed 4-6-78; 8:45 am]

[4110-03]

[Docket No. 76N-0366]

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

Provisionally Listed Color Additives; Postponement of Closing Dates; Restatement of Conditions for Continued Provisional Listing

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document amends the color additive regulations by extending the closing dates for four color additives (D. & C. Red No. 6, D. & C. Red No. 7, D. & C. Red No. 30 and caramel) and revising the dates by which certain reports must be submitted to the Food and Drug Administration. This action permits the continued use of these color additives until the new closing dates and amends the color additive regulations by updating the conditions that certain color additives must meet to remain on the provisional list.

EFFECTIVE DATE: April 7, 1978.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of December 13, 1977 (42 FR 62497), the Commissioner of Food and Drugs, on his own initiative, proposed to postpone the closing date for the use of five provisionally listed color additives beyond January 31, 1978. The proposed postponement was conditioned on the completion of appropriate scientific investigations and the submission of data to FDA on a prescribed schedule. The proposal also discussed the extent to which the petitioners have complied with the conditions of provisional listing that are set forth in § 81.27 *Conditions of provisional listing of additives* (21 CFR 81.27), and it proposed to revise certain of these conditions. The conditions in § 81.27 were initially prescribed in regulations published in the FEDERAL REGISTER of February 4, 1977 (42 FR).

In response to the proposal the Commissioner received one comment from the Environmental Defense Fund which contended that the closing date for the provisional listing of lead acetate should not be extended beyond January 31, 1978 because lead acetate is a known carcinogen. An analysis of this comment was subsequently received on January 27, 1978 from Combe, Inc., a manufacturer of lead acetate hair colors. The provisional listing of lead acetate, including a discussion of these comments, was considered in a separate document that was published in the FEDERAL REGISTER of March 3, 1978 (43 FR 8790).

The petitioners for caramel have recently requested that the proposed deadline of March 31, 1978 for the submission of the full written report on the subchronic study for caramel be extended for a short time because unforeseen problems have delayed its completion. In view of the short amount of time necessary to furnish the final report, the Commissioner concludes that a 30-day extension of the deadline for the final report is reasonable. This short additional extension to April 30, 1978, however, will not effect the "interim" closing date for caramel which is being extended as originally proposed to July 31, 1978.

In the absence of other comments, the Commissioner advises that the dates for submission of data and "interim" closing dates for the three remaining color additives discussed in the December 13, 1977 proposal are being extended as proposed. These three color additives include: D. & C. Red No. 6, D. & C. Red No. 7, and D. & C. Red No. 30. In addition, as proposed, the regulations set forth below add a new paragraph (e) to § 81.27 prescribing additional testing requirements to be met as conditions of the continued provisional listing of F.D. & C. Red No. 3 and D. & C. Red No. 33.

Certain conditions of § 81.27, for continued provisional listing of the color additives, established on February 4, 1977, have been complied with and are now obsolete. Additionally, the provisional listing of certain colors has been terminated since February 4, 1977. The regulation set forth below reflects these actions by deleting § 81.27(a) and reserving it for future use and deleting certain listings for colors from the requirements of paragraphs (b), (c), and (d) of § 81.27.

Therefore, under the transitional provisions of the Color Additive Amendments of 1960 (Title II, Pub. L.

86-316; sec. 203, 74 Stat. 404-407 (21 U.S.C. 376 note)) and under authority delegated to the Commissioner (21 CFR 5.1), § 81.27 is amended by revoking paragraph (a) and reserving it for future use; by revising paragraphs (b), (c), and (d); and by adding new paragraph (e), to read as follows:

§ 81.27 Conditions of provisional listing.

(a) [Reserved]

(b) The closing date for caramel is postponed until July 31, 1978, while a subchronic study is conducted and evaluated, and for lead acetate until December 31, 1978, while a short-term skin penetration study is conducted and evaluated, and subject to compliance with the requirements of this paragraph.

(1) At least one petitioner for caramel shall agree in writing by March 7, 1977 to undertake the subchronic study on the color additive.

(2) A full written report on the subchronic study for caramel shall be submitted by April 30, 1978, and on the short-term skin penetration study for lead acetate by September 30, 1978, to the Division of Food and Color Additives (HFF-334), Food and Drug Administration, 200 C Street SW., Washington, D.C. 20204.

(3) The petitioners undertaking the studies shall immediately notify the Division of Food and Color Additives of any findings that indicate a potential of the color additives to cause adverse effects.

(c) The closing date for the following three color additives is postponed until October 31, 1978, while chemistry data and analytical methods to establish specifications for them are developed and evaluated, and subject to compliance with the requirements of this paragraph: D. & C. Red No. 6, D. & C. Red No. 7, and D. & C. Red No. 30.

(1) At least one petitioner for each of the three color additives listed in paragraph (c) of this section shall agree in writing by March 7, 1977 to undertake to develop the necessary chemistry data and analytical methods for the color additives.

(2) The required chemistry data and analytical methods shall be submitted to the Division of Food and Color Additives, Food and Drug Administration, 200 C Street SW., Washington, D.C. 20204, by July 31, 1978.

(3) The petitioners undertaking the studies shall immediately notify the Division of Food and Color Additives of any findings that indicate a potential for the color additives to cause adverse effects.

(d) The closing date for the following 25 color additives is postponed until January 31, 1981, while chronic toxicity feeding studies for 24 of the colors and, in the case of caramel, a lifetime mouse skin-painting study, are conducted and evaluated, and subject to compliance with the requirements of this paragraph: F.D. & C. Yellow No. 5, F.D. & C. Yellow No. 6, D. & C. Yellow No. 10, F.D. & C. Red No. 3, D. & C. Red No. 6, D. & C. Red No. 7, D. & C. Red No. 8, D. & C. Red No. 9, D. & C. Red No. 19, D. & C. Red No. 21, D. & C. Red No. 22, D. & C. Red No. 27, D. & C. Red No. 28, D. & C. Red No. 30, D. & C. Red No. 33, D. & C. Red No. 36, D. & C. Red No. 37, F.D. & C. Green No. 3, D. & C. Green No. 5, D. & C. Green No. 6, F.D. & C. Blue No. 1, F.D. & C. Blue No. 2, D. & C. Orange No. 5, D. & C. Orange No. 17, and caramel.

(1) At least one petitioner for each of the 25 color additives listed in paragraph (d) of this section shall agree in writing by March 7, 1977 to undertake the required studies on the color additives.

(2) The petitioner undertaking the studies shall submit a protocol for the conduct of the studies to the Division of Food and Color Additives (HFF-334), Food and Drug Administration, 200 C Street SW., Washington, D.C. 20204, for review and acceptance or rejection, by April 5, 1977.

(3) An initial progress report of the studies on the color additives shall be submitted to the Division of Food and Color Additives by December 31, 1977. Further progress reports shall be submitted at 6-month intervals thereafter. A full report of the studies conducted on the color additives shall be submitted to the Division of Food and Color Additives by August 4, 1980.

(4) The petitioners undertaking the studies shall immediately notify the Division of Food and Color Additives of any findings that indicate potential for the color additives to cause adverse effects.

(e) The closing date for the following two color additives is postponed until January 31, 1981, while multigeneration reproduction studies are conducted and evaluated, and subject to compliance with the requirements of this paragraph: F.D. & C. Red No. 3 and D. & C. Red No. 33.

(1) At least one petitioner for each of the two color additives listed in paragraph (e) of this section shall agree in writing by May 8, 1978, to undertake multigeneration reproduction studies on the color additives.

(2) An initial progress report of the studies on the color additives shall be submitted by July 1, 1978 and at 6-month intervals thereafter. A full report of the studies conducted on the color additives shall be submitted to the Division of Food and Color Additives by August 4, 1980.

(3) The petitioners undertaking the studies shall immediately notify the Division of Food and Color Additives of any findings that indicate potential for the color additives to cause adverse effects.

Effective date: April 7, 1978.

(Title II, Pub. L. 86-316; sec. 203, 74 Stat. 404-407 (21 U.S.C. 376 note).)

Dated: March 20, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc. 78-8954 Filed 4-6-78; 8:45 am]

[4110-03]

SUBCHAPTER B—FOOD FOR HUMAN CONSUMPTION

[Docket No. 77N-0131]

BEESWAX

Affirmation of GRAS Status as a Direct Human Food Ingredient

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This rule affirms that beeswax is generally recognized as safe (GRAS) as a direct human food ingredient. The safety of this ingredient has been evaluated under the comprehensive safety review being conducted by the agency.

EFFECTIVE DATE: May 8, 1978.

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

FOR FURTHER INFORMATION CONTACT:

Corbin I. Miles, Bureau of Foods (HFF-335), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C Street SW., Washington, D.C. 20204, 202-472-4750.

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of July 29, 1977 (42 FR 38609), a proposal was published to affirm that beeswax (yellow and white) is generally recognized as safe for use as a direct human food ingredient. The proposal was based on safety information developed by the Select Committee on GRAS substances. The proposal was published in accord with the announced FDA review of the safety of GRAS and prior-sanctioned food ingredients.

In accordance with § 170.35 (21 CFR 170.35), relating to the affirmation of GRAS food ingredients, copies of the Scientific Literature Review on beeswax, data on mutagenic evaluation, and the report of the Select Committee on GRAS substances have been made available for public review in the office of the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857. Copies of these documents have

also been made available for public purchase from the National Technical Information Service as announced in the proposal.

In addition to proposing to affirm the GRAS status of beeswax, the Commissioner of Food and Drugs gave public notice that he was unaware of any prior-sanctioned food ingredient use for this ingredient other than for the proposed conditions of use. Persons asserting additional or extended uses, in accordance with approval granted by the U.S. Department of Agriculture or the Food and Drug Administration prior to September 6, 1958, were given notice to submit proof of such a sanction so that the safety of prior-sanctioned uses could be determined at this time. That notice was also an opportunity to have prior-sanctioned uses of beeswax (yellow and white) approved by issuance of an appropriate regulation under Part 181 (21 CFR 181) "Prior-Sanctioned Food Ingredient," provided prior-sanctioned use could be affirmed as safe on the basis of data now available to the Commissioner. Notice was also given that failure to submit proof of an applicable prior sanction in response to the proposal would constitute a waiver of the right to assert sanction at any future time.

No reports of a prior-sanctioned use for beeswax were submitted in response to the proposal. Therefore, in accordance with that proposal, any right to assert a prior sanction for use of beeswax under conditions different from those set forth in this regulation has been waived.

No comments were received in response to the Commissioner's proposal and supporting data and information on beeswax (yellow and white). The Commissioner therefore concludes that no change in the proposal to affirm the GRAS status of beeswax (yellow and white) is warranted. Accordingly, it is being promulgated without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348, 371(a))) and under authority delegated to the Commissioner (21 CFR 5.1), Chapter I of Title 21 of the Code of Federal Regulations is amended as follows:

PART 172—FOOD ADDITIVES PERMITTED FOR DIRECT ADDITION TO FOOD FOR HUMAN CONSUMPTION

§ 172.510 [Amended]

1. In Part 172, § 172.510 *Natural flavoring substances and natural substances used in conjunction with flavors,* by deleting the entry for "Beeswax, white (Cire d'abeille)" from the list of substances in paragraph (b).

PART 182—SUBSTANCES GENERALLY RECOGNIZED AS SAFE

§§ 182.1973, 182.1975 [Deleted]

2. In Part 182, by deleting § 182.1973 *Beeswax* and § 182.1975 *Bleached beeswax.*

PART 184—DIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

3. In Part 184, by adding new § 184.1973 to read as follows:

§ 184.1973 Beeswax (yellow and white).

(a) Beeswax (CAS Registry No. MX 8012-89-3 and MX 8006-40-4) is a secretory product of honey bees used as a structural material in honeycombs. Beeswax is prepared from honeycombs after removal of the honey by draining or centrifuging. The combs are melted in hot water or steam or with solar heat, and strained. The wax is refined by melting in hot water to which sulfuric acid or alkali may be added to extract impurities. The resulting wax is referred to as yellow beeswax. White beeswax is produced by bleaching the constituent pigments of yellow beeswax with peroxides, or preferably it is bleached by sun light.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 2d Ed. 1972.[1]

(c) The ingredient is used as a flavoring agent and adjuvant as defined in § 170.3(o)(12) of this chapter, as a lubricant as defined in § 170.3(o)(18) of this chapter, and as a surface-finishing agent as defined in § 170.3(o)(30) of this chapter.

(d) The ingredient is used in food, in accordance with § 184.1(b)(1) of this chapter, at levels not to exceed good manufacturing practice. Current good manufacturing practice results in a maximum level, as served, of: 0.065 percent for chewing gum as defined in § 170.3(n)(6) of this chapter; 0.005 percent for confections and frostings as defined in § 170.3(n)(9) of this chapter; 0.04 percent for hard candy as defined in § 170.3(n)(25) of this chapter; 0.1 percent for soft candy as defined in § 170.3(n)(38) of this chapter; and 0.002 percent or less for all other food categories.

Effective date. This regulation is effective May 8, 1978.

(Secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348, 371(a)).)

[1] Copies may be obtained from: National Academy of Sciences, 2101 Constitution Avenue NW., Washington, D.C. 20037.

Dated: March 20, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

NOTE.—Incorporation by reference approved by the Director of the Office of the Federal Register on July 10, 1973 and is on file in the Rederal Register's library.

[FR Doc. 78-8951 Filed 4-6-78; 8:45 am]

[1505-01]

[Docket No. 76N-0460]

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

Subpart D—Specific Usage Additives

Correction

In FR Doc. 78-6039 appearing at page 11301 in the FEDERAL REGISTER issue of Friday, March 17, 1978, please make the following corrections:

At page 11302, in the third column under paragraph 6., in the third line of the second paragraph "oxzone" should be changed to "ozone";

At page 11305, in the 31st line of the third column, the word "degrated" should be changed to "degraded";

At page 11315, in the 11th line of the third column, the word "ustin" should be changed to "using"; and

At page 11317, in § 173.345(c)(1)(i), "chloropentafluroethane" should appear as "chloropentafluoroethane".

[4110-03]

SUBCHAPTER D—DRUGS FOR HUMAN USE

[Docket No. 77N-0060]

PART 361—PRESCRIPTION DRUGS FOR HUMAN USE GENERALLY RECOGNIZED AS SAFE AND EFFECTIVE AND NOT MISBRANDED: DRUGS USED IN RESEARCH

Radioactive Drugs for Certain Research Uses; Amended Reporting Requirements

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This amendment revises the reporting requirements for research studies in which radioactive drugs are used. It deletes the requirement for detailed measurements and calculations for each subject in the study; instead, it permits submission of data on a representative subject. The effect will be to decrease the burden in reporting required of the

Radioactive Drug Research Committee, but still provide the agency with data to evaluate the risk attributable to radioactive drugs.

EFFECTIVE DATE: May 8, 1978.

FOR FURTHER INFORMATION CONTACT:

Robert D. Bradley, Bureau of Drugs (HFD-30), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-5220.

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of May 6, 1977 (42 FR 23161), the Commissioner of Food and Drugs proposed revising § 361.1(c)(3) (21 CFR 361.1(c)(3)) to lessen the reporting workload of Radioactive Drug Research Committees (RDRC), while still providing FDA with sufficient information to evaluate the total risk that radioactive drugs pose to the public health. This document implements the proposed rule without change.

Twelve comments responded to the proposal. They came from professionals associated with colleges, universities, and medical centers; from a city health department; and from a pharmaceutical association. The substantive comments and the Commissioner's response to each follow:

1. Most comments supported the proposal. Several suggested that the regulations be further amended to simplify the RDRC's task, but were not specific about how to do it. Two comments said that FDA receives no useful information from data on radiation doses absorbed by the eye lens and that this requirement should be revoked.

The Commissioner advises that FDA is constantly seeking, and soliciting comment on, ways to simplify reporting requirements. All justifiable requests to accomplish this will be considered. Regarding the comments on absorbed doses to the lens of the eye, however, the Commissioner is concerned about the risk to the public health from such doses and believes that useful information is obtained from these data. He therefore rejects the recommendation to revoke requirements for data on radiation doses absorbed by the eye lens.

2. One comment said there should be a threshold for total radiation doses, and the regulations should require data submission only when the threshold is exceeded—for example, when the dose exceeds 75 percent of the maximum allowable dose per year.

The Commissioner advises that § 361.1(b)(3) (21 CFR 361.1(b)(3)) requires that the amount of radioactive material administered to a subject be the smallest radiation dose with which it is practical to perform the study without jeopardizing the benefits to be obtained from the study. If the RDRC were to report only doses above a certain threshold level, FDA would not be able to judge how effectively the RDRC is enforcing compliance with this requirement. The Commissioner therefore rejects the comment.

3. One comment said the proposed regulation appears impossible to comply with because subjects would be relied on to provide information that they may not have record of, such as the name of a radioactive drug, the dates of administration, and the drug's activity.

The Commissioner disagrees. Section 361.1(d)(5) requires the investigator to select appropriate subjects for the study; and § 361.1(b)(3)(i) sets the limit on radiation dose from a single study or cumulatively from a number of studies. The Commissioner realizes that the physician accepts much of the medical history information from the subject. Physicians must rely on their own expertise to determine the suitability of the subject and if follow-up is needed to establish the amount of radiation absorbed from previous studies.

4. One comment said that reporting estimates of the dose from any associated X-ray procedure for each subject is a new requirement.

The Commissioner disagrees. He advises that this amendment is for clarification of requirements that are already in effect. In paragraph 28 of the preamble to the final regulation establishing part 361 (see the FEDERAL REGISTER of July 25, 1975 (40 FR 31303)), the Commissioner stated specifically that the dose limitations under § 361.1(b)(3) include "any doses from X-ray procedures which are considered an integral part of the research study, i.e., would not have occurred but for the study." To further clarify this, the Commissioner has modified the first paragraph of § 361.1 (c)(3)(6) to clearly state that required X-ray dose estimates are those associated with the study.

5. One comment said that § 361.1(c)(3) should be amended to require that the investigator immediately notify FDA, through the RDRC, of any untoward effect.

The Commissioner advises that § 361.1(d)(8) requires immediate reporting of all adverse reactions associated with the use of a radioactive drug. Such an amendment to the annual report provisions in § 361.1(c)(3) is therefore unnecessary.

6. One comment recommended that the reporting requirements be amended to include a requirement to report any abnormal pathology for a subject, and to identify normal pathology in terms of standard reference work. The comment said the pathology requirement would be important in assessing risks and would not be an additional burden because abnormal pathologies would already be included in medical records. The only additional reporting when normal subjects were used would be a one-time designation of the standard for normal organ mass.

Although the pathology of a particular subject is an important consideration, the Commissioner does not believe that its inclusion as a requirement is necessary. Potential subjects for the research covered by part 361 are, for the most part, healthy volunteers for whom a standard for normal organ mass would apply. It would be the responsibility of the investigator to assure that a subject is a suitable candidate for a study and that meaningful data can be obtained from that subject.

7. One comment requested clarification of who is responsible for monitoring the dose commitment and asked if the burden is being transferred from the RDRC to FDA.

The Commissioner advises that the RDRC continues to be responsible for determining that the dose commitment is within the limits described in § 361.1(b)(1), and FDA continues to review the activities of the RDRC, as described in § 361.1(c)(5). Only the reporting requirements in § 361.1(c)(3) are being changed.

8. One comment said the regulation would limit to a maximum of 5 rems per year, studies that use X-rays only.

The Commissioner advises that § 361.1 applies to research studies involving radioactive drugs. It does not apply to research studies that involve the use of X-rays only and does not impose limits on such use. Because the safety of a given study depends on the total radiation dose, the limits in § 361.1(b)(3) include the dose from X-ray exposure that occurs as an integral part of the study. Section 361.1(c)(3) requires the reporting of the dose contribution from X-ray procedures so that the subject's total exposure to radiation can be determined.

9. One comment asked for clarification of the requirement in item 6(c), that for each subject who has participated in other radioactive drug research studies involving X-ray procedures, the report include an estimate of the subject's absorbed radiation doses. The comment asked if the Commissioner intended to require reporting skin exposure, absorbed dose to specific organs, or both.

The Commissioner advises that for such a subject, the report should include the doses to the whole body and to each organ specified in § 361.1(b)(3)(i), i.e., active blood-forming organs, lens of the eye, gonads, and other organs. The requirement does not include skin exposure as one of the "other organs."

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 505,

701(a), 52 Stat. 1052-1053 as amended, 1055 (21 U.S.C. 355, 371(a))) and under authority delegated to the Commissioner (21 CFR 5.1), part 361 is amended in § 361.1(c)(3) by revising item 6 in the "Report on Research Use of Radioactive Drugs" therein, to read as follows:

§ 361.1 Radioactive drugs for certain research uses.

* * * * *

(c) * * *
(3) * * *

REPORT ON RESEARCH USE OF RADIOACTIVE DRUG

* * * * *

6. Radiation absorbed dose. Provide the maximum dose commitement to the whole body and each organ specified in 21 CFR 361.1(b)(3)(i) that was received by a representative subject and the calculations or references that were used to estimate these maximum dose commitments. The report shall include the dose contribution of both the administered radionuclide(s) and any X-ray procedures associated with the study. If the study elicits data on the uptake or excretion of the radioactive drug pertinent to the estimation of dose commitment, report the mean value and range of values. For each subject provide:

(a) Age, sex, and approximate weight.

(b) Total activity of each radionuclide administered for each radioactive drug used in the study. Report each X-ray procedure used in conjunction with the study.

(c) If the subject has participated in other radioactive drug research studies, report the name of the radioactive drug used in these other studies, the date of administration, and the total activity of each radionuclide administered. If any X-ray procedures were used, identify the X-ray procedure(s) and include an estimate of the absorbed radiation doses.

* * * * *

Effective date: May 8, 1978.

(Secs. 505, 701(a), 52 Stat. 1052-1053 as amended, 1055 (21 U.S.C. 355, 371(a)).)

Dated: March 22, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc. 78-8950 Filed 4-6-78; 8:45 am]

[4110-03]

[Docket No. 78N-0035]

PART 442—CEPHA ANTIBIOTIC DRUGS

Sterile Cephradine

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document amends the antibiotic drug regulations to provide for the certification of sterile cephradine for intravenous use. Under section 507 of the Federal Food, Drug, and Cosmetic Act, the manufacturer has supplied sufficient data and information to establish the safety and efficacy of sterile cephradine.

EFFECTIVE DATE: April 7, 1978.

FOR FURTHER INFORMATION CONTACT:

Joan Eckert, Bureau of Drugs (HFD-140), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-4290.

SUPPLEMENTARY INFORMATION: The Commissioner of Food and Drugs, having evaluated data submitted in accordance with regulations promulgaged under section 507 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 357), as amended, with respect to providing for the certification of sterile cephradine for intravenous use, concludes that the data supplied by the manufacturer concerning this antibiotic drug product are adequate to establish its safety and efficacy when used as directed in the labeling and that the regulations should be amended in part 442 (21 CFR part 442) to provide for its certification.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463, as amended (21 U.S.C. 357)) and under authority delegated to the Commissioner (21 CFR 5.1), part 442 is amended as follows:

1. In § 442.40a, paragraphs (a)(1)(i), (3)(ii), and (b)(1) are revised to read as follows:

§ 442.40a Sterile cephradine.

(a) * * *
(1) * * *

(i) Its potency is not less than 900 and not more than 1,050 micrograms of cephradine per milligram on the anhydrous basis. If it is packaged for dispensing, its cephradine content is satisfactory if it is not less than 90 percent and not more than 115 percent of the number of milligrams of cephradine that it is represented to contain.

* * * * *

(3) * * *

(ii) Samples required:

(*a*) If the batch is packaged for repacking or for manufacturing use:

(*1*) For all tests except sterility: 10 packages, each containing approximately 500 milligrams.

(*2*) For sterility testing: 1 package containing approximately 6 grams of a composite sample.

(*b*) If the batch is packaged for dispensing:

(*1*) For all tests except sterility: A minimum of 10 immediate containers.

(*2*) For sterility testing: 20 immediate containers, collected at regular intervals throughout each filling operation.

(b) * * *

(1) *Potency.* Use any of the following methods; however, the results obtained from the microbiological agar diffusion assay shall be conclusive.

(i) *Microbiological agar diffusion assay.* Proceed as directed in § 436.105 of this chapter, preparing the sample for assay as follows: Dissolve an accurately weighed sample in sufficient 1 percent potassium phosphate buffer, pH 6.0 (solution 1), to give a stock solution containing 1.0 milligram of cephradine per milliliter (estimated); also, if it is packaged for dispensing, reconstitute the sample as directed in the labeling, except use distilled water in lieu of reconstituting fluid. Then using a suitable hypodermic needle and syringe, remove an accurately measured representative portion from each container. Dilute with solution 1 to give a stock solution of convenient concentration. Further dilute an aliquot of the stock solution with solution 1 to the reference concentration of 10 micrograms of cephradine per milliliter (estimated).

(ii) *Hydroxylamine colorimetric assay.* Proceed as directed in § 442.40(b)(1)(ii). If packaged for dispensing, reconstitute the sample as directed in the labeling using distilled water instead of the reconstituting fluid. Further dilute an aliquot of this solution with distilled water to 1 milligram of cephradine per milliliter (estimated).

(iii) *Liquid chromatographic assay.* Proceed as directed in § 442.40(b)(1)(iii). If packaged for dispensing, reconstitute the sample as directed in the labeling, using distilled water instead of the reconstituting fluid. Further dilute an aliquot of this solution with distilled water to 1 milligram of cephradine per milliliter (estimated).

* * * * *

2. Section 442.240 is redesignated as § 442.240a and new §§ 442.240 and 442.240b are added to read as follows:

§ 442.240 Cephradine injectable dosage forms.

§ 442.240a Cephradine for injection.

* * * * *

§ 442.240b Sterile cephradine.

The requirements for certification and the tests and methods of assay for sterile cephradine packaged for dispensing are described in § 442.40a.

Since the conditions prerequisite to providing for certification of this drug have been complied with and as the matter is noncontroversial, the Commissioner finds for good cause that prior notice, public procedure, and delay in effective date are unneces-

sary, and, therefore, the amendments may become effective upon the day of publication. Interested persons may, on or before May 8, 1978 file with the Hearing Cleark (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, four copies of written comments identified with the docket number found in brackets in the heading of this document. Comments received may be seen in the office of the Hearing Clerk between the hours of 9 a.m. and 4 p.m., Monday through Friday. Any changes in this regulation justified by such comments will be the subject of further amendment.

Effective date: This regulation shall be effective April 7, 1978.

(Sec. 507, 59 Stat. 463, as amended (21 U.S.C. 357).)

Dated: March 21, 1978.

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

[FR Doc. 78-8952 Filed 4-6-78; 8:45 am]

[4110-03]

SUBCHAPTER E—ANIMAL DRUGS, FEEDS, AND RELATED PRODUCTS

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

Furosemide Powder

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The animal drug regulations are amended to reflect approval of a new animal drug application (NADA) submitted by Hoechst-Roussel Pharmaceuticals, Inc., for the use of furosemide powder in the treatment of dairy cattle for abnormal fluid accumulation in the mammary gland associated with calf birth.

EFFECTIVE DATE: April 7, 1978.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: Hoechst-Roussel Pharmaceuticals, Inc., Route 202-206, Somerville, N.J. 08876, filed an NADA (45-188) providing for the use of furosemide powder in the treatment of dairy cattle for abnormal fluid accumulation in the mammary gland associated with calf birth. This application is approved without reevaluation of the underlying human safety data base. The sponsor has similar oral and injectable formulations, approved in 21 CFR 520.1010 and 522.1010, whose applications contain certain basic data. This product has been shown to be bioequivalent to the approved oral formulation.

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

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Part 520 is amended by redesignating existing § 520.1010 as § 520.1010a and by adding new §§ 520.1010 and 520.1010b as follows:

§ 520.1010 Furosemide oral dosage forms.

§ 520.1010a Furosemide tablets or boluses.

* * * * *

§ 520.1010b Furosemide powder.

(a) *Specifications.* Furosemide powder is packaged in packets containing 2 grams of furosemide plus other inert ingredients.

(b) *Sponsor.* See No. 000039 in § 510.600(c) of this chapter.

(c) *Conditions of use.* It is administered to dairy cattle alone, as a "top dressing" upon a small amount of feed or as a drench.

(1) *Amount.* 1 to 2 milligrams per pound of body weight but not to exceed one packet per animal, per day.

(2) *Indications for use.* The drug is used for the treatment of physiological parturient edema of the mammary gland and associated structures.

(3) *Limitations.* Treatment not to exceed 48 hours post-parturition. For oral use only. The individual dose is one packet administered once daily; when treatment is initiated with an injectable, at least a 12-hour interval must follow before oral administration. Milk taken during treatment and for 48 hours (four milkings) after the last treatment must not be used for food. Cattle must not be slaughtered for food within 48 hours following last treatment. The drug, if given in excessive amounts or over extended periods of time, may result in dehydration and electrolyte imbalance. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Effective date: April 7, 1978.

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

Dated: March 29, 1978.

FRED J. KINGMA,
Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 78-9216 Filed 4-6-78; 8:45 am]

[1505-01]

[Docket No. 78N-0016]

PART 546—TETRACYCLINE ANTIBIOTIC DRUGS FOR ANIMAL USE

Conforming Amendments

Correction

In FR Doc. 78-6771 appearing at page 11177 in the FEDERAL REGISTER issue of Friday, March 17, 1978, at page 11180, several corrections should be made:

In § 546.110d(b), in the eighth line the reference to 0.01*N* should read 0.1*N*;

In the amendatory language for § 546.110h, in the first line, § 546.11h should be changed to § 546.110h;

The heading § 546.110a following the amendatory language for § 546.110h should read "§ 546.113a";

In § 546.180e, in the 17th line of paragraph (a)(1), the number 6 should be corrected to 6.0; and

In § 546.180e(a)(3)(i)(*a*) the word "4-epian-hydro-tetracycline" should appear as 4-epianhydrotetracycline.

[4110-03]

SUBCHAPTER E—ANIMAL DRUGS, FEEDS, AND RELATED PRODUCTS

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

Tylosin and Sulfamethazine

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document amends the animal drug regulations to reflect the withdrawal of approval of a new animal drug application, at the request of the manufacturer, Doboy Feeds, for use of tylosin sulfamethazine premix intended for use in the manufacture of swine feeds.

EFFECTIVE DATE: April 7, 1978.

FOR FURTHER INFORMATION CONTACT:

David N. Scarr, Bureau of Veterinary Medicine (HFV-210), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3183.

SUPPLEMENTARY INFORMATION: Elsewhere in this issue of the FEDERAL REGISTER, the Director of the bureau of Veterinary Medicine is issuing a notice withdrawing approval of NADA 98-432V which covers an application for use of tylosin and sulfamethazine in swine feed. Withdrawal is at the request of the firm on the grounds that the drug has not been marketed.

Consistent with this action, the Director is hereby amending that portion of the regulations upon which the approval is based.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the commissioner of Food and Drugs (21 CFR 5.1), part 558 is amended as follows:

§ 558.630 [Amended]

Section 558.630 is amended by deleting "025796," from the text in paragraph (b)(3).

Effective date: April 7, 1978.

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

Dated March 30, 1978.

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

[FR Doc. 78-9047 Filed 4-6-78; 8:45 am]

[4910-22]

Title 23—Highways

CHAPTER I—FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

SUBCHAPTER G—ENGINEERING AND TRAFFIC OPERATIONS

PART 625—DESIGN STANDARDS FOR HIGHWAYS

Updating of Provisions

AGENCY: Federal Highway Administration, DOT.

ACTION: Final rule.

SUMMARY: This document amends the design criteria for highways by updating the listing of standards, specifications, policies, guides, and references that are acceptable to the Federal Highway Administration. The interim regulation, as amended, is herewith made final.

EFFECTIVE DATE: April 7, 1978.

FOR FURTHER INFORMATION CONTACT:

Seppo Sillan, Highway Design Division, Office of Engineering, 202-426-0321; Lee Burstyn, Office of the Chief Counsel, 202-426-0799. Federal Highway Administration, 400 7th Street SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

SUPPLEMENTARY INFORMATION: Interim regulations were issued by the Federal Highway Administration (FHWA) on January 3, 1977, (42 FR 6) and technical amendments were issued on January 19, 1977, (42 FR 3642) under FHWA Docket No. 76-17.

The public was invited to participate in these regulations through submission of written comments. In arriving at the final regulations, FHWA has given consideration to all comments received insofar as they relate to matters within the scope of the interim regulations. Review of the comments received resulted in only minor editorial changes to the regulations as originally proposed.

DISCUSSION OF COMMENTS

In response to the previous issuance of interim regulation 23 CFR 625, with technical amendments, comments were received from certain State and county officials, and an FHWA Division office. This rule has the effect of amending current regulations. One county official expressed a concern as to the scope of application of traffic control requirements. Documents enumerated in § 625.3 apply to all Federal-aid projects, regardless of funding, with the provision that FHWA has the authority to approve certain exceptions.

A State highway agency suggested the inclusion of a guide relating to traffic barriers; this was accomplished. A clarifying statement regarding minimum design criteria for local roads and streets was added. An explanation to one guide concerning restrictive design speeds for local roads and streets was eliminated. This would allow additional latitude in the design of certain low volume roads in mountainous terrain without detriment to safety. Minor editorial revisions were accomplished for clarification and consolidation purposes.

After further review, submission of comments and discussion with FHWA staff, some items were combined where appropriate and others were deleted when it was determined that they were more appropriately included in other directives. Suggestions to add manuals dealing with other than design criterion were not adopted. Some publications, not previously listed, were added. Included was a Guide on Safety Rest Areas which provides considerations to make facilities accessible to physically handicapped persons.

Concern was expressed that the listing of guides would tend to elevate their importance to that of a standard. The actual intent is to let each document stand on its own with its importance explained by its title. The materials are listed to provide the criteria which are "acceptable" for application in design and traffic control features of highways. A guide provides direction on a program basis and deviations on a project basis do not require approval under § 625.5(e), (Exceptions). Suggestions to list the various documents under separate groupings of standards, specifications, policies, guides, and references were not adopted.

A suggestion to include a reference to Certification Acceptance directives was not adopted, in that this subject was considered best covered in a separate directive.

Section 625.5 is now entitled "Application." This section has been rewritten for clarification purposes and to provide greater detail as to the intended use of the listed documents. A new subparagraph (a) provides for the application of exceptions when resultant deviations do not conform to specific minimum values. Subparagraph (b), while not requiring formal exceptions from the criteria in the guides and references, does not intend that deviations should be accepted which are without a sound engineering basis, including considerations for safety. These guides and references are not to be considered mandatory, as they provide that the Division Administrator shall determine that minimum design standards do not apply to certain categories of projects which include very minor or no roadway work.

Section 625.7 specifically requires curb ramps, and other provisions as may be appropriate, for physically handicapped persons.

NOTE.—The Federal Highway Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

In consideration of the foregoing, and under the authority of 23 U.S.C. 109, 315, and 402, and the delegation of authority by the Secretary of Transportation at 49 CFR 1.48(b), chapter I of title 23 of the Code of Federal Regulations, part 625 is hereby amended to read as set forth below.

Issued on March 27, 1978.

L. P. LAMM,
Executive Director.

Sec.
625.1 Purpose.
625.3 Standards, specifications, policies, guides, and references.
625.5 Application.
625.7 Special considerations.

APPENDIX A.—Documents Cited in part 625.

AUTHORITY: 23 U.S.C. §§ 109, 315, and 402; 49 CFR 1.48(b).

§ 625.1 Purpose.

To designate those standards, specifications, policies, guides, and refer-

ences that are acceptable to the Federal Highway Administration (FHWA) for application in the geometric and structural design and traffic control features of highways.

§ 625.3 Standards, specifications, policies, guides, and references.

The following[1] are approved by the FHWA for application on Federal-aid projects. This regulation does not establish Federal standards for work that is not federally funded; however, the safety related criteria of the referenced documents are established as goals for developing State and local safety programs for all public highways as required by Highway Safety Program Standards 12, 23 CFR 1204.4.

(a) *Roadway and appurtenances.* (1) A Policy on Geometric Design of Rural Highways, AASHO 1965.[2]

(2) A Policy on Design of Urban Highways and Arterial Streets, AASHO 1973.[2]

(3) Geometric Design Standards for the National System of Interstate and Defense Highways, AASHO 1967.[2]

(4) Geometric Design Standards for Highways Other Than Freeways, AASHO 1969.[2] Minimum criteria for local roads and streets shall be based on paragraph (a)(5) of this section, Geometric Design Guide for Local Roads and Streets.

(5) Geometric Design Guide for Local Roads and Streets, AASHO 1970.[2]

(6) Procedures for Abatement of Highway Traffic Noise and Construction Noise, FHWA, 23 CFR 772.

(7) A Policy on the Accommodation of Utilities on Freeway Rights-of-Way, AASHO 1969.[2]

(8) A Policy on U-Turn Median Openings on Freeways, AASHO 1960.[2]

(9) A Policy on Access Between Adjacent Railroads and Interstate Highways, AASHO 1960.[2]

(10) A Policy on Design Standards for Stopping Sight Distance, AASHO 1971.[2]

(11) An Informational Guide for Roadway Lighting, AASHTO 1976.[2]

(12) Policy on Interstate System Projects, FHWA, FHPM 6-3-2-4.[3]

(13) AASHTO Interim Guide for Design of Pavement Structures, AASHTO 1972.[2] Pavement design may be based upon procedures and practices of individual agencies that by past performance have proved satisfactory for the pertinent conditions; however, the FHWA will use this guide to evaluate the adequacy of the design proposed.

(14) Skid Accident Reduction Program, FHWA, FHPM 6-2-4-3.[3]

(15) Guidelines for Skid Resistant Pavement Design, AASHTO 1976.[2]

(16) Erosion and Sediment Control on Highway Construction Projects, FHWA, 23 CFR 650, subpart B.

(17) Hydraulic Design of Highway Encroachments on Flood Plains, FHWA, 23 CFR 650, subpart A.

(18) Highway Design and Operational Practices Related to Highway Safety, Report on the Special AASHTO Traffic Safety Committee, AASHTO 1974.[2]

(19) Safer Off-System Roads, FHWA, 23 CFR 922.

(20) Guide for Selecting, Locating, and Designing Traffic Barriers, AASHTO 1977.[2] Barriers classified as either operational or experimental, except Type MB1 median barriers, are acceptable for Federal-aid projects.

(b) *Bridges and structures.* (1) Standard Specifications for Highway Bridges, Eleventh Edition, AASHO 1973, and Interim Specifications, Bridges, AASHTO 1974, 1975, 1976, and 1977.[2]

(2) Standard Specifications for Movable Highway Bridges, AASHO 1970.[2]

(3) Standard Specifications for Welding of Structural Steel Highway Bridges, Second Edition, AASHTO 1977.[2]

(4) Reinforcing Steel Welding, code AWS D 12.1-75, (to be used as a standard).[4]

(5) Standard Specifications for Structural Supports for Highway Signs, Luminaires, and Traffic Signals, AASHTO 1975.[2]

(6) A Guide for Protective Screening of Overpass Structures, AASHO 1969.[2]

(c) *Traffic control.* (1) Manual on Uniform Traffic Control Devices for Streets and Highways, FHWA 1971 for parts I-VII and 1977 for parts VIII and IX; and Errata and Official Rulings on Requests, vols. I-VII, FHWA.[5]

(2) Traffic Control Devices on Federal-Aid and Other Streets and Highways, FHWA, 23 CFR 655, subpart F.

(3) Standard Alphabets for Highway Signs, FHWA, 1966 Edition, Reprinted May 1972.[3]

(4) Traffic Surveillance and Control, FHWA, 23 CFR 655, subpart D.

(5) Motorist Aid Systems, FHWA, 23 CFR 655, subpart G.

(6) Pavement Marking Demonstration Program, FHWA, 23 CFR 920.

(7) National Standards for Signs Giving Specific Information in the Interest of the Traveling Public, FHWA, 23 CFR 655, subpart C.

(d) *Materials.* (1) General Materials Requirements, FHWA, 23 CFR 635, subpart D.

(2) Standard Specifications for Transportation Materials and Methods of Sampling and Testing, AASHTO 1974, volume I and volume II, and Interim Specifications and Methods of Sampling and Testing Adopted by the AASHTO Subcommittee on Materials, AASHTO 1975, 1976, and 1977.[2]

(3) Sampling and Testing of Materials and Construction, FHWA, 23 CFR 637, subpart B.

(e) *Other.* (1) AASHO Highway Definitions, AASHO 1968.[2]

(2) A Guide on Safety Rest Areas for the National System of Interstate and Defense Highways, AASHO 1968.[2] This provides considerations which shall be used to make rest area facilities accessible to physically handicapped persons.

NOTE.—Incorporation by reference provisions approved by the Director of the Federal Register on November 17, 1975, October 27, 1976, September 27, 1977, October 13, 1977, and January 9, 1978. These documents are on file in the Federal Register Library.

§ 625.5 Application.

(a) The standards, policies, and standard specifications contain specific criteria and controls for design of highways. Deviations from specific minimum values therein are to be handled in accordance with procedures in paragraph (e) of this section. When there is a conflict between criteria in the documents enumerated in § 625.3 of this part, the latest listed standard, policy, or standard specification will govern.

(b) The guides and references (handbooks, research reports, etc.) include information and general controls that are valuable in attaining good design and in promoting uniformity. They are intended to provide general program direction. Project-by-project deviations from the criteria in guides and references do not require handling as exceptions under paragraph (e) of this section.

(c) Application of FHWA directives referenced in § 625.3 of this part shall be as set forth therein.

(d) Minimum roadway geometric design standards are not applicable to traffic engineering and safety projects for signing, marking, signal installation, and traffic barriers which include very minor or no roadway work. The Division Administrator shall determine the applicability of the roadway standards on these types of projects, but formal findings of applicability are expected only as needed to resolve controversies.

(e) *Exceptions.* (1) Approval within the delegated authority provided by FHWA Order 1-1[3] may be given to designs on a project basis which do not conform to the minimum design criteria set forth in the standards listed herein for:

(i) Projects involving experimental features; and

(ii) Other projects where unusual conditions warrant that exceptions be made.

(2) The determination to approve a project design that does not conform to the minimum criteria is to be made only after due consideration is given to all project conditions such as maximum service and safety benefits for the dollar invested, compatibility with adjacent section of unimproved road-

way, and the probable time before reconstruction of the section due to increased traffic demands or changed conditions.

§ 625.7 Special considerations.

Federal-aid projects that provide curbs shall include curb ramps at all pedestrian crosswalks, and other provisions as may be appropriate for physically handicapped persons.

APPENDIX A

DOCUMENTS CITED IN PART 625

1. These documents may be reviewed at the Department of Transportation Library, Room 2200, DOT Headquarters Building, 400 7th Street SW., Washington, D.C. 20590.

2. American Association of State Highway and Transportation Officials, Suite 225, 444 North Capitol Street NW., Washington, D.C. 20001.

3. These documents are available for inspection and copying as provided in 49 CFR part 7, appendix D.

4. American Welding Society, 2501 Northwest 7th Street, Miami, Fla. 33125.

5. Superintendnet of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

NOTE.—Incorporation by reference provisions approved by the Director of the Federal Register on November 17, 1975, October 27, 1976, September 27, 1977, October 13, 1977, and January 9, 1978. These documents are on file in the Federal Register Library.

[FR Doc. 78-9172 Filed 4-6-78; 8:45 am]

[1505-01]

Title 27—Alcohol, Tobacco Products and Firearms

CHAPTER I—BUREAU OF ALCOHOL, TOBACCO AND FIREARMS, DEPARTMENT OF THE TREASURY

SUBCHAPTER F—PROCEDURES AND PRACTICES

[T.D. ATF-47]

PART 71—STATEMENT OF PROCEDURAL RULES

Freedom of Information

Correction

In FR Doc. 78-6646 appearing at page 10687 in the issue for Wednesday, March 15, 1978, in the first column of page 10697, the date given at the bottom now reading "Approved: February 22, 1977." should have read "Approved: February 22, 1978."

[3810-70]

Title 32—National Defense

CHAPTER I—OFFICE OF THE SECRETARY OF DEFENSE

SUBCHAPTER M—MISCELLANEOUS

[DOD Directive 6050.2]

PART 217—USE OF OFF-ROAD VEHICLES ON DOD LANDS

AGENCY: Office of the Secretary of Defense.

ACTION: Final rule.

SUMMARY: The DOD is codifying certain of its operational, organizational, and procedural rules which are currently in use by DOD. This part establishes uniform policies, procedures and criteria for controlling off-road travel by off-road vehicles and prescribes appropriate operating conditions for such vehicles.

EFFECTIVE DATE: August 21, 1974; amended August 10, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Henry R. Smith, OASD (MRA&L)EE&S, The Pentagon, Washington, D.C. 20301, telephone 202-695-0221.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

APRIL 4, 1978.

Accordingly, 32 CFR Chapter I is amended by adding a new Part 217, reading as follows:

Sec.
217.1 Purpose and objective.
217.2 Applicability.
217.3 Policy.
217.4 Definitions.
217.5 Responsibilities.
217.6 Environmental considerations.
217.7 Guidelines and criteria for evaluation of DOD lands for off-road vehicle use.

AUTHORITY: Executive Order 11644 (37 FR 2877, Feb. 9, 1972) and the general authority of 5 U.S.C. sec. 301.

§ 217.1 Purpose and objective.

(a) The purpose of this part is to (1) establish uniform policies, procedures and criteria for controlling off-road travel by off-road vehicles and (2) to prescribe appropriate operating conditions for such vehicles.

(b) The objectives are to ensure that: (1) The national security requirements related to the DOD lands are not impaired, (2) the natural resources and environmental values are protected, (3) safety and accident prevention is given a paramount consideration, and (4) conflicts of use are minimized.

§ 217.2 Applicability.

The provisions of this part apply to the Military Departments and Defense Agencies with land management responsibilities in the U.S., hereinafter referred to collectively as "DOD Components". Separate regulations may be prescribed by the Corps of Engineers for Civil Works areas.

§ 217.3 Policy.

(a) As a trustee of public lands, the Department of Defense has a trusteeship responsibility to protect and enhance environmental quality, conserve natural resources, and provide opportunities for outdoor recreation by Pub. L. 91-190, Pub. L. 88-29, and 32 CFR Part 263. However, it must be recognized that land under DOD control was solely acquired for national defense purposes. Other uses are therefore secondary to mission needs.

(b) In regard to off-road vehicular use for recreational purposes, it shall be the continuing policy of DOD that all land and water areas will be closed to off-road travel by off-road vehicles (ORV) except those areas and trails which are suitable and specifically designated for such use under the procedures established in this part.

(c) When such use is permitted, the intensity, timing, and distribution must be carefully regulated to protect the environmental values. In designating suitable sites, preference should be given to utilizing existing trails. Prior to designating such areas or trails for such use, the environmental consequences must be assessed and environmental statements prepared and processed when such assessments indicate that the proposed use will create a significant environmental impact or be environmentally controversial Pub. L. 91-190 and 32 CFR Part 214.

(d) If the installation commander or his designee determines that ORV use is causing or will cause considerable adverse effects to the soil, vegetation, wildlife, wildlife habitat, or cultural or historic resources, he shall immediately prohibit the type of ORV use causing such effects and if necessary close such designated sites. Restrictions on ORV use or closure of designated sites shall remain in effect until such adverse effects have been eliminated, including site restoration if necessary, and appropriate measures implemented to prevent any such recurrence.

(e) Persons abusing the ORV use privilege shall be barred, with their vehicles, from access to the DOD installation for off-road vehicle use. Further action as appropriate may be taken under 18 U.S.C. section 1382.

(f) The limitations imposed by this part on off-road travel by off-road vehicles do not apply to official use.

§ 217.4 Definitions.

For the purpose of this part the following terms shall mean: (a) *Off-Road*

Vehicles. Any motorized vehicle designated for or capable of cross-country travel on or immediately over land, water, sand, snow, ice, marsh, swamp land, or other natural terrain, except that such term excludes (1) any registered motorboat, (2) any military, fire, ambulance, or law enforcement vehicle when used for emergency purposes, and any combat or combat support vehicle when used for national defense purposes, and (3) any vehicle whose use is authorized by the Secretary of Defense, or his properly designated representative, for official use under a permit, lease, license, or contract.

(b) *Official Use.* Use by an employee, agent, or designated representative of the Department of Defense or one of its contractors in the course of his employment, or agency representation.

§ 217.5 Responsibilities.

DOD Components with land management responsibilities shall: (a) Develop procedures, prescribing operating conditions for off-road vehicles which are designed to protect resource values, preserve public health, safety, and welfare, and minimize use conflicts. These procedures shall include provisions for registration permits, use fees, and liability insurance requirements for users.

(b) Designate prior to December 31, 1975 lands where off-road vehicle use will be permitted. Such designation will be a part of the natural resources management plan and where appropriate, included as part of the installation's master plan.

(c) Provide opportunities for users to participate in the selection and designation of suitable sites and distribute information which identifies permitted sites and describes the conditions of use.

(d) Put appropriate signs at permitted areas and trails.

(e) Provide for the administration, enforcement, and policing of trails and areas to insure that conditions of use are met on a continuing basis.

(f) Establish appropriate procedures to monitor the effects of the use of off-road vehicles and provide for rehabilitation. This monitoring shall be the basis for changes to installation of DOD Component regulations to ensure adequate control of off-road vehicle use and amendment of area and trail designations, or conditions of use which are necessary to protect the environment, ensure the public safety, and minimize conflict among users.

(g) Negotiate cooperative agreements, when appropriate, with State or local governments for the enforcement of laws and regulations relating to off-road vehicle use.

§ 217.6 Environmental considerations.

The environmental impacts of off-road vehicle use will be assessed, and when such use will create significant environmental impacts, an environmental impact statement will be prepared and processed in accordance with 32 CFR Part 214.

§ 217.7 Guidelines and criteria for evaluation of DOD lands for off-road vehicle use.

(a) *Designation.* (1) DOD lands which satisfy the following characteristics may be designated for off-road vehicle use, except those areas identified in paragraph (b) of this section, providing: (i) there is sufficient suitable area, (ii) a clear and demonstrated need exists, and (iii) that other public lands more suitable are not available.

(2) Excepted areas are: (i) Areas restricted for security or safety purposes.

(ii) Areas containing geological and soil conditions, flora or fauna or other natural characteristics of a fragile or unique nature which would be subject to excessive damage by use of off-road vehicles.

(iii) Areas which are key fish and wildlife habitat as identified under environmental considerations, subsection § 217.7(c)(5).

(iv) Areas which contain archeological, historical, or paleontological resources; or which constitute de facto wilderness or scenic areas; or in which noise would adversely affect other users and wildlife resources.

(3) *Site designation.* Before designating such sites, the capabilities of the ecological factors should first be ascertained in order to determine carrying capacities.

(i) *Area designation.* For users, area designation offers a greater freedom of movement and is probably preferred over trail designation. However, area designation may result in greater environmental damage and cause conflicts with other uses. Therefore, great care must be exercised in designating suitable sites for area use.

(ii) *Trail designation.* Restrictions to designate trails probably constitutes a compromise for most off-road vehicle users. However, this method is more compatible with the objective of this part. Therefore, where it is practicable to designate existing or proposed trails for use of off-road vehicles without environmental despoilment, preference should be given to designating there sites.

(iii) *Use classification.* (A) Areas and trails should be classified as: (1) Generally open to public with access controlled within manageable quotas, or

(2) Closed to the public.

(B) Where use by installation personnel is permitted, exclusions of the public may not be justifiable except under the most compelling conditions.

(b) *Zones of use.* Areas and trails shall be located to minimize: (1) Damage to soil, watershed, vegetation or other resources of the public lands.

(2) Harassment of wildlife or significant disruption of wildlife habitats.

(3) Conflicts between off-road vehicle use and other existing or proposed recreational uses of the same or neighboring lands.

(c) *Environmental considerations.* Prior to designating areas or trails for use by off-road vehicles, consideration will be given to the possible traumatic effects on the environment by competent, responsible individuals. Such considerations should not be limited to the proposed sites designated for ORV use. Some factors to consider are the effects of:

(1) Dust from the use of off-road vehicles and emissions from internal combustion engines on air quality.

(2) Siltation on streams or other bodies of water which may result from soil erosion created by off-road vehicles.

(3) Soil erodability and soil compaction.

(4) ORV use on native and desirable species of plants with special consideration given to endangered species.

(5) ORV use on wildlife, their breeding and drumming grounds, winter feeding and yarding area, migration routes and nesting areas. Also the effects of such use as the spawning, migration and feeding habits of fish and other acquatic organisms, with particular attention given to the effects on fish and wildlife species classified as rare or endangered.

(6) Excessive noise on humans and wildlife.

(7) Potential despoilment of aesthetic values or visual characteristics of the sites.

(d) *Operating criteria.* (1) Off-road vehicles shall not be operated:

(i) In a reckless, careless or negligent manner;

(ii) In excess of established speed limits;

(iii) While the operator is under the influence of alcohol or drugs; or

(iv) In a manner likely to cause excessive damage or disturbance of the land, wildlife, or vegetative resources.

(2) All off-road vehicles must conform to applicable State laws, including those with respect to pollutent emissions, noise and registration requirements.

[FR Doc. 78-9232 Filed 4-6-78; 8:45 am]

[3710-92]

Title 33—Navigation and Navigable Waters

CHAPTER II—CORPS OF ENGINEERS, DEPARTMENT OF THE ARMY

PART 207—NAVIGATION REGULATIONS

Lake Washington Ship Canal, Wash.

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Final rule.

SUMMARY: This rule amends regulations which govern the use, administration and navigation of the Lake Washington Ship Canal, Seattle, Wash. The change is necessary because one of the Burlington Northern, Inc. railway bridges, which was used as a point of reference in the regulations, has been removed. In addition, this amendment includes several editoral changes which do not change the meaning of the regulation.

DATE: April 7, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Ralph T. Eppard, 202-693-5070, or write: Office of the Chief of Engineers, Forrestal Building, Washington, D.C. 20314, ATTN: DAEN-CWO-N.

SUPPLEMENTARY INFORMATION: These regulations in 33 CFR 207.750 were last amended on 25 November 1977 to intensify the control of hazardous cargoes through the locks. Subsequent to the effective date of the regulations the Burlington Northern, Inc. railway bridge which was located east of the Ballard Bridge was removed. The Burlington Northern, Inc. railway bridge was previously used as a point of reference in paragraph (g)(4). Minor editorial changes have also been made to paragraph (g)(2), (g)(5) and (g)(11).

The General Counsel has determined that notice of proposed rulemaking is unnecessary and impracticable in this action as this amendment is of a corrective nature and will serve to remove an obsolete reference from the regulations. Accordingly, pursuant to the provisions of Section 7 of the River and Harbor Act approved 8 August 1917 (40 Stat. 266; 33 U.S.C. 1), we are hereby amending the regulations in 33 CFR 207.750 by revising paragraphs (g)(2), (4), (5) and (11) as follows:

§ 207.750 Puget Sound Area, Washington.

* * * * * *

(g) Lake Washington Ship Canal: use, administration and navigation—

(1) Definitions. * * *

(2) Supervision. The canal and all its appurtenances shall be under the supervision of the District Engineer, Corps of Engineers, Seattle. The District Engineer will detail as many assistants as may be necessary for the efficient operation of the canal and the enforcement of the regulations in this paragraph. The movement of all vessels and other floating things in the canal and approaches thereto shall be under the direction of the District Engineer and his authorized assistants. All orders given under the regulations to any master or person in charge of any vessel, raft, or other watercraft by the District Engineer or his authorized assistants, either in person or through any canal operative, shall be acknowledged and obeyed. Failure to see, understand, or comply with signals or instructions shall constitute a violation of the regulations. Any person refusing to comply with the regulations or any orders given in pursuance thereof may be denied the privileges of the canal or canal grounds.

* * * * *

(4) Traffic signal lights. In addition to the lock signal lights described in subparagraph (5)(ii) of this paragraph, a red light, and a green light are installed on the west side of the Ballard Bridge, on the east side of the Fremont Bridge, 1,000 feet west of the Montlake Bridge, and 1,000 feet east of the Montlake Bridge, for guidance of vessels approaching the sections of the canal between Salmon Bay and Lake Union and between Lake Union and Lake Washington, respectively. Vessels of 300 gross tons and over and all vessels with tows, except as hereinafter provided, shall not pass the red lights. The green lights will indicate that vessels may proceed. Vessels of less than 300 gross tons without tows may disregard these signals, but they shall travel at very slow speed when passing other vessels. Vessels of 300 gross tons and over and vessels with tows, except logs, whose destination is easterly between the Ballard Bridge and a point 2,500 feet east of the Ballard Bridge, may pass the red signals on the Ballard Bridge, provided such passage will not interfere with approaching traffic.

(5) Approaching and passing through locks.

(i) Signals for locks. Vessels with tows desiring to use the locks shall so indicate by two long and three short blasts of a whistle, horn or megaphone. All other vessels desiring to use the locks shall so indicate by two long and two short blasts.

NOTE.—The term "long blast" means blasts of four seconds duration, and the term "short blasts" means blasts of one second duration. Signals for the opening of drawbridges are prescribed in § 117.795 of Chapter I.

* * * * *

(11) Turning. Vessels exceeding 100 feet in length shall not turn around, or attempt to turn around, in the concrete revetted portions of the canal at the Fremont Cut or Portage Cut sections of the canal.

* * * * *

NOTE.—The Department of the Army 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.

(40 Stat. 266; 33 U.S.C. 1)

Dated: March 15, 1978.

CHARLES R. FORD,
Acting Assistant Secretary of the Army, (Civil Works).

[FR Doc. 78-9229 Filed 4-6-78; 8:45 am]

[3710-92]

DEPARTMENT OF DEFENSE

Corps of Engineers

[33 CFR Part 207]

NAVIGATION REGULATIONS

NOTE.—The following document appears in the Rules and Regulations section of this issue inadvertently and should appear in the Proposed Rules section.

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Corps of Engineers proposes to amend regulations which govern the use, administration, and navigation of the locks and canals on the Fox River, Wis., to change lockage times and make certain editorial changes. These changes are necessary to make operating hours of the locks in the system consistent and as a result beneficial to the public.

DATE: Comments must be received on or before May 15, 1978.

ADDRESS: Send comments to: Office of the Chief of Engineers, Attn: DAEN-CWO-N, Washington, D.C. 20314.

FOR FURTHER INFORMATION CONTACT:

Mr. Ralph T. Eppard at 202-693-5070.

SUPPLEMENTARY INFORMATION: Regulations were promulgated in 33 CFR 207.460 on October 2, 1926, and last amended on November 17, 1972, to govern the use, administration, and navigation of the locks and canals on the Fox River, Wis. We now propose to operate the Cedars, Little Chute, Combined, and Kaukauna Locks on schedules that are consistent with the operating schedules of the other locks in the system. Other amendments pro-

posed include a change in the project office name from "Appleton" to "Fox River" since that office has relocated and office hours have changed to coincide with those of the Kaukauna maintenance personnel. Another amendment is made to reflect organizational changes within the Construction-Operations Division in the Chicago District. Accordingly, we propose to revise paragraphs (a)(2), (6)(iv), and (15) § 207.460 as set forth below:

§ 207.460 Fox River, Wis.

(a) * * *

(2) *Authority of Lockmaster.* The movement of all boats, vessels, tows, rafts, and floating things, both powered and nonpowered, in the canals and locks, approaches to the canals, and at or near the dams, shall be subject to the direction of the Lock Master or his duly authorized representatives in charge at the lock.

* * * * *

(6) Provisions for lockage service. * * *

(iv) All craft will be given lockage at DePere and Menasha Locks between 8 a.m. and 12 midnight daily during the recreational boating season as established by the District Engineer. At all intermediate locks above DePere and below Menasha, lockages without prior notice will be provided between the hours of 10 a.m. and 6 p.m. daily. In addition lockages will be provided during certain other hours at the intermediate locks provided prior requests are made to the Corps of Engineers, Fox River Project Office.

NORMAL AND ADDITIONAL LOCKAGE TIMES

Lock location	Normal lockage times without prior request	Additional lockage times with prior request (note 1)	Notes
Menasha	8 a.m. to 12 midnight	None	None.
Appleton	10 a.m. to 6 p.m.	8 to 10 a.m., 6 p.m. to 12 midnight	2, 3, and 4.
Cedars	10 a.m. to 6 p.m.	8 to 10 a.m., 6 p.m. to 12 midnight	Do.
Little Chute	10 a.m. to 6 p.m.	8 to 10 a.m., 6 p.m. to 12 midnight	Do.
Combined	10 a.m. to 6 p.m.	8 to 10 a.m., 6 p.m. to 12 midnight	Do.
Kaukauna	10 a.m. to 6 p.m.	8 to 10 a.m., 6 p.m. to 12 midnight	Do.
Rapide Croche	10 a.m. to 6 p.m.	8 to 10 a.m., 6 p.m. to 12 midnight	Do.
Little Kaukauna	10 a.m. to 6 p.m.	8 to 10 a.m., 6 p.m. to 12 midnight	2, 3, 4, 5, and 6.
DePere	8 a.m. to 12 midnight	None	None.

NOTE 1. a. Requests may be made either in writing, by telephone or in person to the U.S. Army, Corps of Engineers, Fox River Project Office, 1008 Augustine Street, Kaukauna, Wis. 54130, telephone: 414-766-3531.

b. Regular business hours of the Fox River Project Office are from 7:30 a.m. to 4 p.m., Monday through Friday.

* * * * *

f. If, for any reason, a requested lockage will not be made or must be delayed unreasonably, prompt notice must be given to the Fox River Project Office, or, if after office hours (See "b" and "c" above), to the Lockmaster at either Menasha or DePere Locks.

NOTE 2. For lockages between 8 a.m. and 10 a.m. at all the intermediate locks:

a. Request for lockages during these hours must be received in the Fox River Project Office no later than 1 p.m. on the day before lockage is required.

* * * * *

NOTE 3. For lockages between 6 p.m. and 12 midnight at all intermediate locks:

a. Requests for lockages during this period must be received in the Fox River Project Office no later than 1 p.m. on the day lockage is required.

* * * * *

NOTE 6. For lockages between 6 p.m. and 11 p.m. at Little Kaukauna Lock:

Lockages will be granted north and southbound at Little Kaukauna Lock without prior request from 6 p.m. to 11 p.m. on Friday, Saturday, Sunday, and holidays from the weekend before Memorial Day through the weekend after Labor Day.

* * * * *

(15) *Commercial statistics.* (i) As required by section 11 of the River and Harbor Act of September 22, 1922 (42 Stat. 1043; 33 U.S.C. 555), owners, agents, masters, or clerks of vessels plying the waterway shall submit a report on such activities for statistical purposes which shall contain the following information:

Name of vessel.
Name and address of owner or operator.
Type of vessel—steam, motor, sail, barge, or other type.
Number of passengers.
Net registered tonnage—if not registered, approximate net tonnage.
Maximum draft at time of passage.
Cargo—by commodities, expressed in tons, or other units by which such commodities are customarily measured, giving origin and destination.

(ii) The report shall be mailed promptly to the District Engineer, Chicago District, Corps of Engineers, Attn: Construction-Operations Division-Statistics, 219 South Dearborn Street, Chicago, Ill. 60604 on forms furnished free of charge by that office. On written request, persons or corporations making frequent use of the waterway may be granted permission to submit monthly statements in lieu of reports by trips.

* * * * *

NOTE—The Department of the Army has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: March 29, 1978.

JAMES N. ELLIS,
Colonel, Corps of Engineers,
Executive Director, Engineer Staff.

[FR Doc. 78-9227 Filed 4-6-78; 8:45 am]

[4310-70]

Title 36—Parks, Forests, and Public Property

CHAPTER I—NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR

PART 50—NATIONAL CAPITAL PARK REGULATIONS

Demonstrations and Special Events

AGENCY: National Park Service, Interior.

ACTION: Final rule.

SUMMARY: This rule extends the numerical limitation waiver procedures now applicable to Lafayette Park to demonstrations on the White House sidewalk and will thereby permit, under certain circumstances, in excess of 750 persons to demonstrate there. This amendment was required by an Order on Mandate filed in *A Quaker Action Group* v. *Andrus*, Civ. No. 668-69 (D.D.C., July 15, 1977).

DATES: This amendment shall become effective on April 7, 1978.

FOR FURTHER INFORMATION CONTACT:

Arthur J. Lamb, Chief, Division of Special Events, National Capital Region, National Park Service, 1100 Ohio Drive SW., Washington, D.C. 20242, Telephone: 202-426-6690.

SUPPLEMENTARY INFORMATION: On October 14, 1977, the National Park Service published a proposed rule (42 FR 55234) to revise 36 CFR § 50.19, which governs the conduct of demonstrations and special events in the National Capital Region, National Park Service. The National Park Service stated at that time that the proposed rule was a result of an Order on Mandate filed in *A Quaker Action Group* v. *Andrus*, Civ. No. 668-69 (D.D.C., July 15, 1977). This amendment would have the effect of extending the waiver procedures regarding limitations on numbers of persons now found at 36 CFR 50.19(e)(2), which persently deals with only Lafayette Park, to demonstrations on the White House sidewalk.

Interested persons were given an opportunity to participate in these rulemaking proceedings by submission of written comments to the Regional Director, National Capital Region, National Park Service. Written comments were received from one party. All comments with respect to the proposed revision were given due consideration.

A comment was received suggesting that the proposed regulation should be interpreted so as to require the Government to grant a waiver, absent proof of a clear and present danger, and also suggesting that the time limit for filing a waiver application be reduced to 5, 7, or 10 days before the conduct of the activity, rather than the 15 days stated in the proposal.

The waiver provisions of existing 36 CFR 50.19(e)(2) have been interpreted by the National Park Service as placing the burden on the applicant for a waiver to make a showing that the demonstration has been planned and will be patrolled in such a fashion as to render unlikely any substantial risk to the legitimate public interests. As was stated at 41 FR 12880 (1976), the Distric Court, in its Order on Mandate in *A Quaker Action Group* v. *Kleppe*, Civ. No. 688-69 (D.D.C., November 21, 1975), ". . . clearly placed the burden on the applicant." Based upon a review of its experience with 36 CFR 50.19(e)(2), in connection with Lafayette Park demonstrations, the National Park Service believes that such a burden is necessary if the Government is to be able to intelligently consider the application for a waiver.

The 15 day requirement is reasonable and necessary in order to evaluate the proffered information and to initiate additional security measures.

A number of comments were received that were beyond the scope of the notice. They included:

1. A suggestion that permits not be required for demonstrations involving a limited number of people;

2. A suggestion that permit applications be accepted at various locations throughout the city instead of the National Capital Region Headquarters.

3. A suggestion that areas other than the Ellipse, Lafayette Park, and the White House sidewalk be available in the White House area for the exercise of First Amendment rights.

4. A suggestion that the regulation include express standards and procedures for the selection of sponsors for "nationl celebration events."

In addition to being beyond the scope of the proposed rule here under consideration, all of the above points were discussed and rejected at 41 FR 12879 et seq., (1976) and three are currently issues in litigation between the commentor and the Department of the Interior in *Women Strike For Peace* v. *Andrus*, Civ. No. 74-1303 (D.D.C., filed October 31, 1977).

When this amendment was proposed on October 14, 1977, it was the intention of the National Park Service to publish a final rule on or before December 15, 1977. Publication of the final rule was inadvertently delayed, but the National Park Service has been accepting and processing waiver applications, as provided for in the amendment, during this interim period. Because there is a demonstrated and continuing need for the waiver procedure and because it is a relaxation of a restriction, this amendment is being made effective on its date of publication in order to avoid further delays.

Dated: March 30, 1978.

WILLIAM J. WHALEN,
Director, National Park Service.

In consideration of the above, 36 CFR 50.19(e) is hereby amended by revising paragraph (e)(2), adding a new paragraph (e)(3), and redesignating existing paragraphs (e)(3) through (e)(10) as (e)(4) through (e)(11), as follows:

§ 50.19 Demonstrations and special events.

* * * * *

(e) Issuance of permits shall be subject to the following limitations:

(1) No more than 750 persons shall be permitted to conduct a demonstration on the White House sidewalk at any one time.

(2) No more than 3,000 persons shall be permitted to conduct a demonstration in Lafayette Park at any one time.

(3) The Director may waive the 750 person and 3,000 person limitations upon a showing by the applicant that the proposed demonstration has been planned and will be patrolled in such a fashion as to render unlikely any substantial risk to legitimate public interests in the area. In making a waiver determination the Director shall consider and the applicant shall furnish the following information at least 15 days in advance of the proposed demonstration:

(i) number of marshals to be furnished.

(ii) The training these marshals have received including a brief summary of that training.

(iii) The experience of these marshals in crowd situations including a brief summary of those experiences.

(iv) The equipment to be furnished marshals including number of portable radios, power and frequency.

(v) The means by which marshals shall be identified.

(vi) A summary of proposed marshal functions including emergency contingency plans.

(vii) List of emergency facilities to be provided including first aid and sanitary facilities.

* * * * *

[FR Doc. 78-9273 Filed 4-6-78; 8:45 am]

[6712-01]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[FCC 78-208]

PART 15—RADIO FREQUENCY DEVICES

Sale of Low Powered 27 MHz Walkie-Talkies Certificated

AGENCY: Federal Communications Commission.

ACTION: Extension of marketing cut-off-date.

SUMMARY: In response to several petitions, the FCC waived the September 18, 1978, marketing cut-off date for 27 MHz walkie-talkies operating under part 15 and has permitted marketing to December 31, 1978.

EFFECTIVE DATE: New marketing cut-off date set at December 31, 1978.

ADDRESS: Federal Communications Commission, 1919 M Street NW., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Herman Garlan, Office of Chief Engineer, 202-632-7095.

Adopted: March 22, 1978.

Released: March 30, 1978.

By the Commission: Commissioner Brown concurring and issuing a state-

ment in which commissioner Washburn joins.

Order. In the matter of extension of the cut-off date for sale of low powered 27 MHz walkie-talkies certificated under part 15 of FCC rules.

1. The Commission has before it a number of pleadings requesting that the cut-off date for the sale of low powered 27 MHz walkie-talkies be extended beyond September 18, 1978, the cut-off date now specified in our rules. Section 15.115 provides that a 27 MHz low power communication device which had been certificated to comply with the technical specifications in effect prior to March 18, 1976, and which had been manufactured prior to September 18, 1977, and/or imported prior to October 18, 1977, may not be marketed after September 18, 1978.[1]

2. One petition was filed January 27, 1978, by the General Electric Co. (GE) which asks that the sales cut-off date be extended for 15 months to December 31, 1979. The Fanon/Courier Corp. filed a petition on February 1, 1978, which also asks an extension of the sales cut-off date to December 31, 1979. A third petition was filed jointly by six importers of 27 MHz walkie-talkies that are sold as toys: LJN Toys, Ltd., Concept 2000, Mego Toy Corp., Vanity Fair, Inc., Pamco Sales, Inc., and Illfelder Toy Co., Inc. (hereafter "Joint Petition"). This petition requests that the sales cut-off date be extended to December 31, 1978. Finally, we have a comment filed by K-Mart Corp. on February 27, 1978, and one filed by Sears, Roebuck & Co. on February 28, 1978. Both of these comments generally support the request to extend the sales cut-off date through the 1978 selling season, that is through December 31, 1978. Letters supporting the petitions were also received from W. D. Wilkins & Co., Merchandisers Association Inc., Pehrson's Cottonwood and 4273 K-Mart.

Background of the Sales Cut-Off Date

3. On July 23, 1974, the Commission promulgated a Notice of proposed rulemaking in Docket No. 20119.[2] This Notice proposed to move all low power communications devices (including walkie-talkies) out of the 27 MHz band (26.97-27.27 MHz) and into a new 49 MHz band (49.8-49.9 MHz). Notice was given that manufacture of devices in the 27 MHz band would be terminated 1 year after the effective date of the rules promulgated in the proceeding and that marketing would be terminated 2 years after the effective date of the new rules. The basic reason given for the proposed action was to eliminate the confusion in enforcement of the CB regulations, since the non-licensed 27 walkie-talkies operated on the same frequencies used by the CB radios but were subject to different regulations. Interference to licensed services—basically to CB radio stations—was given as a second reason, although of lesser concern.

4. A Report and Order was adopted on February 4, 1976.[3] This Order adopted with minor changes the rules that had been proposed in the Notice. It provided that the new rules become effective on March 18, 1976, and set a cut-off date for manufacture of March 18, 1977, and a cut-off date for marketing of March 18, 1978.

5. In response to petitions for reconsideration largely from the manufacturers of cordless telephones and a manufacturer of a 27 MHz radio control system for warehouse tractors a Memorandum Opinion and Order was adopted on January 13, 1977.[4] This Order did not change the technical specifications applicable to voice operated 27 MHz low power communication devices (27 MHz walkie-talkies). It extended the manufacturing cut-off date to September 18, 1977, and the marketing cut-off date to September 18, 1978, and it added an importation cut-off date of October 18, 1977.

6. Only two parties had questioned the time schedule proposed by the Commission for terminating the manufacture and marketing of 27 MHz walkie talkies.[5] Neither of these parties is involved with the petitions here under consideration. Of the present petitioners only GE and Vanity Fair (one of the petitioners in the Joint Petition) filed comments in 1974 in response to our Notice. These comments were limited to a discussion of the technical specifications proposed in the Notice and did not touch on the time schedule therein. None of the present petitioners asked for reconsideration or joined with the petitioners for reconsideration (paragraph 5).

The GE Petition

7. In its petition, GE states that it generally supported the Commission's objectives in the proceeding in Docket No. 20119 and that it continues to support them at the present time. Accordingly, GE states, it has proceeded with the development, certification, and introduction of 49 MHz walkie-talkies. However, the sharply lowered sales of 27 MHz walkie-talkies during the fourth quarter of 1977, has disrupted what had been planned as an orderly and early transition to 49 MHz band equipment. This major sales decline which was completely unforeseen has left GE with an excessive inventory of 27 MHz walkie-talkies which cannot possibly be sold prior to September 18, 1978, even if prices are cut drastically. In this connection GE contends that it is not feasible to modify the 27 MHz units now in inventory for 49 MHz operation. GE explains that the modified 27 MHz units would have to be sold at prices competitive with newly manufactured 49 MHz units, but its cost analysis shows that the existing units cannot be re-manufactured without increasing the retail price of the modified unit by at least 50 percent. GE points out that its inventory of 27 MHz walkie-talkies retails in the $10-$25 price range.[6]

8. GE emphasizes that its request applies only to existing inventory now in the USA of certificated 27 MHz walkie-talkies that had been manufactured prior to September 18, 1977, and/or imported prior to October 18, 1977—the cut-off dates established by the Commission in the Docket No. 20119 proceeding.

9. GE explains that the 27 MHz walkie-talkie operated under part 15 is a low performance communication device used primarily by pre-adolescents. A large proportion of these units are purchased as gifts—especially as Christmas gifts.[7] Accordingly a sharp sales decline in the fourth quarter creates a substantial inventory problem precisely when sales are at their lowest ebb.

10. Catalog sales by catalog merchandizers, the petition continues account for about 35 percent of GE sales. These catalogs are currently being prepared and the selection of merchandise to be included will be completed by early April, 1978. GE states that it will be satisfied with an extension of the sales date to December 31, 1978, if the extension were adopted and announced by March 15, 1978—a time frame that would assure GE and the rest of the industry access to catalog sales during the fourth quarter of 1978.

11. GE points out that differences between its instant request and the request to extend the January 1, 1978, sales cut-off date for CB radios which was denied by the Commission on November 9, 1977.[8] When the sales cut-

[1] One waiver of this importation cut-off date was granted by the Commission on Oct. 13, 1977. See paragraph 16 of this Order and footnote 12 below.

[2] 39 FR 28172; 47 FCC 2d 1122.

[3] 41 FR 7394; 57 FCC 2d 1134.

[4] 62 FCC 2d 573.

[5] Report and Order in Docket No. 20119 at paragraph 37.

[6] Sears in its comment indicates that modification is feasible but extremely costly and states that if the requested extension of sales cut-off date is denied, it intends to undertake such a costly modification program as the only alternative to salvaging part of the loss due to unsold inventory. See paragraphs 19, 20, and 21 of this Order.

[7] GE does not sell at retail. But retail sales data available to it shows that about 50 percent of all low powered walkie-talkie sales at retail occur in the fourth quarter (GE petition at p. 4).

[8] In the matter of Petitions to extend the January 1, 1978, sales cut-off date for 23-

Footnotes continued on next page

off date for 27 MHz walkie-talkies was established, interference was only a minor consideration whereas for CB radios, interference was controlling. A second difference was the existence of the large inventory of new 40-channel CB radios contemporaneously with the large inventory of the older 23-channel CB radios. In this situation, GE argues, extending the sales cut-off date for 23-channel CB radios would not have solved the excessive inventory problem and would have involved major disadvantages from a public interest standpoint. The extension requested in its petition, GE contends, will solve the inventory problem without the public interest disadvantages (interference to television reception) present in the CB radio case.

12. Finally GE points out that the substantial educational efforts by the Commission and the CB industry have made the public much more aware of the licensing requirements and the operating regulations for CB radio. In view of this and the rather small potential of interference from 27 MHz walkie-talkies to CB radio, GE contends, the separation between licensed CB radios and unlicensed 27 MHz walkie-talkies sought by the Commission in its proceeding in Docket No. 20119, is no longer a high priority need from a regulatory standpoint.

The Fanon/Courier Petition

13. Fanon/Courier, a subsidiary of Resdel Industries, points out that its present inventory of 27 MHz walkie-talkies is large enough to have a debilitating effect on its financial situation if this inventory must be sold at distress prices, although it questions whether even distress selling will permit it to dispose of its inventory prior to September 18, 1978. Fanon/Courier states that in the face of the September 18, 1978, sales cut-off date, it cannot sell its inventory through its normal channels of distribution—the catalog merchandiser. These merchandisers, Fanon/Courier explains, are presently making product selection for their catalogs for 1978 fall and Christmas sales. Unless these merchandisers are assured that sales after September 18, 1978, will be permitted, they will not include 27 MHz walkie-talkies in their 1978 catalogs.

14. The petition states that Fanon/Courier made irreversible commitments in 1976 for production of these 27 MHz walkie-talkies based upon its market forecasts at that time. These equipments were imported prior to the importation cut-off of October 18, 1977, specified by the Commission and are currently in inventory in the USA. Fanon/Courier alleges that it attempted to comply with the Commission's ruling but the total and complete erosion of the market has made it impossible to dispose of the 27 MHz walkie-talkies within the allocated time schedule. According to Fanon/Courier, the market for 27 MHz walkie-talkies has been significantly affected by the complete collapse of the CB market, because consumers, rather than purchasing 27 MHz walkie-talkies priced at $12–$20, have purchased a CB radio at the eroded price of $20–$50. This change in buying practice has severely affected its market forecast for 27 MHz walkie-talkies.

15. Fanon/Courier pleads that the substantial losses it has sustained in the CB market[9] make its instant request for relief even more urgent. Financial information attached to the petition show a loss of income before income tax provision (benefit) of about $7.5 million for the period ending 6-30-77[10] and about $0.6 million for the period ending 10-2-77.[11] As further evidence of the precarious financial condition of CB manufacturers, Fanon/Courier calls attention to the many news articles and the Chapter XI filings that have been reported. In summary, if the financial health of Fanon/Courier Corp. is to be protected, it must avoid any further losses such as an unsaleable inventory of 27 MHz walkie-talkies.

The Joint Petition

16. The joint petition was filed by a group of distributors who for the most part do not manufacture 27 MHz walkie-talkies. Almost all of the petitioners import these devices from the Far East. These devices are then sold to retailers under the petitioners' brand names or trademarks. Petitioners state that all of the units presently in inventory have been certificated by the Commission and were imported into the USA prior to October 18, 1977.[12]

17. Petitioners explain that about 70 percent of their business is done in the last quarter of the calendar year. On or about October 1, 1977, a longshoreman's strike started that did not end until November 29, 1977. The dock stoppage in all eastern and gulf ports prevented the release of merchandise into channels of trade. The delayed release of inventory prevented petitioners from selling this merchandise during the 1977 Christmas selling season and resulted in a large inventory carryover into 1978. Since sales of this merchandise is seasonal, there is not much prospect of disposing of this inventory by September 18, 1978. In addition to this unforeseen delay at the docks, petitioners allege that their ability to dispose of the existing inventory was further affected by the general and unforeseen downturn of the market for 27 MHz walkie-talkies.

18. Petitioners stress that they are small businessmen and that a denial of the petition will compel them to cut prices drastically in order to dispose of the present inventory and thus suffer irreparable losses. Ordinarily, the time schedule imposed by the Commission would have permitted an orderly disposal of inventory. However, due to strike and the softness of the markets—circumstances that could not have been foreseen—the time schedule is turning out not to be adequate.

The Sears Comment

19. Sears explains that the 27 MHz walkie-talkies—the subject of these petitions—are sold as toys in its toy departments and that the toy business is unique in that more than 75 percent of sales of toys are made in the last 4 months of the year because of gift shopping for children. Toys are also a "high fashion" business with a high risk factor. If the item sells well, it is difficult to keep in stock. If the item sells poorly, carryover to the next year is a virtual certainty.

20. The comment points out that 27 MHz walkie-talkie sales experienced a phenomenal growth in 1976. Because of the tremendous influence of "electronics for youth" the indication pointed to an even better market in 1977. Unfortunately, Sears points out, the indicators proved to be wrong. Sales were at a much lower level than anticipated leaving a large inventory which could not possibly be reduced by any substantial amount prior to September 18, 1978, since for all practical purposes September is the beginning of the 1978 selling season for toys. Accordingly, Sears concurs with the petitioners' requests for an extension of the sales cut-off date, but stresses the need for an early decision not later than March 15, 1978.

21. Sears points out that if the September 18, 1978, deadline is maintained, its only option, albeit extreme-

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Footnotes continued from last page
channel CB radios and CB receiver/converters. Order adopted November 9, 1977; released November 30, 1977. (FCC 77-768) 42 FR 62201; 66 FCC 2d.

[9] Fanon/Courier was one of the petitioners for an extension of the Jan. 1, 1978, sales cut-off date for CB radios which was denied by the Commission on Nov. 9, 1977. See footnote 8.

[10] Fanon/Courier petition, exhibit E at page 9.

[11] Fanon/Courier petition, exhibit F.

[12] It should be noted that LJN Toys Ltd., one of the joint petitioners, had received an extension of the importation cut-off date from Oct. 18, 1977, to Dec. 18, 1977. FCC letter to LJN Toys Ltd. dated Oct. 13, 1977, file 6310/EQU 4-3-7; FCC Report No. 4852 (90192, Oct. 13, 1977). The extension was granted on the grounds that the cyclical nature of the sale of 27 MHz walkie-talkies created financial problems for LJN that prevented earlier shipment of the equipment by the foreign manufacturer. LJN was cautioned that the extension of the importation cut-off date would not of itself extend the Sept. 18, 1978, sales cut-off date.

ly costly, is to return its inventory to its supplier (outside the USA) to be reworked with new printed circuit boards for operation at 49 MHz. Sears estimates that the costs of conversion in some instances will approach 50 percent of the original cost of the device. Of more concern however is the lead time required to ship the devices abroad, have them reworked and returned to Sears in time to be put on sale for the 1978 selling season. Accordingly, Sears pleads for a decision by March 15, 1978. If the Commission cannot reach a decision by that date, Sears urges the Commission to retain the September 18, 1978, sales cut-off date and not to grant any last-minute reprieve to competitors after Sears has committed itself to an expensive conversion program. Such a last minute extension would have the effect of penalizing Sears for its effort to bring itself into compliance with the Commission's new rules.

THE K-MART COMMENT

K-Mart echoes the remarks made by all the petitioners that the sale of 27 MHz walkie-talkies for the 1977 Christmas season were far below all estimates. K-Mart points out that the depressed Christmas 1977 sales season for these items, along with the severe dock strike which held up shipment to stores, and the confusion which accompanied the close-out of 23-channel CB radios has left retailers with an inventory of these items that cannot possibly be sold off prior to September 18, 1978. Even at substantial price decreases only a part of this inventory could be sold with those items remaining on hand after September 18, 1978, representing a total loss. Accordingly K-Mart joins with the petitioners in pleading for an extension of the sales cut-off date to January 1, 1979, although it anticipates that abnormal price reductions may be required to insure that it will dispose of its inventory during the 1978 Christmas sales season.

COMMISSION DECISION

23. The Commission has carefully considered the several arguments presented by the petitioners and the comments by Sears and K-Mart. We particularly note the arguments concerning the seasonal nature of sales of 27 MHz walkie-talkies. All of the petitioners agree that most of the sales occur in the last quarter of the year. The cut-off date September 18, 1978, specified by the Commission in § 15.115 does not fit this pattern of sales and we are persuaded that a cut-off date of December 31, 1978, would be more appropriate to fit the actual sales pattern of 27 MHz walkie-talkies.

24. We note further the arguments about the unexpected and unforeseen softness of the 1977 market for 27 MHz walkie-talkies which resulted in the unusually high inventory carried over into 1978. Because of the seasonal nature of sales of these devices, this inventory cannot possibly be reduced by September 18, 1978, which the petitioners point out is essentially the start of the 1978 selling season for 27 MHz walkie-talkies. We find this argument particularly persuasive.

25. In these circumstances—the unforeseen and unexpected softness of the 1977 market for 27 MHz walkie-talkies as aggravated by the dock strike which prevented the movement of merchandise from dock to retailer; the changed circumstances which has lessened the need to move the 27 MHz walkie-talkies to the new band at 49 MHz; the relative low interference potential of the 27 MHz walkie-talkie; and finally the selection of a marketing cut-off date at the beginning of the major selling season of the year—the Commission finds that it is in the public interest to grant a waiver of the existing marketing cut-off date in § 15.115 of our rules and to permit marketing of 27 MHz walkie-talkies until December 31, 1978. At the same time, we want to stress that we do not propose to grant any further extension of the marketing cut-off date beyond December 31, 1978.

26. This waiver is subject to the following conditions:

(a) The device was manufactured prior to September 18, 1977.

(b) The device was imported into the U.S.A. prior to October 18, 1977.[13]

(c) The device has been certificated by the Commission to show compliance with the technical specifications in § 15.115 of our rules.

27. In view of the foregoing: *It is ordered*, That the several petitions considered herein are granted in part and the marketing cut-off date for 27 MHz walkie-talkies in § 15.115 is extended to December 31, 1978.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

APPENDIX

PETITIONS FOR WAIVER

Fanon/Courier Corp., 990 South Fair Oaks Avenue, Pasadena, Calif. 91105. Petition filed February 1, 1978.

General Electric Co., petition filed January 27, 1978, by Counsel James R. Cooke of McKenna, Wilkinson & Kittner, 1150 Seventeenth Street NW., Washington, D.C. 20036.

Joint petition on behalf of LJN Toys Ltd., Concept 2000, Mego Toy Corp., Vanity Fair Inc., Pamco Sales Inc., and Illfelder Toy Co., Inc., filed February 13, 1978, by Counsel Aaron Locker, 1 Penn Plaza, New York, N.Y. 10001.

[13] For LJN Toys Ltd., the importation cut-off date is December 18, 1977. See footnote 12.

COMMENTS ON PETITIONS

K-Mart Corp. by Counsel Deborah L. Miela, K-Mart Corp. Legal Department, Troy Mich. 48084; letter dated 2-20-78.

Sears, Roebuck & Co. by Counsel Peter Tanenwald of Arent, Fox, Kintner, Plotkin & Kahn, 1818 H Street NW., Washington, D.C. 20006; comment dated 2-28-78.

Merchandisers Assn. Inc., c/o Brendles Inc., 1919 North Bridge Street, ext., Elkin, N.C. 28621; letter dated 2-28-78.

W. D. Wilkins & Co., 2204 Avenue G, Lubbock, Tex. 79404; letter dated 2-27-78.

Pehrson's Cottonwood, 2865 South Highland Drive, Salt Lake City, Utah 84117; letter dated 2-25-78.

4273 K-Mart, Eastland Shopping Center, 2705 Parleys Way, Salt Lake City, Utah 84109; letter dated 2-28-78.

CONCURRING STATEMENT OF COMMISSIONER TYRONE BROWN IN WHICH COMMISSIONER ABBOTT WASHBURN JOINS

Re Extension of Cut-Off Date on Sale of Low Powered 27 MHz Walkie-Talkies.

The Commission identifies five reasons for its decision to extend the final date on which 27 MHz walkie-talkies may be marketed: (1) Unexpected and unforeseen "softness" in the 1977 toy market aggravated by a longshoreman strike and the resultant delayed delivery of previously ordered imported walkie-talkies, (2) the seasonal nature of toy sales, (3) the unfortunate selection of the September 18 cut-off date, (4) the low interference potential of these walkie-talkies, and (5) the lessened need to move the 27 MHz walkie-talkies to a new band.

I agree with the Commission's decision. However, I wish to serve notice that I am not impressed by the argument that the earlier announced cut-off date must be extended because of the economic plight of the petitioners. This Commission should not be an indemnitor of corporate marketing decisions.

Normally, Commission-imposed bans on the production and sale of products are required because of serious electrical interference problems. As such, where the Commission has reached a reasoned conclusion and the affected industries have been given adequate advance notice that a marketing prohibition may be imposed—absent compelling circumstances not present here—I would oppose extending the announced cut-off dates.

Because in the present case these walkie-talkies do not cause a major or interference problem, I join in the Commission's decision.

[FR Doc. 78-9178 Filed 4-6-78; 8:45 am]

[6712-01]

[Docket No. 21483; RM-2973]

PART 73—RADIO BROADCAST SERVICES

FM Broadcast Station in Jersey Shore, Pa. Changes made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Report and order.

SUMMARY: Action taken herein assigns a Class A FM channel to Jersey

Shore, Pa., as that community's first FM assignment. The channel would provide for an FM station which could furnish a first full-time aural broadcast service to the community.

EFFECTIVE DATE: May 10, 1978.

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

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION:

REPORT AND ORDER—(PROCEEDING TERMINATED)

Adopted: March 27, 1978.

Released: March 29, 1978.

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Jersey Shore, Pa.), Docket No. 21483, RM-2973.

1. The Commission herein considers the Notice of Proposed Rule Making, adopted November 17, 1977, 42 FR 60764, in the above-captioned proceeding instituted in response to a petition filed by Jeffrey O. Schlesinger ("petitioner"). The petition proposed the assignment of Channel 249A to Jersey Shore, Pennsylvania, as a first FM channel to that community. Petitioner filed supporting comments in which he reaffirmed his intention to file an application for a construction permit to construct and operate a station, if the channel is assigned. No oppositions were filed.

2. Jersey Shore (pop. 5,322), in Lycoming County (pop. 113,296),[1] is located in north central Pennsylvania, approximately 113 kilometers (70 miles) north of Harrisburg, Pennsylvania, and 19 kilometers (12 miles) west of Williamsport, Pennsylvania.

3. In support of his proposal, petitioner submitted information with respect to Jersey Shore which is persuasive as to its need for a first FM channel assignment.

4. We believe that the public interest would be served by the assignment of FM Channel 249A to Jersey Shore, Pennsylvania. An interest has been shown for its use, and such an assignment would provide the community with an FM station which could render a first full-time local aural broadcast service.

5. The Canadian Government has given its concurrence to the channel assignment.

6. Authority for the adoption of the amendment contained herein appears 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.

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

7. *Accordingly, it is ordered,* That effective May 10, 1978, § 73.202(b) of the Commission's rules, the FM Table of Assignments is amended as it pertains to the community listed below:

City and Channel No.
Jersey Shore, Pa., 249A.

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

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

[FR Doc. 78-9177 Filed 4-6-78; 8:45 am]

[6712-01]

[FCC 78-241]

PART 73—RADIO BROADCAST SERVICES

Reregulation of Radio and Television Broadcasting

AGENCY: Federal Communications Commission.

ACTION: Order amending rules for AM and FM broadcast stations.

SUMMARY: Reregulation Order to clarify the modulation monitoring requirements for AM and FM broadcast stations. Station modulation monitors are to be in continuous operation, except when automatic transmission systems (ATS) are used. AM stations normally monitor negative peaks. Stations using remote control observe modulation levels except when other transmitter meters are being read.

EFFECTIVE DATE: April 14, 1978.

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

FOR FURTHER INFORMATION CONTACT:

John W. Reiser, Broadcast Bureau, 202-632-9660.

SUPPLEMENTARY INFORMATION:

In the matter of reregulation of radio and television broadcasting. Order.

Adopted: March 28, 1978.

Released: April 6, 1978.

1. On September 28, 1976, the Commission, in its continuing program of clarifying and updating rules and regulations for broadcasting, amended certain modulation monitor and remote control rules (FCC 76-914). The following paragraph was transferred from the AM modulation monitor rule to the remote control rules to which it more properly relates:

> The modulation percentage shall be continuously monitored at the remote control point, except when the readings are being taken, or the transmission system shall be equipped with an automatic device to limit the modulation peak levels as specified in § 73.55.

In the *Order,* this same provision was added to the rules for FM and non-commercial FM stations for the first time to establish uniformity for all radio remote control operating procedures.

2. The AM and FM rules require that each station have a modulation monitor *in operation* either at the transmitter location or at the remote control location. The remote control rules for all radio broadcast stations require that the control and *monitoring* equipment be installed so that the licensed operator on duty can perform his required functions and that remote control system modulation meters comply with the same specifications as the main monitor meters.

3. Many of the remote control systems used by radio stations will permit the operator at the remote control point to meter only one transmitter parameter at a time. The viewed meter is switched between plate voltage, plate current, modulation level, or other parameters by a remote switching control. Since modulation levels continuously change with program content, the rules were written so as to require the station to have the modulation level displayed on the remote control meter for viewing by the duty operator except when other transmitter parameters were being read. However, stations using automatic modulation controlling devices, frequently called limiting amplifiers, to prevent excessive overmodulation, were permitted to continuously display some other parameter such as output power between required periodic meter readings.

4. It has come to our attention, through inquiries and as a result of station inspections, that some licensees have interpreted the provision of the remote control rule quoted in paragraph 1 to mean that stations with modulation limiting amplifiers in use do not need to have any means of observing modulation levels at the remote control point. This interpretation is not correct, particularly when read in context with other provisions of the rules. The monitor rules, as discussed in paragraph 2, require that a modulation monitor be in *operation* at the transmitter or remote control point, but such operation with the monitor at the transmitter site would be useless unless its indications were available to the operator on duty at the remote control point.

5. The remote control rules for radio stations require that the control and monitoring equipment be installed so as to allow the licensed operator at the remote control point to perform all the transmitter operating functions in

the manner required by the rules, which includes maintaining proper modulation levels. Although limiting amplifiers can prevent excessive overmodulation if properly adjusted, these devices do not necessarily prevent excessively low modulation levels. Further, variations in power line voltages and other conditions at the transmitter site can result in variation in modulation to which the operator should be alerted. Excessive modulation levels continue to be one of the most frequent technical problems observed by the Commission's field engineers.

6. In light of our informal inquiries from licensees, it is apparent that the wording of the existing rules should be modified so as to avoid any ambiguity in interpretation regarding the modulation monitor requirements. We recognize that in some cases it is operationally advantageous to locate the modulation monitor at the transmitter for maintenance use or when there would be an inadequate signal at the studio location for accurate monitoring. We therefore believe that licensees should still have the option of locating their monitors at the transmitter sites or remote control points with remote control monitor metering.

7. We also note that the rules for operation of automatic transmission systems (ATS) do not require the continuous use of modulation monitors since more sophisticated modulation control systems are used. We are, therefore, editorially amending the modulation monitor rules to clearly state that stations using ATS are exempt from the requirement for continuous use of the modulation monitor.

8. We are also, by this *Order*, clarifying the requirement that AM stations should normally display negative peak modulation levels. Although AM modulation monitors must have a switch to permit meter indications of either positive or negative modulation peaks, few of them have provisions for switching the indications by remote control. Since excessive negative peak modulation has the greater potential for causing interference and receiver distortion, it is the negative modulation peaks that should normally be displayed during operation by remote control.

9. We conclude that adoption of the amendments shown in the attached Appendix will serve the public interest. Prior notice of rule making, effective date provisions, and public procedure thereon are unnecessary, pursuant to the Administrative Procedure and Judicial Review Act provisions of 5 U.S.C. 553(b)(3)(B), inasmuch as these amendments impose no additional burdens and raise no issues upon which comments would serve any useful purpose.

10. Therefore, *it is ordered*, That pursuant to sections 4(i) and 303(r) of the Communications Act of 1934, as amended, Part 73 of the Commission's Rules and Regulations IS AMENDED as set forth below, effective April 14, 1978.

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

FEDERAL COMMUNICATIONS COMMISSION
WILLIAM J. TRICARICO,
Secretary.

. In § 73.56, paragraph (a) is amended to read as follows:

§ 73.56 Modulation monitors.

(a) Each AM station shall have installed either at the transmitter site, the extension meter location, or at the remote control point from which the transmitter is controlled, a properly operating modulation monitor of a type approved by the Commission. Except for stations that are operating with an automatic transmission system (ATS), the monitor shall be in continuous operation with the modulation level meter indications available to the operator on duty in charge of the transmitter.

* * * * *

2. In § 73.67, paragraph (a)(8) is amended to read as follows:

§ 73.67 Remote control operation.

* * * * *

(a)(8) The negative percentage of modulation indications of the modulation monitor shall be continuously available at the remote control point(s), except when other transmission system meter readings are being taken. The modulation level indications shall be continuously monitored between meter readings unless the transmission system is equipped with an automatic device to limit the modulation so as not to exceed the peak levels specified in § 73.55.

* * * * *

3. In §§ 73.140, 73.340 and 73.540, a new paragraph (c)(5) is added to read as follows:

§ 73.— Use of automatic transmission systems (ATS).

* * * * *

(c)(5) Continuous operation of the station modulation monitor is not required.

* * * * *

4. In § 73.253, paragraph (a) is amended to read as follows:

§ 73.253 Modulation monitors.

(a) Each FM station shall have installed either at the transmitter site, the extension meter location, or at the remote control point from which the transmitter is controlled, a properly operating modulation monitor of a type approved by the Commission. Except for stations operating with an automatic transmission system the monitor shall be in continuous operation with the total modulation level meter indications available to the operator on duty in charge of the transmitter. The following also apply to FM stations:

(1) If the station is engaged in stereophonic operations, the modulation monitor shall be of a type approved by the Commission for monitoring stereophonic transmissions.

(2) If the station is engaged in operation with a Subsidiary Communications Authorization (SCA) the licensee shall have a modulation monitor of a type approved by the Commission for monitoring SCA operation.

* * * * *

5. In § 73.275, subparagraph (a)(8) is amended to read as follows:

§ 73.275 Remote control operation.

* * * * *

(a)(8) The total percentage of modulation indications of the modulation monitor shall be continuously available at the remote control point(s), except when other transmission system meter readings are being taken. The modulation level indications shall be continuously monitored between meter readings unless the transmission system is equipped with an automatic device to limit the modulation so as not to exceed the peak levels specified in § 73.268.

* * * * *

6. In § 73.553, paragraph (a) is amended to read as follows:

§ 73.553 Modulation monitors.

(a) Each noncommercial educational FM station licensed for transmitter output power above 10 watts shall have installed either at the transmitter site, the extension meter location, or at the remote control point from which the transmitter is controlled, a properly operating modulation monitor of a type approved by the Commission. Except for stations operating with an automatic transmission system (ATS) the monitor shall be in continuous operation with the total modulation level meter indications available to the operator on duty in charge of the transmitter. The following also apply to noncommercial educational FM stations:

(1) If the station is engaged in stereophonic operations, the modulation monitor shall be of a type approved by the Commission for monitoring stereophonic transmissions.

(2) If the station is engaged in operation with a Subsidiary Communications Authorization (SCA) the licensee shall have a modulation monitor of a type approved by the Commission for monitoring SCA operation.

* * * * *

7. In § 73.573, paragraph (a)(8) is amended to read as follows:

§ 73.573 **Remote control operation.**

* * * * *

(a)(8) The total percentage of modulation indications of the modulation monitor shall be continuously available at the remote control point(s), except when other transmission system meter readings are being taken. The modulation level indications shall be continuously monitored between meter readings unless the transmission system is equipped with an automatic device to limit the modulation so as not to exceed the peak levels specified in § 73.568.

* * * * *

[FR Doc. 78-9271 Filed 4-6-78; 8:45 am]

[6712-01]

[Docket No. 19918; RM-2235; FCC 78-225]

PART 74—EXPERIMENTAL, AUXILIARY, AND SPECIAL BROADCAST, AND OTHER PROGRAM DISTRIBUTIONAL SERVICES

FM Radio Broadcast Translator Stations

AGENCY: Federal Communications Commission.

ACTION: First Report and Order.

SUMMARY: FCC adopts rule permitting termination of FM translator operation when facts have changed in a fashion so that they would have precluded original grant if they had existed at that time. This provision, which parallels existing rules for television translators, is needed to assure effective administration of Commission rules and policies.

EFFECTIVE DATE: May 5, 1978.

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

FOR FURTHER INFORMATION CONTACT:

Jonathan David, Broadcast Bureau, 202-632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: March 22, 1978.

Released: March 31, 1978.

By the Commission: Commissioner Fogarty concurring in the result.

In the matter of amendment of part 74, subpart L of the Commission's rules pertaining to FM radio broadcast translator stations, Docket No. 19918.[1] RM-2235.

1. The Commission has before it the Notice of Proposed Rulemaking in this proceeding and the filings made in response to it. The proceeding was designed to explore the adoption of rules to limit the establishment of FM translators outside the 1 mV/m contour of the primary station. It also included a number of related questions regarding FM translators.

2. As indicated in the Further Notice adopted today, we have concluded that it would not be appropriate to adopt the rule changes originally proposed to restrict the establishment of FM translators outside the primary station's 1 mV/m contour. Instead, we decided to explore another possible means of responding to the concern about the use of translators as a competitive means of expanding a primary station's service area. At the same time, we observed that there was one issue raised in the Notice which could be resolved: that is the matter of a 60-day termination.

3. The 60-day termination provision which was proposed was designed to enable the Commission to require such termination when the circumstances in the community or area had so changed as to preclude the original grant if it had been true at the time. Our original proposal would have limited the establishment of translators outside the primary station's 1 mV/m contour to those areas lacking two 1 mV/m FM signals. If a second FM station were to be established in an area, this rule would have enabled us to terminate the translator established when there was only one such signal in the area. Although this form of proposal has been denied, this does not remove all possible uses for the 60-day termination rule. It is a rule which can deal with other changes in circumstances which would have precluded the original grant. Thus, for example, if the primary station were to change ownership so that it was in common with that of the translator outside its 1 mV/m contour, this rule would enable us to terminate the operation unless the translator were transferred to other ownership. This would hold true under the present rules or those proposed although the exact factual context giving rise to the possibility of termination would vary. Although this rule would not be expected to be used with great frequency, we believe it to be a necessity when the need does arise. That has been our experience with television translators, and nothing to the contrary has been suggested here; in fact, no party bothered to address the issue.

[1] See 39 FR 12771, April 8, 1974.

4. Based on our own experience, we believe this rule to be necessary and it will be adopted. In this connection we note that the purpose of this rule is not to invoke any new standard but only to make it possible to effectively apply existing standards when changes in circumstances bring them into play. That being the case, there is no reason to delay adoption of this rule, which, regardless of what action is taken on the other issues in this proceeding, will have some area of applicability.

5. Accordingly, pursuant to sections 4(i), 303 and 307(b) of the Communications Act of 1934, as amended, § 74.1232 of the Commission's rules is amended by adding paragraph (h) as follows, effective May 5, 1978.

§ 74.1232 **Eligibility and licensing requirements.**

* * * * *

(h) Any authorization for an FM translator station issued to an applicant described in paragraph (d) of this section will be issued subject to the condition that it may be terminated at any time, upon not less than sixty (60) days written notice, where the circumstances in the community or area served are so altered as to have prohibited grant of the application had such circumstances existed at the time of its filing.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; (47 U.S.C. 154, 303, 307).)

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-9174 Filed 4-6-78; 8:45 am]

[6712-01]

[FCC 78-240]

PART 74—EXPERIMENTAL, AUXILIARY, AND SPECIAL BROADCAST, AND OTHER PROGRAM DISTRIBUTIONAL SERVICES

Reregulation of Radio and Television Broadcasting

AGENCY: Federal Communications Commission.

ACTION: Order.

SUMMARY: This document is a reregulation of Broadcasting Order to clarify rules and make editorial corrections. Past dates that are no longer effective are deleted. The rule amendments are made because of difficulties, licensees and Commission staff have experienced in understanding and using the rules for the auxiliary broadcast services due to apparent conflicting provisions.

EFFECTIVE DATE: April 14, 1978.

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

FOR FURTHER INFORMATION CONTACT:

John W. Reiser, Broadcast Bureau, 202-632-9660.

SUPPLEMENTARY INFORMATION:

In the matter of reregulation of radio and television broadcasting. Order.

Adopted: March 28, 1978.

Released: April 6, 1978.

1. As a result of the continuing study of broadcast rules by the Reregulation Staff of the Broadcast Bureau, amendments in Part 74 of the Commission's Rules for the broadcast auxiliary services are made by this Reregulations *Order.* The amendments, corrections, and clarifications are necessary because of apparent conflicting provisions or restrictions in the rules which make them either impossible or impractical for use by licensees and the Commission staff. Minor editorial changes are also being made, such as deleting references to dates which have passed and no longer applicable. A summary of the changes are as follows:

(a) Section 74.402—Clarify use of Group P frequencies as licensed for remote pickup stations may also be used for remote control signalling. Reference note is also added to show that coordination with the Canadian government is required prior to the authorization for use of frequencies in the 450 MHz bands for stations located near Canada.

(b) Section 74.431(c)(2)—Amendment of text so as to remove an unnecessary and unintentional restriction on cross band communications between hand-held or portable transceivers, mobile automatic repeaters, and the associated fixed base stations in the remote pickup services.

(c) Section 74.432—Addition of subparagraph (c)(7) to indicate that Group P frequencies may be licensed as a system for control and telemetry signals between a broadcast transmitter site and remote control or ATS monitoring point for signalling and telemetry use. Amendment of paragraph (d) to indicate license applicants requesting to use more than 50 transmitter units to indicate the maximum number that is to be licensed.

(d) Section 74.451—Editorial revision to delete past dates.

(e) Section 74.452—Delete Note which is in reference to past dates.

(f) Section 74.461—Delete last sentence of paragraph (b) that erroneously restricts output power of all transmitters using Group K frequencies to 15 watts. This restriction should only apply to transmitters used on board aircraft.

(g) Section 74.462(c)(3)—Number "46" is corrected to "43."

(h) Section 74.602(a)—editorial revisions to include notes from Section 2.106 concerning conditions of shared use of certain frequencies with other government and nongovernment services, and to remove references to certain developmental frequencies not applicable to TV Broadcast Auxiliary Services.

(i) Section 74.732(b)—Deletion of unnecessary requirement that applicant for more than one translator station license must show need for reception of more than one TV station.

(j) Section 74.801—Clarify definitions of Low Power Auxiliary Station, Motion Picture Producer, and Television Program Producer.

3. Concluding that adoption of these amendments will serve the public interest, the prior notice of rulemaking, effective date provisions, and public procedure are unnecessary pursuant to the Administrative Procedure and Judicial Review Act provisions of 5 U.S.C. 553(b)(3)(B), inasmuch as these amendments impose no additional burdens and raise no issue upon which comments would serve any useful purpose.

4. Therefore, *it is ordered,* That, pursuant to sections 4(i) and 303(r) of the Communications Act of 1934, as amended, Part 74 of the Commission's rules and regulations is amended as set forth below, effective April 14, 1978.

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

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

1. In § 74.402, footnote 6 in paragraph (a) and the Note following pargraph (e) are amended to read as follows:

§ 74.402 Frequency assignment.

(a) * * *

Footnote 6: The use of these frequencies is limited to operational communications, including tones for signalling and for remote control and automatic transmission system control and telemetry.

* * * * *

(e) * * *

NOTE: Stations first licensed prior to January 10, 1977, must comply with the frequency assignment plans specified in paragraph (a) by August 31, 1978. If a licensee located south of Line A or west of Line C as described in § 1.995 of this chapter finds it necessary to change frequencies to comply with the restrictions of footnote 7 above, the licensee may, without further authority, substitute frequencies within Group N_1 or N_2. Licensees south of "Line A" or west of "Line C" authorized to use 450.950 or 455.950 MHz may, without further authority, substitute frequencies within Group N_1, N_2 or R. A notification shall be sent to the Commission in Washington, D.C., upon beginning the use of the substitute frequencies reporting those being vacated and those being activated. Licensees north of "Line A" or east of "Line C" must submit an informal application for authority to use substitute frequencies in that coordination of frequency assignments with the Canadian government is required.

2. Section 74.431, paragraph (c)(2) is amended to read as follows:

§ 74.431 Special rules applicable to remote pickup stations.

* * * * *

(c)(2) The unattended mobile station(s) shall be so equipped that it will only be activated by the carrier of the hand-carried or pack-carried transmitter. The unattended mobile station may also be used to relay transmissions directed to the operator of the hand-carried or pack-carried unit; however, the transmitter output power shall not exceed 2.5 watts on an additional frequency used for this relay function.

* * * * *

3. In § 74.432, a new subparagraph (c)(7) is added, and paragraph (d) is amended to read as follows:

§ 74.432 Licensing requirements and procedures.

* * * * *

(c)(7) One or more fixed stations operating on Group P frequencies will be licensed as a system for control and telemetry signals between a remote control or automatic transmission monitoring and alarm points and the broadcast site.

(d) Remote pickup system licensees will specify the minimum and maximum number of mobile units that may be operated within that system as follows:

From 1 to 5 stations
From 4 to 12 stations
From 10 to 24 stations
From 20 to 50 stations
45 or more stations (maximum to be specified on license application)

Licensees shall have installed and maintain in operating condition the minimum number of mobile units authorized within 120 days following the grant date of the license.

* * * * *

4. In § 74.451, paragraphs (a) and (d) are amended to read as follows:

§ 74.451 Type acceptance of equipment.

(a) Applications for new remote pickup broadcast stations or systems or for changing transmitting equipment will not be accepted unless the equipment specified therein has been type accepted for use pursuant to provisions of this subpart or has been type accepted for licensing under Parts 21, 89, 91 or 93 of this chapter

and does not exceed the output power limits specified in § 74.461(b).

* * * * *

(d) All transmitters marketed for use under this Subpart shall be type accepted by the Federal Communications Commission. (Refer to Subpart I of Part 2 of the Commission's Rules and Regulations.)

* * * * *

§ 74.452 [Amended]

5. Section 74.452 is amended by deleting the note following paragraph (d).

6. In § 74.461, paragraph (b) is amended by deleting the last sentence which reads: "Authorization to use power exceeding 15 watts will not be authorized for stations using frequencies in Group K."

7. In § 74.462, paragraph (c)(3) is amended to read as follows:

§ 74.462 Authorizing bandwidth and emissions.

* * * * *

(c)(3) On any frequency removed from the assigned frequency by more than 250 percent on the authorized bandwidth; at least 43 plus 10 $\log_{10}$ (mean output power, in watts) decibels.

* * * * *

8. In § 74.602, paragraph (a) is amended to read as follows:

§ 74.602 Frequency assignment.

(a) The following frequencies are available for assignment to television pickup, television STL, and television intercity relay stations:

Band A, MH/z

1990-2008, 2008-2025, 2025-2042, 2042-2059, 2059-2076, 2076-2093, 2093-2110, 2450-2467, 2467-2484, and 2484-2500.

Band B, MH/z

6875-6900, 6900-6925, 6925-6950, 6950-6975, 6975-7000, 7000-7025, 7025-7050, 7050-7075, 7075-7100, and 7100-7125.

Band D, MH/z

12700-12725, 12725-12750, 12750-12775, 12775-12800, 12800-12825, 12825-12850, 12850-12875, 12875-12900, 12900-12925, 12925-12950, 12950-12975, 12975-13000, 13000-13025, 13025-13050, 13050-13075, 13075-13100, 13100-13125, 13125-13150, 13150-13175, 13175-13200, 13200-13225, and 13225-13250.

(1) Frequencies shown above between 2450 and 2500 MHz in Band A are allocated to accommodate the incidental radiations of industrial, scientific, and medical (ISM) equipment, and stations operating therein must accept any interference that may be caused by the operation of such equipment. Frequencies between 2450 and 2500 MHz are also shared with other communication services and exclusive channel assignments will not be made, nor is the channeling shown above necessarily that which will be employed by such other services.

(2) The following notes to the Table of Frequency Allocations contained in Section 2.106 apply to the shared use of the frequency bands shown above:

US90 In the band 2025-2120 MHz earth-to-space transmissions in the space research and earth exploration satellite services by Government and non-Government stations as specific locations may be authorized subject to such conditions as may be applied on a case-by-case basis.

US111 In the band 1990-2110 MHz, Government space research earth stations may be authorized to use the frequencies 2062.05, 2062.85, 2063.85, 2069.2, 2070, 2071, 2075.8, 2076.6, 2077.6, 2101.8, 2106.4 MHz and the band 2110-2120 MHz for earth-to-space transmissions for tracking, ranging and telecommand purposes at only the sites listed below. Such transmissions shall not cause harmful interference to non-Government operations.

Corpus Christi, Tex., 27°39′ N., 097°23′ W.
Fairbanks, Alaska, 64°59′ N, 147°53′ W.
Goldstone, Calif., 35°18′ N. 116°54′ W.
Greenbelt, Md., 39°00′ N, 076°50′ W.
Guam, Mariana Islands, 13°19′ N, 144°44′ E.
Kanai, Hawaii, 22°08′ N, 159°40′ W.
Meritt Island, Fla., 28°29′ N, 080°35′ W.
Rosman, N.C., 35°12′ N, 082°52′ W.
Wallops Island, Va., 37°57′ N, 075°28′ W.

US219 In the band 2025-2120 MHz Government earth resources satellite earth stations in the Earth Exploration Satellite Service may be authorized to use the frequency 2106.4 MHz for earth-to-space transmission for tracking, telemetry, and telecommand at the sites listed below. Such transmissions shall not cause harmful interference to TV auxiliary stations.

US222 In the band 2025-2120 MHz, Geostationary Operational Environmental Satellite Earth stations in the Space Research and Earth Exploration Satellite Services may be authorized on a coequal basis to use the frequency band 2025-2035 MHz for earth-to-space transmissions for tracking, telemetry and telecommand at the sites listed below:

Wallops Island, Va., 37°50′48″ N, 75°27′33″ W.
Seattle, Wash., 47°34′15″ N, 122°33′10″ W.
Honolulu, Hawaii, 21°21′12″ N, 157°52′36″ W.

* * * * *

9. In § 74.732, paragraph (b) is amended to read as follows:

§ 74.732 Eligibility and licensing requirements.

* * * * *

(b) More than one television broadcast translator station may be licensed to the same applicant, whether or not such stations serve substantially the same area. TV translators operated by TV broadcast station licensees are not counted for purposes of § 73.636 of this Chapter, concerning multiple ownership.

* * * * *

10. In § 74.801, the definitions of "Low power auxiliary station," "Motion picture producer," and "Television program producer" are amended to read as follows:

§ 74.801 Definitions.

* * * * *

Low power auxiliary station. An auxiliary station authorized and operated pursuant to the provisions set forth in this Subpart. Devices authorized as low power auxiliary stations are intended to transmit over distances of approximately 100 meters for uses such as wireless microphones, cue and control communications, and synchronization of TV camera signals.

Motion picture producer. Motion picture producer refers to a person or organization engaged in the production or filming of motion pictures.

* * * * *

Television program producer. Television program producer refers to a person or organization engaged in the production of television programs.

[FR Doc. 78-9274 Filed 4-6-78; 8:45 am]

[6712-01]

PART 97—AMATEUR RADIO SERVICE

Amateur Radio Operation in the 220-225 MHz Band in Portions of the States of Texas and New Mexico per Previous Commission Order

AGENCY: Federal Communications Commission.

ACTION: Editorial order.

SUMMARY: The FCC is deleting a restriction on the operation of amateur radio stations in parts of Texas and New Mexico in the 220 MHz-225 MHz band. This action is being taken to make the FCC's amateur radio rules consistant with the FCC's Table of Frequency Allocations.

EFFECTIVE DATE: April 10, 1978.

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

FOR FURTHER INFORMATION CONTACT:

Mr. Gregory Monroe Jones, Rules and Legal Branch, Personal Radio Division, Safety and Special Radio Services Bureau, 202-634-6619. (This is not a toll-free telephone number.)

Adopted: March 24, 1978.

Released: March 29, 1978.

Order. In the matter of Amendment of part 97 of the Commission's rules to

delete § 97.61(b)(6), concerning amateur radio operation in the 220–225 MHz band in portions of the States of Texas and New Mexico per previous Commission Order.

1. On November 22, 1977, the Commission adopted an Order which eliminated footnote NG 13 to the Table of Frequency Allocations, § 2.106 of the Commission's rules. This footnote imposed restrictions on the use, by the Amateur Radio Service, of the 220–225 MHz band in certain areas of the United States.

2. The deletion of NG 13 removed the restriction on the use of the 220–225 MHz band by amateur stations between the hours of 0500 and 1800 local time Monday through Friday, inclusive, in those portions of the States of Texas and New Mexico in the area bounded on the south by parallel 31°53′ N., on the east by longitude 105°40′ W., on the north by parallel 33°24′ N., and on the west by longitude 106°40′ W. Amateur stations are now permitted to operate on the 220–225 MHz band in all portions of the United States subject to the continuing restriction of footnote U.S. 34, which prohibits harmful interference to the Radio-location Service.

3. Footnote NG 13 is duplicated in § 97.61(b)(6) of the rules. The Commission's Order of November 22, 1977 only deleted Footnote NG 13, however. It did not eliminate § 97.61(b)(6). This Order deletes § 97.61(b)(6).

4. Since the amendment we are adopting is editorial in nature, the prior notice and public procedure provisions of the Administrative Procedure Act, 5 U.S.C. 553, are not applicable. Authority for this action is contained in sections 4(i), 5(d), and 303 of the Communications Act of 1934, as amended.

5. *Accordingly, it is ordered,* That § 97.61(b)(6) of the rules is deleted as shown in the attached Appendix effective April 10, 1978.

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

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

Part 97 of Chapter 1 of Title 47 of the Code of Federal Regulations is amended as follows:

1. In § 97.61, authorized frequencies and emissions, limitation (b)(6) is deleted and designated (Reserved) as follows:

§ 97.61 Authorized frequencies and emissions.

(a) * * *

Frequency band	Emissions	Limitations (see par. (b))
* * * * *		
Megahertz		
* * * * *		
220–225.....	A0, A1, A2, A3, A4, A5, F0, F1, F2, F3, F4, F5.....	5
* * * * *		

(b) * * *

(6) [Reserved]

[FR Doc. 78-9176 Filed 4-6-78; 8:45 am]

Title 49—Transportation

CHAPTER II—FEDERAL RAILROAD ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 76-01]

PART 258—REGULATIONS GOVERNING SECTION 505 OF THE RAILROAD REVITALIZATION AND REGULATORY REFORM ACT OF 1976, AS AMENDED

Amendment to Internal Rate of Return Information and Forecast Requirements

AGENCY: Federal Railroad Administration (FRA), DOT.

ACTION: Amendment to Final Rule.

SUMMARY: On June 6, 1977, the Federal Railroad Administrator published in the FEDERAL REGISTER (42 FR 28976) final regulations governing applications under section 505 of the Railroad Revitalization and Regulatory Reform Act of 1976 ("Act") concerning the purchase of redeemable preference shares. This document amends the information requirement contained in those regulations regarding the internal rate of return on the project and forecasted financial information to conform with concurrent similar revisions to regulations governing applications under section 511 of the Act.

EFFECTIVE DATE: April 7, 1978.

FOR FURTHER INFORMATION CONTACT:

Jeffrey K. Mercer, Office of Chief Counsel, Federal Railroad Administration, Washington, D.C. 202-426-7737 (the principal author).

SUPPLEMENTARY INFORMATION: The impact of section 505 assistance, including the inflationary impact of the regulations, was fully considered prior to publication of the initial regulations on October 8, 1976. The amendment provided herein will not affect the overall costs or benefits of the program as it was set forth in the initial regulations. Accordingly, an evaluation of the expected impact of the regulations pursuant to the Department of Transportation Policies to Improve Analysis and Review of Regulations (41 FR 16200) is not required.

In consideration of the foregoing, 49 CFR Part 258 is amended as follows:

1. Section 258.7(a)(4)(v) is revised to read:

§ 258.7 Form and content of application.

(a) * * *

(4) * * *

(v) A detailed statement setting forth the estimated internal rate of return on the project, computed in accordance with the provisions of Subpart C of Part 260 of this chapter. This statement shall follow the procedures and follow the format required by such Subpart C. Relevant material presented in the application need not be repeated in this statement, but must be explicitly referenced. If the project can be divided into parts such that each part:

(A) accounts for a significant portion of the total investment for which Federal assistance is sought; and

(B) produces approximately the same cash flow impacts regardless of whether the remainder of the project is undertaken; then the applicant must submit a separate internal rate of return computation, with the supporting documentation described in such Subpart C, for each part of the project. In that case, all references to the term "project" in such Subpart C shall be deemed to refer to the part of the project for which the rate of return is being computed."

§ 258.9 [Amended]

2. Section 258.9 is amended by adding at the end of the first paragraph thereof; "All forecasted data required in the exhibits under this part must be based on the assumption that the project will be funded on the January 1 next following the date of the application."

(Sec. 505, Railroad Revitalization and Regulatory Reform Act of 1976 (Pub. L. 94-210, 90 Stat. 71, February 5, 1976), as amended by Sec. 212 of the Rail Transportation Improvement Act (Pub. L. 94-555, 90 Stat. 2024, October 19, 1976); Department of Transportation Act, 49 U.S.C. 1651 et seq. Regulations of the Office of the Secretary of Transportation, 49 CFR 1.49(u).)

Dated: March 30, 1978.

JOHN M. SULLIVAN,
Administrator,
Federal Railroad Administration.

[FR Doc. 78-9057 Filed 4-6-78; 8:45 am]

[7035-01]

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Ex Parte No. 55 (Sub-No. 27)]

PART 1004—ADMINISTRATIVE INTERPRETATIONS—STATEMENTS OF POLICY

Dual Operations

AGENCY: Interstate Commerce Commission.

ACTION: Final rule.

SUMMARY: The Commission is issuing a general finding that the holding of both common and contract carrier authority is consistent with the public interest and the national transportation policy. The new rule refers to this finding and provides that, as a result, the Commission will no longer consider the dual operations issue in applications for common or contract carrier operating authority unless there is a showing that rate or service preference is likely to be extended or that other discrimination is likely to be practiced. The new rule is expected to remove artificial barriers to the seeking and obtaining of operating authority and to speed the handling of cases involving dual operations.

EFFECTIVE DATE: June 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Michael Erenberg, phone: 202-275-7292.

SUPPLEMENTARY INFORMATION: By a notice served October 11, 1977 (42 FR 54843), the Commission proposed new regulations designed to implement partially Recommendation 18 of the staff task force report issued July 6, 1977. The task force recommended that the Commission seek repeal of section 210 of the Interstate Commerce Act (the Act), which requires that, when the Commission considers applications for motor carrier authority which involve dual operations, it must find that it would be consistent with the public interest and the national transportation policy for the carrier, or affiliated carriers, to hold both common and contract carrier rights. Pending repeal of section 210, the task force recommended that the Commission issue a general finding that the holding of dual authority is consistent with the public interest, absent a finding that abuses are likely to result. The proposed regulations provided that, in proceedings involving dual operations, the Commission would enter a finding that the dual operations were consistent with the public interest and the national transportation policy unless a party introduced facts indicating a reasonable likelihood that rate preference would be extended or discrimination practiced. In addition, the regulations identified factors to be addressed by parties interested in showing the likelihood of rate preference or discrimination.

The Commission invited interested parties to comment on the proposed rules, and 32 parties responded. (A list identifying the participants will be made available upon request.) Contract carriers, Government agencies, and carriers performing dual operations generally supported adoption of the proposed rules. Shipper interests tended to support the rules in the belief that they would reduce regulatory delays and eliminate unnecessary complications; however, several shipper interests stated that the regulations should contain additional safeguards against rate and service discrimination. A labor organization voiced concern that adoption of the proposed regulations might create opportunities for carriers to evade their statutorily recognized responsibilities to their employees. Most regular and irregular route common carriers and their trade associations opposed the rules in whole or in part.

After reviewing the comments, the Commission has concluded that it should issue a general finding that the holding of both contract and common carrier authority normally is consistent with the public interest and the national transportation policy and that some non-substantive changes should be made in the regulations proposed October 11, 1977. As a result, proposed § 1004.3 (a) and (c) have been combined into one paragraph which refers to the general finding made in this proceeding and indicates that, after June 1, 1978, the Commission will not consider the dual operations issue unless there is a showing in a particular case, that rate or service preference is likely to be extended or other discrimination practiced. Proposed § 1004.3(b) has been eliminated, in the belief that it is not necessary.

Some of the comments in opposition to the proposed regulations raised issues which are also relevant to the regulation which we are adopting. These issues, and the Commission's responses to them, are discussed in the following paragraphs.

Some opponents contend that the proposed rules violate the letter and the spirit of section 210 of the Act. They argue that Congress did not favor the contemporaneous holding of common and contract carrier rights and framed section 210 accordingly.

We do not believe that a literal reading of section 210 requires that the lawfulness of dual operations be evaluated on a case-by-case basis. That section allows the holding of dual authority if "* * * for good cause shown, the Commission shall find, *or shall have found*, (emphasis supplied) that both a certificate and a permit may be so held consistently with the public interest and the national transportation policy in this Act * * *." The language clearly justifies a previous finding and does not require that that finding be made in each individual case.

Nor do we believe that the adoption of regulations such as those proposed is inconsistent with Congressional intent. The notice which opened this proceeding addressed this argument and noted that conditions have changed since 1935, when section 210 was adopted; that Congress did not take advantage of an opportunity to tighten the provisions of section 210 in 1940, at a time when dual operations were being routinely approved; and that, even more significantly, in 1940 present section 218(b) was added to the Act, which gave the Commission authority to regulate the rates and practices of contract carriers. We concluded that this grant of authority should have obviated any concern of the drafters of the Act that rebates and concessions could be offered by a contract carrier as a means of inducing use of its common carrier service. It was also noted that, in recent decisions, the Commission has held that where there does not exist a "realistic opportunity" of discrimination as a result of a grant of dual operating authority, such operations should be found consistent with the public interest and the national transportation policy. (See 42 FR 54845.)

Another argument presented by opponents is that the proposed rules would shift the burden of proof from the applicants to the protestants with regard to the question whether the transaction is consistent with the public interest. They argue that, under section 210, the applicant must bear the burden of establishing affirmatively that approval of the application will be in the public interest, but that, under the proposed rules, the burden is shifted to protestants who must show a reasonable likelihood that approval of the application would not be in the public interest.

We do not believe that the new regulation will shift the burden of proof since the applicant will still bear the burden of proving that approval of its application would be in the public interest in any case where that question is raised. The effect of the rule is to limit the Commission's case-by-case consideration of the issue to those situations in which it can be shown that there is a reasonable likelihood of

injury to the person raising the issue, or to the public generally, through the granting of rate or service preferences or other forms of discrimination.

Some of the participants opposed the regulations on the grounds that they would blur the distinction between common and contract carriage, adversely affecting the stability of the industry. We do not believe that such a blurring could take place given the present statutory and regulatory framework. The Commission's general finding that the holding of both common and contract carrier authority normally is consistent with the public interest and the national transportation policy will not lessen in any way the tests which must be met by a carrier seeking either type of authority. Contract carriers seeking to expand their common carrier operations will still have to demonstrate a public need for their service and comply with stringent rules requiring the performance of non-discriminatory service. Common carriers seeking contract carrier rights will still have to meet the definition of contract carrier found in section 203(a)(15) of the Act.

The opposition of many participants was based on the belief that implementation of the proposed regulations would result in widespread abuses and unfair practices, such as soliciting or granting preferential rate treatment, and that, because of the workload of the Commission's rate-reviewing staff, there is little likelihood that these unfair practices would be detected. Some of the participants suggested that certain modifications should be made in the proposed regulations to ensure that these unfair practices do not result. For example, the Cargo Contract Carrier Corp. and the Contract Carrier Conference of the American Trucking Associations, Inc., proposed that in each application the Commission should consider whether an applicant has in the past sought or granted preferential or discriminatory treatment because of dual operations capabilities. Groendyke Transport, Inc., Matlack, Inc., and the American Trucking Associations, Inc., suggested that the regulations be reworded to require specific litigation of the dual operations issue where a grant would result in service for the same shipper as both a common and contract carrier. The National Small Shipments Traffic Conference, the Drug and Toilet Preparation Traffic Conference and the Gift Wrappings and Tyings Assocation suggested several modifications in the regulations including: (1) Requiring the filing of rates and contracts along with applications for contract carrier permits, (2) tightening accounting rules to prevent unfair shifting of contract carrier costs to common carrier service, (3) logging, or flagging for particular attention, contract rates filed by dual operations carriers, and (4) providing for the investigation of contract rates of dual carriers when they fall below a specified percentage of applicable common carrier rates. They would also have the rules adopted only on an interim basis, after which this proceeding would be reopened and the rules reevaluated.

We do not believe that it is necessary to adopt any of these suggestions at the present time. We are fully aware that there are abuses which could result from implementation of the policy which is being formally adopted in this proceeding. However, we would point out that the policy is not really new. A similar policy has been followed by the Commission in cases involving dual operations during the past year, and the abuses feared have not materialized. In this regard, it should be stressed that this policy, since it is being implemented by a rulemaking proceeding, can quickly be reversed or modified if abuses develop. The Commission will remain vigilant and ready to take action should it be necessary. Furthermore, the rule that we are adopting expressly reserves to the Commission the right to impose, in any individual case, whatever terms, conditions, or limitations may be necessary to ensure that the applicant's operations conform to section 210 of the Act.

In summary, the Commission has concluded that the regulation adopted in this proceeding is a reasonable response to problems previously experienced by carriers seeking dual operations approval; that it will remove artificial barriers to the seeking and obtaining of operating authority; that it will contribute markedly to the objective of speeding up the handling of cases involving dual operations; and that is should eliminate instances where undesiderable service restrictions are imposed or cancellations of unrelated operating rights are required.

FINDINGS

We find that Part 1004 of Subchapter A of Chapter X of Title 49 of the Code of Federal Regulations should be amended by the addition of new § 1004.3, as set forth below; that the new rule is reasonable and necessary; that the holding by a motor carrier, or affiliated carriers, of authority to operate both as a common and a contract carrier normally is consistent with the public interest and the national transportation policy and does not need to be considered in applications involving dual operations unless there is a showing that rate or service preference is likely to be extended or other discrimination is likely to be practiced; and that this decision, which is designed to expedite the handling of applications where dual operations are involved, 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.

Accordingly, 49 CFR is revised by the addition of a new § 1004.3, which will read as follows:

§ 1004.3 Applications involving dual operations.

When the Commission considers applications for motor carrier authority which involve dual operations, it is required by section 210 of the Interstate Commerce Act to find, or to have found, that it would be consistent with the public interest and the national transportation policy for the applicant to hold both common and contract carrier authority. The Commission has concluded that section 210 does not require an individual finding for each application, and it has issued a general finding, effective June 1, 1978, that the holding of both common and contract carrier authority normally is consistent with the public interest and the national transportation policy. Consequently, the Commission will not give individual consideration to this issue in applications involving dual operations, which are filed subsequent to June 1, 1978, unless there is a showing, in the particular case, that rate or service preference is likely to be extended or other discrimination is likely to be practiced. It will not be sufficient, in order to make such a showing, to establish only that dual services will be provided for the same shipper or consignee. Any grant of authority enabling dual operations will expressly reserve to the Commission the right to impose whatever terms, conditions, or limitations, may be necessary to ensure that the applicant's operations conform to section 210 of the Act.

This rule is promulgated under the authority contained in 49 U.S.C. 304 and 310, and 5 U.S.C. 553 and 559, and was adopted formally at a General Session of the Interstate Commerce Commission held at its office in Washington, D.C. on the 24th day of March, 1978.

Commissioner Murphy, dissenting

Section 210 of the Act was designed to prevent discrimination from being made possible. It is not necessary that discriminatory practices be shown to actually exist. The result of the adoption of these final rules would, in my opinion, be the practical elimination of dual operations as a factor to be considered in application proceedings, and the virtual abandonment of our responsibilities under Section 210. Until such time as section 210 is repealed, if ever, the Commission has a responsibility to enforce that section.

In an application for motor common carrier operating authority where there is an apparent dual operations conflict, applicant has the burden of establishing not only that it has met its burden of proof with respect to public convenience and necessity and fitness *but also* that it has satisfactorily met its burden under section 210. The final rules would shift this burden of proof by requiring an opposing party to show that preferences are likely to be extended or discrimination is likely to be practiced. One wonders how an opposing party can meet the burden of showing a rate preference when it is considered that contracts of contract carriers are not open to public scrutiny. In my opinion, an applicant is in a better position than an opposing party to address the issue of its own dual operations, and should be required to do so.

I also believe that it is improper to impose upon the Commission, with its limited resources and ever-increasing workload, the burden of resolving dual operations problems after a certificate has been issued. Discriminatory practices arising out of dual operations are often extremely difficult to detect. Since there is an extremely large volume of contract carrier rate schedules filed with the Commission each year, the likelihood of detecting discriminatory rate proposals is remote. In my opinion, there is no substitute for a careful initial scrutiny of an application presenting dual operations problems.

For these reasons, I respectfully dissent.

Commissioner Stafford, dissenting

The Commission's action today effectively overrules Congress's intent, expressed in section 210 of the Act itself and more clearly in the legislative history, and reaffirmed by us in a letter to Senator Hartke as recently as June 1976.

The Congressional policy was expressed in the following statement of Senator Wheeler, Chairman of the Senate Committee on Interstate and Foreign Commerce:

> This section prohibits any person from holding at the same time a common carrier certificate and contract carrier permit, unless for good cause shown the Commission finds that both may be held consistently with the public interest and with the policy declared in section 202(a). There are instances in which both types of operations can advantageously be conducted by the same operator and without prejudice to the public interest, but the possibility of abuses developing makes it advisable to give the Commission the power to pass on all cases in which it is proposed to combine the two types of operations. 79 Cong. Rec. 5654 (1935).

This statement by Senator Wheeler evidences two Congressional objectives. First, dual operations is not favored, and should be approved only in the unusual case. Second, Congress wanted to make sure that the Commission would decide dual operations matters on a case-by-case basis. The Congressional purpose was to protect against certain discriminations and special treatment. Essentially, Congress was concerned that regulated carriers and the shipping public needed protection from the possible discrimination which might ensue if a motor carrier were allowed to hold itself out to perform two different types of service—common and contract—at two different levels of rates for the same shippers on a particular route or in a particular territory. Competing carriers and competing shippers could suffer from such preferential treatment. At the same time, Congress recognized that dual operations did not always present possibilities for abuse, and thus conferred upon the Commission the authority to determine in every case whether dual operations would be consistent with the public interest.

The majority's action here completely frustrates and disregards both of the Congressional objectives noted above. Henceforth, dual operations will be presumed to be acceptable, unless certain facts are established. The possibility of ever proving these facts in a particular case is so remote as to render section 210 a nullity. Second, dual operations will not be handled on a case-by-case basis.

In my view, current case law on the subject offers an appropriate statement about dual operations. It recognizes that not only should special preferences be avoided, but even *the opportunity* to offer special treatment must be avoided. However, the opportunity must be reasonably realistic, and cannot be remote or hypothetical. See *Cargo Contract Carrier Corp. Ext.—Bananas*, 126 M.C.C. 874 (1977); *Delaware Express Co.* v. *Milford Express, Inc.*, 126 M.C.C. 462 (1977).

The proposed rule would appear to be marginally acceptable if some changes were made to conform to current case law. First, authority to serve the same shipper as both a common and contract carrier is the specific evil that section 210 is designed to prevent. Nevertheless, the proposed rule would not find such service objectionable without certain specific information. Any general finding should exclude such service. Second, the only party who really has full access to the facts is the applicant. The applicant, therefore, should be required to show that a realistic opportunity for special treatment will not exist. This can be done by adding an appropriate question to the Commission's OP-OR-9 application form. I do not view the answering of a question on the application as imposing an unreasonable burden on any party.

Lastly, to give competitors reasonable notice that dual operations is involved, a simple statement should continue to be included (where appropriate) in the FEDERAL REGISTER notice.

In summary, I believe the majority's action is contrary to clearly enunciated Congressional intent. Furthermore, while I have some doubts about its lawfulness (primarily the failure to handle dual operations on a case-by-case basis), I believe a rule that incorporates current case law could be acceptable.

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

[FR Doc. 78-9304 Filed 4-6-78; 8:45 am]

[7035-01]

[S.O. No. 1315]

PART 1033—CAR SERVICE

Demurrage and Free Time on Freight Cars

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order (Service Order No. 1315).

SUMMARY: There are acute shortages of plain boxcars, gondola cars and covered hopper cars throughout the country. Service Order No. 1315 requires that the carriers assess demurrage charges at the minimum rate of $10.00 per car per day for each of the first two days after the expiration of the free time, $20.00 per car per day for each of the next two days, $30.00 per car per day for each of the next two days, and $50.00 per car per day for each subsequent day or fraction thereof. On car subject to Average Demurrage Agreement, the order requires that two credits be applied against each credit. No changes are made in the free-time periods published in the tariffs for loading, unloading, partial loading, partial unloading, or the giving of disposition instructions.

DATES: Effective 7:00 a.m., April 8, 1978. Expires 6:59 a.m., June 1, 1978.

FOR FURTHER INFORMATION CONTACT:

C. C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, Telephone 202-275-7840, Telex 89-2742.

SUPPLEMENTARY INFORMATION: The Order is printed in full below.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 3rd day of April 1978.

An acute shortage of certain types of freight cars exists throughout the country. Certain carriers are unable to

furnish adequate supplies of such freight cars to shippers located on their lines. These shortages of freight cars are impeding the movement of many commodities. Many freight cars are held by shippers for excessive periods awaiting loading, unloading, or disposition instructions immobilizing large numbers of freight cars needed by shippers for the transportation of other freight. Existing demurrage and detention rules, regulations, and practices of the railroads are ineffective to control such use of freight cars. It is, therefore, the opinion of the Commission that an emergency exists requiring immediate action to promote car service in the interest of the public and the commerce of the people. Accordingly, we find that notice and public procedure are impracticable and contrary to the public interest, and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered, That:

§ 1033.1315 Service Order No. 1315.

(a) *Demurrage and free time on freight cars.* Each common carrier by railroad subject to the Interstate Commerce Act shall observe, enforce, and obey the following rules, regulations, and practices with respect to its car service:

(1) *Application.* (i) The provisions of this order shall apply to intrastate, interstate, and foreign commerce.

(ii) This order shall apply to all freight cars which are listed in the Official Railway Equipment Register, ICC R.E.R. No. 406, issued by W. J. Trezise, or successive issues thereof, as having one of the mechanical designations shown on pages 1167-1169 under the headings: "Class 'X'-Box Car Type," "Class 'G'-Gondola Car Type," and all covered hopper cars mechanical designation "LO" as described under heading "Class 'L'-Special Car Type," including cars bearing mechanical designations modified in the manner described in the various notes thereto. (See subdivisions (iv), (v), (vi), (vii), (viii), and (ix) of this subparagraph.)

(iii) This order shall apply to all detention of freight cars subject to freight car demurrage or detention rules which occurs on or after the effective date of this order and which may have been shipped, placed or constructively placed prior to that date.

(iv) Exception: This order shall not apply to cars subject to Section 1900, Items 1900-1950, inclusive, or to Section 2000, Items 2000-2005, inclusive, of General Car Demurrage Tariff 4-K, ICC H-74, issued by D. M. Rogers, supplements thereto or reissues thereof.

(v) Exception: This order shall not apply to cars held at or outside of ocean, Great Lakes, or river ports, for loading or unloading with freight requiring transfer between rail and water carriers.

(vi) Exception: This order shall not apply to freight cars of Mexican ownership while held by or for shippers at Mexican border crossings, viz:

Brownsville, Tex.
Laredo, Tex.
Eagle Pass, Tex.
Presidio, Tex.
El Paso, Tex.
Douglas, Ariz.
Naco, Ariz.
Nogales, Ariz.
Calexico, Calif.

(vii) Exception: This order shall not apply to cars made exempt from demurrage by the provisions of section 700, Items 700-765, inclusive, of General Car Demurrage Tariff 4-K, ICC H-74, issued by D. M. Rogers, supplements thereto or reissues thereof.

(viii) Exception: The provisions of Section 1400, Items 1400-1440, inclusive, of General Car Demurrage Tariff 4-K, ICC H-74, issued by D. M. Rogers, supplements thereto or reissues thereof, or similar provisions of other applicable demurrage, detention, or storage tariffs shall govern the adjustment, cancellation, or refund of demurrage assessed as a result of the causes described in such rules.

(ix) Exception: Exceptions to this order may be authorized to carriers by the Railroad Service Board. Requests for exceptions must be submitted in writing to Chairman, Railroad Service Board, Interstate Commerce Commission, Washington, D.C. 20423. Each such request must specifically identify the type of cars for which an exception is desired and must clearly state the reasons why such cars cannot be utilized in other services.

(x) The terms "loading," "unloading," "constructive placement," and "forwarding directions" as defined in General Car Demurrage Tariff 4-K, ICC H-74, issued by D. M. Rogers, supplements thereto or reissues thereof, shall apply to cars subject to this order.

(xi) The term "holidays" means holidays as listed in Item 525 of General Car Demurrage Tariff 4-K, ICC H-74, issued by D. M. Rogers, supplements thereto or reissues thereof.

(2) *Free Time.* (i) Not more than a total of 48 hours' free time, computed in accordance with the provisions of the applicable tariffs naming demurrage or detention rules and charges, shall be allowed for the complete unloading of each car.

(ii) Not more than a total of 24 hours' free time, computed in accordance with the applicable tariffs naming demurrage or detention rules and charges, shall be allowed for loading or for any purpose other than complete unloading.

(iii) If the maximum free time authorized in applicable tariffs is less than the periods described in subdivisions (i) or (ii) of this subparagraph, the free-time periods, if any, provided in such tariffs shall apply.

(3) *Demurrage, Detention, or Storage Charges—Cars Not Subject to Average Demurrage Basis.* (i) After the expiration of the free-time period described in subparagraph (2) of this paragraph, or without free-time allowance when none is provided, demurrage charges shall be assessed at the following rates, until car is released:

$10.00 per car per day, or fraction of a day, for each of the first two days.
$20.00 per car per day, or fraction of a day, for each of the next two days.
$30.00 per car per day, or fraction of a day, for each of the next two days.
$50.00 per car per day, or fraction of a day, for each subsequent day.

(ii) Except as provided in Item 1225, General Car Demurrage Tariff 4-K, ICC H-74, the applicable demurrage charges provided herein will accrue on all Saturdays, Sundays, and holidays subsequent to the free time, or without free time when none is provided, including a Saturday, Sunday, or holiday immediately following the day on which the last day of free time begins, provided such last day of free time begins to run at or before 7 a.m., or expires at or before 11:59 p.m., of the day immediately prior to the Saturday, Sunday, or holiday.

(iii) If the demurrage rates published in applicable tariffs is greater than the demurrage rates named in subdivision (i) of this subparagraph, the rates provided in such tariffs shall apply.

(4) *Cars Subject to Average Demurrage Basis.* (i) One credit will be allowed for each car released before the expiration of the first twenty-four (24) hours of free time. After the expiration of the free time (or the adjusted free time if provided in applicable tariffs), one debit per car per day, or fraction of a day, will be charged for each of the first two days. In no case shall more than one credit be allowed on any one car, and in no case shall more than four credits be applied in cancellation of debits accruing on any one car. When a car has accrued two debits, a charge of $20.00 per car per day, or fraction of a day, will be made for each of the next two days; $30.00 per car per day, or fraction of a day for each of the next two days; and $50.00 per car per day, or fraction of a day, will be made for all subsequent detention. In computing time under this rule, all Saturdays, Sundays, and holidays will be counted after the free time, including a Saturday, Sunday, or holiday immediately following the day on which the last day of free time begins.

(ii) Credits earned on cars held for loading shall not be used in offsetting debits accruing on cars held for un-

loading, nor shall credits earned on cars held for unloading be used in offsetting debits accruing on cars held for loading.

(iii) An average agreement may not include cars held for:

(*a*) Purposes other than loading and unloading.

(*b*) Loading or unloading in intraplant switching service.

(iv) Credits cannot be earned by private cars subject to Section 700, Items 700-765, inclusive, of General Car Demurrage Tariff 4-K, ICC H-74, issued by D. M. Rogers, supplements thereto or reissues thereof, or subject to similar rules in other tariffs, but debits charged on such cars while under constructive placement may be offset by credits earned on other cars.

(v) At end of the calendar month the total number of applicable credits will be deducted from the total number of debits at the ratio of two credits for one debit, and $10.00 per debit will be charged for the remainder. (See Note.) If the total number of debits are offset by credits through deduction at the above ratio of two credits for one debit, no charge will be made for the detention of the cars except as otherwise provided herein for detention beyond the second debit day, and no payment will be made by the railroad on account of such excess of credits; nor shall the credits in excess of the debits of any one month be considered in computing the average detention for another month.

NOTE: For the purpose of applying subdivision (v) of this subparagraph, when an odd number of credits is earned, one of such credits will be disregarded in the computation.

(vi) Credits earned on cars subject to this order shall not be used in offsetting debits accruing on cars not subject to this order; nor shall debits accruing on cars subject to this order be offset by credits earned on cars not subject to this order.

(5) Existing tariff rules requiring the placement or release, as a unit, of all cars in a multiple-car shipment shall remain in effect.

(6) The demurrage, detention, or storage rates provided herein shall supersede all published storage charges expressed in cents per hundredweight, per bushel, or other unit of measure, for all freight held in cars in excess of the free-time periods provided in subparagraph (2) of this paragraph.

(7) If the demurrage, detention, or storage rates authorized in the applicable tariffs are greater than those described herein, such higher rates shall apply.

(8) *Notices of Arrival, Constructive Placement, etc.* (i) Existing tariff provisions defining constructive placement and establishing the requirements for the placement, the giving of arrival or constructive placement notice of freight destined for unloading or transshipment, shall apply.

(ii) If no such rules with respect to arrival, or regarding constructive placement are published in the applicable tariffs, the rules published in General Car Demurrage Tariff 4-K, ICC H-74, issued by D. M. Rogers, supplements thereto or reissues thereof, shall apply.

(b) *Rules and regulations suspended.* The operation of all rules and regulations, including rates, rules and free-time periods granted by authority of Part 1, Section 22 of the Interstate Commerce Act, insofar as they conflict with the provisions of this order, is hereby suspended.

(c) *Notification of shipper required.* (1) Carriers shall send or deliver a written notice to shippers or consignees of the requirements of this order at or prior to the time of actual or constructive placement of cars for loading or unloading or at the time notice of arrival or of constructive placement is given. On cars held for instructions from the shipper or qualified owner of the freight, such notices must accompany or precede the arrival notice.

(2) If a notice described in subparagraph (1) of this paragraph has been given to a shipper or receiver at origin, destination, or hold point, no further notices of the requirements of this order need be given.

(3) Carriers are required to maintain a copy of all notices of the requirements of this order sent to shippers, receivers, or qualified owners of freight, at the station or point from which sent.

(4) Failure of a carrier to send and preserve copies of the notices required by subparagraph (1) of this paragraph shall not be deemed as nullifying the requirements of paragraphs (a) and (b) of this section.

(d) *Effective date.* This order shall become effective at 7 a.m., April 8, 1978.

(e) *Expiration date.* This order shall expire at 6:59 a.m., June 1, 1978, unless otherwise modified, changed, or suspended by order of this Commission.

(49 U.S.C. 1(10-17).)

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

By the Commission, Railroad Service Board, Members Robert S. Turkington and William F. Sibbald, Jr.

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

[FR Doc. 78-9300 Filed 4-6-78; 8:45 am]

[7035-01]

[S.O. No. 1316]

PART 1033—CAR SERVICE

Chicago and North Western Transportation Co. Authorized To Operate Over Tracks of Chicago, Milwaukee, St. Paul and Pacific Railroad Co. at Appleton, Wis.

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order (Service Order No. 1316).

SUMMARY: The tracks of the Chicago, Milwaukee, St. Paul and Pacific Railroad Co. (Milw) between Neenah, Wis., and Appleton, Wis., have deteriorated and can no longer be used forcing the termination of rail service to shippers in Appleton served by the Milw. The Chicago and North Western Transportation Co. (CNW) connects with the Milw in Appleton and is able to provide service to those shippers by operations over the tracks of the Milw in Appleton. Service Order No. 1316 authorizes the CNW to operate over tracks of the Milw in Appleton, Wis. for the purpose of providing continued railroad service to shippers served by those tracks.

DATES: Effective April 4, 1978. Expires June 30, 1978.

FOR FURTHER INFORMATION CONTACT:

C. C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, Telephone 202-275-7840, Telex 89-2742.

SUPPLEMENTARY INFORMATION: The Order is printed in full below.

At a session of the Interstate commerce Commission, Railroad Service Board, held in Washington, D.C., on the 4th day of April 1978.

The lines of the Chicago, Milwaukee, St. Paul and Pacific Railroad Co. (MILW) serving Appleton, Wisconsin, have become inoperable because of track conditions. Numerous shippers located adjacent to the tracks of the MILW have been deprived of essential railroad service because of the inability of the MILW to switch the industries at Appleton. The Chicago and North Western Transportation Co. (CNW) has agreed to operate over the tracks of the MILW at Appleton in order to restore essential railroad ser-

vice to these shippers. The MILW has consented to such use of its tracks by the CNW.

It is the opinion of the Commission that an emergency exists requiring operation of CNW trains over these tracks of the MILW in the interest of the public; that notice and public procedure are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered, That:

§ 1033.1316 Service Order No. 1316.

(a) Chicago and North Western Transportation Co. authorized to operate over tracks of Chicago, Milwaukee, St. Paul and Pacific Railroad Co. at Appleton, Wis. The Chicago and North Western Transportation Co. (CNW) is authorized to operate over tracks of the Chicago, Milwaukee, St. Paul and Pacific Railroad Co. (MILW) at Appleton, Wisconsin, for the purpose of serving industries located adjacent to such tracks.

(b) *Application.* The provisions of this order shall apply to intrastate, interstate, and foreign traffic.

(c) *Rates applicable.* Inasmuch as this operation by the CNW over tracks of the MILW is deemed to be due to carrier's disability, the rates applicable to traffic moved by the CNW over the tracks of the MILW shall be the rates which were applicable on the shipments at the time of shipment as originally routed.

(d) *Effective date.* This order shall become effective at 12:01 a.m., April 4, 1978.

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., June 30, 1978, unless otherwise modified, changed, or suspended by order of this Commission.

(49 U.S.C. 1(10-17))

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

By the Commission, Railroad Service Board, Members Robert S. Turkington and William F. Sibbald, Jr.

H. G. Homme, Jr.,
Acting Secretary.

[FR Doc. 78-9301 Filed 4-6-78; 8:45 am]

[7035-01]

[S. O. No. 1317]

PART 1033—CAR SERVICE

Brandon Corp. Authorized To Operate Over Tracks Formerly Operated by South Omaha Terminal Railway Co.

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order (Service Order No. 1317).

SUMMARY: The South Omaha Terminal Railway Co. (SOT) unable to continue operations because of a lack of operating funds. Discontinuance of operations by the SOT will deprive numerous shippers of needed rail transportation services. Service Order No. 1317 authorize the Brandon Corp. to operate over tracks formerly operated by the SOT in order to restore service to shippers formerly dependent upon the SOT for railroad services.

DATES: Effective 12:01 April 4, 1978. Expires September 30, 1978.

FOR FURTHER INFORMATION CONTACT:

C. C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, Telephone 202-275-7840, Telex 89-2742.

SUPPLEMENTARY INFORMATION: The Order is printed in full below.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 4th day of April 1978.

The South Omaha Terminal Railway Co. (SOT) is unable to transport traffic offered to it because of lack of operating funds. Cessation of operations by the SOT would deprive shippers located on its line of essential railroad services and would result in the closing of certain industries, reduce employment, and cause serious economic hardship in the area served by the SOT. A newly formed company, the Brandon Corp. has consented to operate over tracks formerly operated by SOT and has secured the right to use such tracks. The Brandon Corp. will file an application seeking permanent authority to operate over these tracks. It is the opinion of the Commission that an emergency exists requiring operation by the Brandon Corp. over tracks formerly operated by the SOT; that such operation is necessary in the interest of the public and the commerce of the people; that notice and public procedure herein are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than 30 days' notice.

It is ordered, That:

§ 1033.1317 Service Order No. 1317.

(a) Brandon Corp. authorized to operate over tracks formerly operated by South Omaha Terminal Railway Co. The Brandon Corp. is authorized to operate over tracks formerly operated by the South Omaha Terminal Railway Company (SOT) for the sole purpose of transporting loaded and empty cars to and from shippers directly served by such tracks, including the performance of intra-terminal, intra-plant and inter-terminal switching services to or from such industries and excluding intermediate switching services between other railroads in the Omaha-South Omaha, Nebr., switching district.

(b) *Application.* The provisions of this Order shall apply to intrastate, interstate, and foreign traffic.

(c) *Rates applicable.* Inasmuch as this operation by the Brandon Corp. over tracks formerly operated by the SOT is deemed to be due to carrier's disability, the rates applicable to traffic moved over these lines shall be the rates applicable to traffic routed to, from, or via these lines which were formerly in effect on such traffic when routed via the SOT, until tariffs naming rates and routes specially applicable via the Brandon Corp. become effective.

(d) In transporting traffic over these lines the Brandon Corp. and all other common carriers involved shall proceed even though no contracts, agreements, or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to said traffic. Divisions shall be, during the time this Order remains in force, those voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, said divisions shall be those thereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(e) *Effective date.* This order shall become effective at 12:01 a.m., April 4, 1978.

(f) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., September 30, 1978, unless otherwise modified, changed, or suspended by order of this Commission.

(49 U.S.C. 1(10-17).)

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

Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Robert S. Turkington and William F. Sibbald, Jr.

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

[FR Doc. 78-9302 Filed 4-6-78; 8:45 am]

[7035-01]

LESS-THAN-TRUCKLOAD RATES AND SERVICES GOVERNING MOTOR CARRIERS

AGENCY: Interstate Commerce Commission.

ACTION: Final rule.

SUMMARY: The Interstate Commerce Commission has amended its rules and regulations on less-than-truckload (LTL) rates and service governing motor carriers in response to comments directed at the so-called "small shipments" problem. The rules are directed primarily at shipments weighing 500 pounds or less but cover diverse aspects of motor carrier operations and tariffs. The intended effect is to help alleviate the so-called "small shipments" problem by structuring rates so that the shippers will continue to utilize existing service and insure that the trucking industry can continue to offer the service at a reasonable profit.

DATE: The rules will take effect July 6, 1978.

FOR FURTHER INFORMATION CONTACT:

Janice M. Rosenak, Deputy Director, Office of Proceedings, Interstate Commerce Commission, Washington, D.C. 20423, 202-275-7693.

SUPPLEMENTARY INFORMATION: The question of restructuring less-than-truckload (LTL) rates is vital to the health of the motor common carrier industry. In the case of LTL service especially, there is a continuing need for rates which will, on the one hand, enable shippers to continue to utilize existing service, and, on the other hand, insure that the trucking industry will be able to offer the service at a reasonable profit. In response to the problems associated with small shipments, the Interstate Commerce Commission instituted Ex Parte No. MC-98, *New Procedures in Motor Carrier Restructuring Proceedings*, December 30, 1975. Notice of the proposed rulemaking appeared in the FEDERAL REGISTER, January 13, 1976. In response to the comments received from the parties to the rulemaking, the Commission has amended rules and regulations governing motor carriers. The comments and the Commission's actions in response thereto are discussed in the Commission's report and order in Ex Parte No. MC-98, *New Procedures in Motor Carrier Restructuring Proceedings*, decided March 20, 1978. The rules are directed primarily at shipments weighing 500 pounds or less but cover diverse aspects of motor carrier operations and tariffs.

Three parts of the Code of Federal Regulations have been revised as a result of the Commission's rulemaking.

New §§ 1307.51 and 1310.34, "Small Shipments Provisions" has been added to 49 CFR Part 1307 and 1310 to redress major criticisms of existing tariffs insofar as they apply to small shipments. These new Sections apply on shipments under 500 pounds and require: (1) separate rates for pickup and line-haul service, and (2) aggregate tender rates. In addition, the rules indicate conditions necessary for the inclusion of various other features in the tariff such as discounts for prepayment or prepaid shipments.

Second, 49 CFR Part 1051.1 "Information Required On Receipts and Bills" has been amended to incorporate requirements regarding aggregate tender rates including in the regulations governing small shipments tariffs, above.

Third, 49 CFR Part 1104 has been revised by adding thereto a new section requiring the carriers to report actions taken to decrease costs and increase operational efficiency on small shipment traffic.

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

PART 1051—INFORMATION REQUIRED ON RECEIPTS AND BILLS

49 CFR is amended by modifying § 1051.1 (a) and (b) Information required on receipts and bills as follows:

§ 1051.1 Information to be shown.

(1) After "consignee," and before "the points of origin" add "the date of shipment and the date of shipment receipt;" After "of the property received;" and before "and a record of this" add "if there is an aggregate tender pursuant to an aggregate tender rate the weight which is aggregated and the identifying symbols of the other bills of lading comprising the aggregate tender;"

(2) After "rates assessed;" and before "the total charges to be collected" and "(if charges are broken down for pickup, delivery or line haul, show the rate for each transportation service rendered);" After "points through which the shipment moved;" and before "and a record of this" add "if there is an aggregate tender pursuant to an aggregate tender rate the weight which is aggregated and the identifying symbols of the bills of lading comprising the aggregate tender;"

(Secs. 12, 20, 24 Stat. 383, as amended, 386, as amended, 49 Stat. 546, as amended, 563, as amended; (49 U.S.C. 12, 20, 304, 319, 320), (5 U.S.C. 553(b).)

SUBCHAPTER B—PRACTICE AND PROCEDURE

PART 1104—PROCEDURES TO BE FOLLOWED IN MOTOR CARRIER REVENUE PROCEEDINGS

49 CFR is amended by adding the following part:

§ 1104.10 Actions taken to decrease costs and increase operational efficiency on small shipment traffic.

Respondents shall submit as a separate appendix, a brief summary of the various studies undertaken, procedures implemented, equipment installed, and tariffs published, which were wholly or partially for the purpose of decreasing costs where cost reductions are possible and increasing the operating efficiency of operations in transporting shipments under 500 pounds for the year preceding the filing of the general increase. If no actions were taken, the reasons therefor should be set forth. Any other information relative to the carriers' efforts to increase the operating efficiency on this traffic should also be furnished.

(49 U.S.C. 305(h), 316(g), 316(i), and 5 U.S.C. 553(b).)

SUBCHAPTER D—TARIFFS AND SCHEDULES

PART 1307—FREIGHT RATE TARIFFS, SCHEDULES, AND CLASSIFICATIONS OF MOTOR CARRIERS

PART 1310—FREIGHT RATE TARIFFS AND CLASSIFICATIONS OF MOTOR COMMON CARRIERS

Accordingly, 49 CFR Parts 1307 and 1310, are amended by adding thereto new §§ 1307.51 and 1310.34, to read as follows (§§ 1307.51 and 1310.34 read *exactly* the same):

§ 1307.51 Small Shipments Provision.

(a) *Application.* Rates, charges and provisions which are to have broad application on general commodities transported in shipments weighing 500 pounds or less shall be identified as "Small Shipments Provisions". (If a separate tariff containing only such provisions is published, the title page thereof shall designate it as a "Small Shipments Tariff".) Separate rates and charges for such service shall be published as provided in paragraphs (b) and (c) of this section.

(b) *Linehaul rates and charges.* Rates and charges shall be published

which include linehaul and delivery service only.

(c) *Pickup rates and charges.* Separate rates and charges shall be published for pickup service which include the performance of pickup of one shipment. The rates or charges may be restricted to apply only on a limited number of packages with additional charges published to apply on the quantity of packages exceeding such limitation. A separate charge for additional shipments picked up at one time at one place (aggregate tender) shall be published. Pickup rates and charges may not be published which vary based solely on the density or on the weight of the shipment.

(d) Discounts for prepayment or prepaid shipments. Provisions may be published which allow for a discount of a stated amount (not a percentage) for prepaid shipments or for the prepayment of transportation rates and charges.

§ 1310.34 Small Shipments Provision.

(Secs. 204, 217, 49 Stat. 546, as amended, 560, as amended, sec. 210a, as amended, 52 Stat. 1238, as amended; (49 U.S.C. 304, 317, 310a).)

By the Commission.

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

MARCH 20, 1978.

[FR Doc. 78-9147 Filed 4-6-78; 8:45 am]

proposed rules

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

[7590-01]

NUCLEAR REGULATORY COMMISSION

[10 CFR Parts 11, 50 and 70]

AUTHORITY FOR ACCESS TO OR CONTROL OVER SPECIAL NUCLEAR MATERIAL; PUBLIC HEARING

Appointment of Hearing Board

AGENCY: Nuclear Regulatory Commission.

ACTION: Appointment of Hearing Board.

SUMMARY: On December 28, 1977, the Nuclear Regulatory Commission announced that it would hold an informal public hearing on proposed regulations which would require certain individuals in the licensed private sector to receive authorization from the Commission for access to or control over special nuclear material (42 FR 64703).

The Commission has now constituted the Board by appointment of a three-person hearing panel. The Board members are Paul R. Verkuil, presiding officer, Dr. David B. Hall, and Carole L. Frings. The Board will adopt procedures for the hearing and set the date and location of the hearing, and a prehearing conference if one is necessary.

FOR FURTHER INFORMATION CONTACT:

C. W. Reamer, Attorney, Office of the General Counsel, Nuclear Regulatory Commission, Washington, D.C. 20555, telephone 202-634-1465.

SUPPLEMENTARY INFORMATION: By FEDERAL REGISTER notice, dated December 28, 1977, the NRC announced its intention to hold an informal public hearing on its proposal to require that certain individuals in the licensed private sector be approved by the Commission for access to or control over special nuclear material (42 FR 64703). This proposed clearance program was detailed in the Commission's March 1977 request for written public comment on the rule (42 FR 14880).

The Commission has appointed the following people to serve as members of the board:

Presiding Officer—Paul R. Verkuil. Mr. Verkuil is a professor at the University of North Carolina School of Law. He is a consultant for the Administrative Conference of the United States and a past chairperson of the Administrative Law Section, Association of American Law Schools.

Members—Dr. David B. Hall. Dr. Hall retired from the Los Alamos Scientific Laboratory in January 1978. He is a past chairperson of the Advisory Committee on Reactor Safeguards and is a member of the Commission's Atomic Safety and Licensing Board Panel.

Carole L. Frings. Ms. Frings is an attorney and former attorney-advisor in the Office of General Counsel, Office of the Secretary of Defense, Department of Defense.

In response to the Commission's December 1977 notice of public hearing, the following individuals and organizations requested oral and/or written participation:

Paul R. Shoop, International Representative, Utility Operations Department, International Brotherhood of Electrical Workers.
Joseph C. Effinger, III.
Mary S. Levine.
W. E. Wison, Associate Director, Washington State University, Pullman, Wash.
Dr. Murray Tondow, President, Behaviordyne Psychological Corp.
S. Don Schultz, Vice President, Behaviordyne Psychological Corp.
A. Francis DiMeglio, Director, Rhode Island Atomic Energy Commission.
Clarence J. Martin, Executive Director and General Counsel, Association for the Advancement of Psychology.
Vivian L. Stauder.
Donald F. Knuth, President, KMC, Inc.
John D. Randall, Director, Office of Nuclear Science Center, Texas A&M University.
D. C. Switzer, Executive Vice President, Engineering and Operations, Northeast Utilities Service Co.
James P. Murray, Jr., NRC Staff.
James Lieberman, NRC Staff.
Karen D. Cyr, NRC Staff.
Reed R. Burn, Ford Nuclear Reactor, University of Michigan.
Robert S. Kirkland, Nuclear Research Center, Georgia Institute of Technology.
James P. Phelps, Nuclear Center, University of Lowell.
Lincoln Clark, Jr., Reactor Operations, Massachusetts Institute of Technology.
John B. McDougall, McMaster University Reactor, McMaster University.
Caudle Julian, Research Reactor Facility, University of Missouri.
Tawfik M. Raby, Reactor Operations, National Bureau of Standards.
Phil Orlosky, Nuclear Science and Technology Facility, State University of New York at Buffalo.
Thomas Bray, Reactor Operations, North Carolina State University.
Glenn C. Sherwood, Manager, Safety and Licensing Operations, Nuclear Energy Projects Division, General Electric.
William Fecych, Sterling Forest Research Center, Union Carbide Corp.
James P. Farrar, Nuclear Engineering Department, University of Virginia.
Neil Baldwin, Lynchburg Research Center, Babcock & Wilcox.
C. H. Wang, Director, Radiation Center, Oregon State University.
James H. Agger, Secretary, Catalytic, Inc.
T. V. Lee, Manager, Employee & Community Relations, Babcock & Wilcox.
J. A. Eanes, Manager, Security and Nuclear Material Protection, Babcock & Wilcox.
H. E. Taylor, Contracts Specialist, Babcock & Wilcox.
L. K. Trent, Nuclear Safety and Licensing Officer, Babcock & Wilcox.
John H. F. Shattuck, Director, American Civil Liberties Union.
Josephine Llera.
James P. Hogan, Senior Counsel, Law Department, General Atomic Co.
W. Donham Crawford, President, Edison Electric Institute.
Charles J. Ambrogi, President, Crouse Nuclear Energy Services.
David A. Bixel, Nuclear Licensing Administrator, Consumers Power Co.
Daniel R. Haber, Corporate Safety Officer, RAD Services, Inc.
Walter D. Dalsimer, M.D.
L. E. Church, Director, Reed College.
N. W. Curtis, Vice President, Engineering and Construction, PP&L.
William O. Parker, Jr., Vice President, Steam Production, Duke Power Co.
Joseph A. Murphy, Senior Maintenance and Construction Manager, Catalytic, Inc.
Walter M. Higgins.
W. P. Johnson, Vice President, Yankee Atomic Electric Co.
William J. Cahill, Jr., Vice President, Consolidated Edison Co. of New York, Inc.
Sol Burstein, Executive Vice President, Wisconsin Electric Power Co.
D. L. Renberger, Assistant Director, Generation and Technology, Washington Public Power Supply System.
Charles F. Bonilla, Department of Chemical Engineering, Columbia University.
J. J. Taylor, Vice President and General Manager, Water Reactor Divisions, Westinghouse Electric Corp.
R. W. Jurgensen, Chief Nuclear Engineer, American Electric Power Service Corp.
James R. Sheets, Laborers' International Union of North America.
Lawrence Ruby, Professor, University of California, Berkeley.
J. E. Gilleland, Assistant Manager of Power, Tennessee Valley Authority.
John N. O'Brien, Brookhaven National Laboratory.
Jerry J. Cadwell, Brookhaven National Laboratory.
E. Linn Draper, Jr., Director, Nuclear Reactor Laboratory, The University of Texas.
Mary Alice Thomas.
John J. Mattimoe, Assistant General Manager and Chief Engineer, Sacramento Municipal Utility District.
Thomas M. Brown, Director, Industrial Security, Toledo Edison.

In addition, the Departments of Energy and Defense and the Civil Service Commission have accepted Commission invitations to participate in the proceedings.

The public hearing is part of an informal rulemaking proceeding. The Board will shortly publish proposed procedures and a time schedule for the hearing, under the guidance contained in the December 28, 1977, commission notice of hearing. The Board will set the date, time, and location of the hearing, and any prehearing conference or procedural planning session which the Board deems necessary.

An area in the Commission's public document room, 1717 H Street NW., Washington, D.C., has been set aside for members of the public to inspect all documents, comments, transcripts, and other information relating to the proceeding.

Dated at Washington, D.C., this 5th day of April 1978.

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc. 78-9426 Filed 4-6-78; 8:45 am]

[7615-01]

FEDERAL ELECTION COMMISSION

[11 CFR Chapter I]

[Notice 1978-3]

GENERAL CAMPAIGN ACTIVITIES

Proposed Regulations

AGENCY: Federal Election Commission.

ACTION: Proposed rulemaking.

SUMMARY: The Commission requests comments in six areas for the purpose of proposing new regulations: Reporting Duties for Expenses of Communications Made by Membership Organizations and Corporations; Reporting of National or State Bank Loans Made to Candidates; Definition of Ordinary Course of Business; Standards for Size of Printed Disclosure Statements; Use of Aircraft Which is Owned or Leased by a Corporation or Labor Organization Other Than a Corporation or Labor Organization Licensed to Offer Commercial Services for Travel in Connection with a Federal Election; Solicitation for Contributions to Party Committees for the Purpose of Making Expenditures on Behalf of Candidates.

DATE: Comments on or before May 5, 1978.

ADDRESS: Send comment to: Regulation Section, Office of General Counsel, Federal Election Commission, 1325 K Street NW., Washington, D.C. 20463.

FOR FURTHER INFORMATION CONTACT:

Carolyn Reed, 202-523-4175; Paul Lovejoy, 202-523-4175.

Dated: April 3, 1978.

THOMAS E. HARRIS,
Chairman for the Federal Election Commission.

I. REPORTING DUTIES FOR EXPENSES OF COMMUNICATIONS MADE BY MEMBERSHIP ORGANIZATIONS AND CORPORATIONS

The Federal Election Campaign Act of 1971, as amended, (the Act) requires membership organizations, including labor organizations, and corporations to report the cost of certain communications to their members or stockholders and executive or administrative personnel which expressly advocate the election or defeat of a clearly identified candidate (2 U.S.C. 431(f)(4)(C)). The cost of these communications must be reported if they are made in a communication which is not primarily devoted to subjects other than the express advocacy of candidates and if the cost for the communications exceeds $2,000 per election. The Commission has determined that all primary elections in a calendar year, whenever held, are considered one election. All general elections held in a calendar year are considered one election.

The Act does not establish dates for reporting communication costs. The Commission intends to issue regulations and solicits comment on appropriate reporting dates for communication costs. The Commission specifically requests comments on the following questions.

A. Should reporting be required on a quarterly monthly or other basis?

B. Should either a pre-election or post-election report be required for general elections?

C. Once the $2,000 reporting threshold is reached and the first report is filed, should the membership organization or corporation be required to file reports for the subsequent reporting periods even though no further costs for communications are incurred or should further reports only be required for reporting periods in which additional costs were incurred?

D. If pre- and post-election reports are required, should they be required of all organizations which have previously met the $2,000 threshold even if no costs are incurred during the pre- or post-election reporting period?

II. REPORTING OF NATIONAL OR STATE BANK LOANS MADE TO CANDIDATES

The Act specifically excludes a loan of money by a national or state bank made in accordance with the applicable banking laws and regulations and in the ordinary course of business from the definitions of contribution and expenditure (2 U.S.C. 431(e)(5)(G) and 431(f)(4)(K)). Such loans must, however, be reported in accordance with the provisions of 2 U.S.C. 434(b). To assist in preparing regulations to provide for full disclosure of loans to candidates and committes, the Commission requests comment on the following points:

A. What must a candidate or committee report about the original source and the terms of the loan? Should reporting of any or all of the following items be required: The name and address of the national or state bank making the loan; the interest rate and other terms of credit; the security for the loan; or any other relevant information?

B. If a candidate who has received a waiver of his or her reporting requirement obtains a personal loan from a national or state bank and transfers the proceeds of the loan to his or her campaign committee, what are the reporting obligations of the campaign committee? Should the campaign committee be required to report the name and address of the national or state bank from which the candidate obtained the loan; the interest rate and other terms of credit; the security given for the loan; or any other relevant information?

C. Should a candidate's committee be allowed to terminate if the candidate, who has a personal reporting waiver, has an outstanding loan from a national or state bank, the proceeds of which have been transferred to the campaign committee?

III. DEFINITION OF ORDINARY COURSE OF BUSINESS

As stated in section II, loans made by a national or state bank in accordance with the applicable banking laws and regulations and in the ordinary course of business are exempted from the definitions of contribution and expenditure (2 U.S.C. 431(e)(5)(G) and 431(f)(4)(K)). The Commission solicits comment on the definition of "ordinary course of business" as used in this section. The Commission specifically requests comments on whether the following criteria should be included within the definition:

1. Compliance with all applicable Federal banking laws and regulations.

2. Terms such as the amount, length of term, interest rate, and type of security, are comparable to terms extended to non-political borrowers with similar financial backgrounds.

3. Full security for the loan, either by a pledge of property or other collateral or by individual guarantors or cosigners in amounts permissible under the Act's contribution limits.

4. Compliance with the bank's ordinary procedures for the authorization of similar loans.

5. Reasonable expectation of repayment on the part of the bank at the time the loan was made.

6. A policy of making loans of a similar nature or character to nonpolitical borrowers, i.e., of comparable amount, terms, and purpose.

7. Absence of consideration of political affiliation or incumbent status in determination of extension of credit.

IV. STANDARDS FOR SIZE OF PRINTED DISCLOSURE STATEMENTS

Under the Act, political committees are required to include on the face or front page of the literature and advertisements soliciting contributions the following notice:

A copy of our report is filed with the Federal Election Commission and is available for purchase from the Federal Election Commission, Washington, D.C. (2 U.S.C. 435).

Any person who makes an expenditure for the purpose of financing communications expressly advocating the election or defeat of a clearly identified candidate through any broadcasting station, newspaper, magazine, outdoor advertising facility, direct mailing, or other type of general public political advertising must state clearly and conspicuously, whether the expenditure is authorized by a candidate, a candidate's authorized political committee, or an agent of a candidate or authorized committee. If the expenditure is not authorized by a candidate, an authorized committee or their agents, the person making the expenditure must state, clearly and conspicuously, the name of the person who made or financed the expenditure. If the person making the expenditure is a political committee, the name of any affiliated or connected organization must be disclosed (2 U.S.C. 441d).

The Commission solicits comments on standards for the size of these required disclosure statements.

V. USE OF AIRCRAFT WHICH IS OWNED OR LEASED BY A CORPORATION OR LABOR ORGANIZATION OTHER THAN A CORPORATION OR LABOR ORGANIZATION LICENSED TO OFFER COMMERCIAL SERVICES FOR TRAVEL IN CONNECTION WITH A FEDERAL ELECTION

Corporations and labor organizations are prohibited from making a contribution or expenditure in connection with a Federal election (2 U.S.C. 441b). Current Commission regulations allow a candidate, candidate's agent, or other persons traveling on behalf of a candidate to use aircraft which is owned or leased by a corporation or labor organization other than a corporation or labor organization licensed to offer commercial services for travel in connection with a Federal election, provided that the corporation or labor organization is reimbursed for the use in advance (2 U.S.C. 114.9(e)). Certain Federal Aviation Administration regulations may prohibit a corporation or labor organization from receiving compensation, including reimbursement, from a candidate or candidate's agent unless the corporation or labor organization has an appropriate and current FAA operating certificate issued under either 14 CFR part 121 or part 135.

The Commission solicits comments on whether candidates, candidate's agents, or other persons traveling in connection with a Federal election should be allowed to use aircraft owned or leased by a corporation or labor organization if the corporation or labor organization is prohibited from receiving reimbursement by FAA regulations.

VI. SOLICITATION FOR CONTRIBUTIONS TO PARTY COMMITTEES FOR THE PURPOSE OF MAKING EXPENDITURES ON BEHALF OF CANDIDATES PURSUANT TO 2 U.S.C. § 441a(d)

National and state political party committees may make expenditures in connection with the general election campaign of candidates for Federal office (2 U.S.C. 441a(d)). The Commission solicits comments on whether a political party committee or other persons may solicit contributions specifically for the purpose of making section 441a(d) expenditures. In particular, the Commission requests comment on the following points:

A. Should a political party committee be required to use general party funds (i.e., contributions solicited for general party activities) to make section 441a(d) expenditures?

B. Can a political party committee solicit contributions specifically for section 441a(d) expenditure?

C. Can a political party committee solicit contributions for section 441a(d) expenditures to be made on behalf of specific candidates?

D. If a person makes a contribution to a section 441a(d) fund established by a political party committee to make expenditures on behalf of a specified candidate or candidates, is that person's contribution considered a contribution to the candidate for the purposes of the limitations in 2 U.S.C. 441a(a)?

E. Can a candidate solicit contributions to a section 441a(d) fund established by a political party committee to make expenditures on behalf of that candidate? If, as a result of the candidate's solicitation, a person makes a contribution to the section 441a(d) fund, is the contribution subject to the limitation on contributions to candidates under section 441a(a)?

[FR Doc. 78-9175 Filed 4-6-78; 8:45 am]

[8025-01]

SMALL BUSINESS ADMINISTRATION

[13 CFR Part 113]

[Revision 1]

NONDISCRIMINATION IN FINANCIAL ASSISTANCE PROGRAMS OF SMALL BUSINESS ADMINISTRATION-EFFECTUATION OF POLICIES OF FEDERAL GOVERNMENT AND SBA ADMINISTRATOR

Proposed Inclusion of the Nondiscrimination Sanctions Contained in Section 504 of the Rehabilitation Act of 1973, As Amended, and the Addition of Federal Financial Assistance Programs Which are Covered by this Part to Appendix A

AGENCY: Small Business Administration.

ACTION: Notice of extension of comment period.

SUMMARY: The time for comment on this proposed regulation published on March 8, 1978, at 43 FR 9488 is due to expire on April 7, 1978. Because copies of this regulation were not available in braille or record at the time of publication, the time for comment is being extended to 30 days following the publication of this notice.

DATES: Comments must be received on or before May 8, 1978.

ADDRESS: 1441 L Street NW., Suite 1200, Vermont Building, Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

J. Arnold Feldman, Chief, Compliance Division, Office of Equal Employment Opportunity and Compliance.

Dated: March 24, 1978.

A. VERNON WEAVER,
Administator.

[FR Doc. 78-9489 Filed 4-6-78; 8:45 am]

[4110-03]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 2]

[Docket No. 76N-0006]

CHECKING THE EFFECTIVENESS OF RECALLS: A COST-EFFECTIVENESS STUDY

Availability of Results of the Study

AGENCY: Food and Drug Administration.

ACTION: Availability of study results.

SUMMARY: This agency announces the availability of the Office of Planning and Evaluation (OPE) Study 44 entitled "Checking the Effectiveness of Recalls: A Cost-Effectiveness

Study." This report presents the results of a study of seven recalls. The study compared the cost-effectiveness of several methods of performing recall effectiveness checks.

ADDRESSES: The report may be reviewed in the office of the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857. Copies of the report may be purchased from the National Technical Information Service, 5285 Port Royal Road, Springfield, Va. 22161.

FOR FURTHER INFORMATION CONTACT:

Carmin A. Soviero, Office of Planning and Evaluation (HFP-30), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3240.

SUPPLEMENTARY INFORMATION: The preamble to the proposed recall regulations published in the FEDERAL REGISTER of June 30, 1976 (41 FR 26924) announced that the Food and Drug Administration (FDA) and a private contractor were studying methods of checking the effectiveness of recalls to determine whether there are acceptable alternatives to personal visits which are an effective but costly method. The objectives of this study were:

(1) To compare several methods of conducting recall effectiveness checks (the methods tested were mail, mailgram, telephone, personal visit, and combinations of these).

(2) To collect data on cost and effectiveness of each of the methods.

(3) To determine the most cost-effective method. The data collection phase of the study has ended, and the results have been analyzed and summarized by the agency's Office of Planning and Evaluation.

A copy of this report is available for review between 9 a.m. and 4 p.m., Monday through Friday, in the office of the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857. Copies may be purchased from the National Technical Information Service, 5285 Port Royal Road, Springfield, Va. 22161, as follows:

Title	Order No.	Price code	Price [1]
Checking the Effectiveness of Recalls: A Cost-Effectiveness Study. OPE Study 44.	PB 277-174/AS	A02	4.00
Above report available on microfiche	PB 277-174/AS	A01	3.00

[1] Price subject to change.

Dated: March 29, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc. 78-8953 Filed 4-6-78; 8:45 am]

[4110-03]

[21 CFR Part 101]

[Docket Nos. 76P-0430, 77P-0123, and 77P-0357]

FOOD LABELING

Ingredient Labeling Exemptions

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: This is a proposal to permit enrichment ingredients that are in a food as a source of a particular nutrient to be listed together in the ingredient statement by specific common or usual names in parentheses following the name of the nutrient supplied; to permit enrichment ingredients so listed to be in other than descending order of predominance; and to provide for the label declaration of enrichment ingredients that are only sometimes used and may not be present in the food. This proposal is based on petitions submitted to the Food and Drug Administration (FDA) by the Food Protein Council, the Biscuit and Cracker Manufacturers' Association, and the Independent Bakers Association, and is intended to provide a more flexible format for enrichment ingredient labeling while retaining complete ingredient disclosure to consumers.

DATE: Written comments by June 6, 1978.

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

FOR FURTHER INFORMATION CONTACT:

Howard N. Pippin, Bureau of Foods (HFF-312), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C Street SW., Washington, D.C. 20204, 202-245-3092.

SUPPLEMENTARY INFORMATION: The Commissioner of Food and Drugs has received petitions from the Food Protein Council (Docket No. 76P-0430), the Biscuit and Cracker Manufacturers' Association (Docket No. 77P-0123), and the Independent Bakers Association (Docket No. 77P-0357) requesting that the use of "generic" nutrient names such as iron, thiamine, etc., or any other collective term such as "enrichment factors," be deemed sufficient to identify specific enrichment ingredient(s) in the ingredient statement and further that the generic nutrient name(s) be declared in the ingredient statement in an order other than descending order of predominance.

In support of their proposals, the petitioners state that use in the ingredient statement of a collective name for the enrichment ingredients which supply that nutrient would provide information to the consumer concerning the nutrients present in the food while still providing the manufacturer the flexibility needed to use various enriched or fortified foods as components in finished foods without the need or cost of frequent label changes. Further, the petitioners state that required variations in enrichment ingredient sources could result in a change in the order of predominance, which could also require the manufacturer to relabel.

The full petitions are on file with the Hearing Clerk, FDA, and may be seen at the address given above between 9 a.m. and 4 p.m., Monday through Friday.

In addition to these petitions, the agency has received a request for an advisory opinion (Docket No. 77P-0380) concerning the use of nutrient names for the ingredient declaration of the enrichment ingredients in a finished food. The request for this advisory opinion contained arguments similar to those in the petitions. The agency has responded to this request by issuing a letter stating:

We do not agree that declaring the name of a nutrient supplied by more than one ingredient is sufficient to meet the require-

ment of 21 CFR 101.4 for the complete listing of specific ingredients by their common or usual names. The names for nutrients as used in nutrition labeling, 21 CFR 101.9, are not used as the common or usual names of specific ingredients but are for the purpose of identifying the nutritional properties of the food. Nutrition labeling informs the consumer of the presence of specific nutrients in a food and the listing of each nutrient on the label is followed by a statement of the amount of that nutrient present in the food. This statement does not constitute a statement of the actual ingredients in the food, nor does such a statement give the consumer the information necessary to avoid those ingredients which he may wish to avoid. Therefore, the use of a nutrient name in the ingredient statement would be use of a collective (generic) name that is not acceptable identification of the ingredients contained in the food.

The use of the nutrient name in nutrition labeling and the use of the more specific name of the enrichment ingredient which furnishes the nutrient in the ingredient statement are not incompatible, nor are they in conflict. Each statement serves a distinct purpose and gives the consumer necessary and understandable information.

The FDA is aware of the problems associated with the ingredient listing of the common or usual name of enrichment ingredients on the labeling of both primary products (such as enriched corn meal) and finished products (such as corn bread made with enriched corn meal) as stated in your request for an advisory opinion. These problems are currently under review, and we anticipate some resolution soon.

Copies of the request for an advisory opinion and the agency's response are also on file in the office of the Hearing Clerk, FDA.

The Commission has considered the petitions and the request for an advisory opinion and concludes that these are sufficient grounds to warrant publication of a proposed regualtion. However, the Commissioner is of the opinion that the labeling difficulties encountered by the petitioners are not unique to their products and that the requested exemption should encompass all foods. Consequently, the Commissioner is proposing an amendment to § 101.4 (21 CFR 101.4) to provide that the ingredients that act as enrichment ingredients, in that they are in the food to provide a specific nutrient, may be listed by their specific common or usual names in the ingredient statement in parentheses following the name of that nutrient. The exemption stated in this manner will apply to all foods directly or indirectly incorporating enrichment ingredients.

The Commissioner recognizes that consumers are familiar with the names of nutrients as they have been used in nutrition labeling. Therefore, The Commission is of the opinion that use of the nutrient name as a "generic" ingredient name followed by a statement of the source(s) of the nutrient will give additional information to consumers concerning the enrichment ingredient(s) and still provide complete ingredient disclosure.

The Commissioner is also proposing that the specific enrichment ingredients listed in parentheses need not be in order of predominance if manufacturers cannot adhere to a constant pattern of nutrient sources. This is becuase some manufacturers of fabricated foods are unable to determine in advance the amounts of specific enrichment ingredients used when enriched or fortified components are incorporated into their food, and they are therefore unable to maintain a uniform quantity of these enrichment ingredients in the formulation. However, the Commissioner believes that each parenthetical statement of enrichment ingredients together with the name of the nutrient supplied must as a whole be place in that ingredient statement in its order of predominance based on the amount of the nutrient supplied.

In addition, the Commissioner is proposing that when a manufacturer is unable to predict which specific enrichment ingredients will be incorporated into his food, that those enrichment ingredients which are not always used for a listed nutrient may be declared even though they may not be present in the finsihed food. However, such enrichment ingredients must be identified by words indicating that they may not be present, e.g., "thiamine (from thiamine mononitrate and/or thiamine hydrochloride)."

Any ingredient that may act as an enrichment ingredient but which is added to the finished food for other purpose, e.g., as an artificial color such as riboflavin or a preservative such as ascorbic acid, must be listed separately and in its own order of predominance because it performs a function other than or in addition to that of supplying the listed nutrient.

Further, adding an ingredient only for its nutrient value does not alone make it an enrichment ingredient suitable for parenthetical listing. If the ingredient is not a discrete compound, i.e., if it is a food containing a substance(s) other than that supplying a given nutrient (e.g., dried yeast or cod liver oil), that ingredient may only be listed spearately and in its own order of predominance.

The Commissioner advises that any enrichment ingredient used in a finished food must be a form from which the nutrient supplied is bioavailable from the food. To ensure that the listing of the use of atlernative sources of the nutrient will not be misleading, the proposal does not allow the use of the alternative form of declaration of enrichment ingredients where there are significant bioavailability differences in the sources of the nutrients that might be listed.

It is the Commissioner's opinion that the proposed exemption from ingredient labeling for foods will provide sufficient labeling flexibility for manufacturers of enriched foods, e.g., enriched flour, and finished foods that incorporate enriched or fortified ingredients, while retaining complete ingredient disclosure for consumers. Further, the proposed exemption is a general labeling provision applicable to both standardized and nonstandardized foods.

The Biscuit and Cracker Manufacturers' Association requested in its petition that some formal policy be issued stating whether supplemental terminology, e.g., nutrient names allowed to appear in the ingredient statement, will trigger nutrition labeling under § 101.9(h) (formerly § 1.17(h)). This issue will be addressed in a separate document and therefore is not addressed in this proposal.

The Independent Bakers Association also requested in its petition that nutritive sweeteners be allowed to be parenthetically listed together in the ingredient statement preceded by the appropriate collective term. This issue will also be addressed separately and therefore is not addressed in this proposal.

The Commissioner advises that pending the issuance of a final regulation ruling on this proposal FDA will not initiate regulatory action against any food product on the basis of improper ingredient declaration of enrichment ingredients, provided such enrichment ingredient declarations are in accordance with this proposal.

The Commissioner proposes that the effective date of any final regulation ruling on this proposal be the date of publication of such final regulation in the FEDERAL REGISTER.

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, 403, 701(a), 52 Stat. 1040-1042 as amended, 1047-1048 as amended, 1055 (21 U.S.C. 321, 343, 371(a))) and under authority delegated to the Commissioner (21 CFR 5.1), it is proposed that Part 101 be amended in § 101.4 by adding new paragraph (b)(20) to read as follows:

§ 101.4 Food; designation of ingredients.

* * * * *

(b) * * *

(20)(i) An ingredient that is added to a food as an enrichment ingredient (e.g., a vitamin or mineral) shall be declared in the ingredient statement by its specific common or usual name,

which may be declared in parentheses following the appropriate nutrient name, e.g., "thiamine (thiamine mononitrate)." Each enrichment ingredient shall be declared in descending order of predominance, except that, if the manufacturer is unable to adhere to a constant pattern of enrichment ingredients to supply a specific nutrient in the product, and if there are no significant bioavailability differences in the enrichment ingredients the manufacturer uses to supply a specific nutrient, the common or usual names of the individual enrichment ingredients may be declared in the ingredient statement by stating the specific common or usual name of each enrichment ingredient in parentheses following the appropriate nutrient name, e.g., "thiamine (thiamine mononitrate or thiamine hydrochloride);" enrichment ingredient declarations made under this exception shall be placed in the ingredient statement in an order of predominance as determined by the amount of the particular nutrient supplied, in such declarations, the common or usual names of the enrichment engredients listed in the parentheses following a nutrient name need not be in order of predominance; ingredients not present in the product may be listed if they are only sometimes used in this product; and such enrichment engredients shall be identified with words indicating that they may not be present, such as "or" or "and/or."

(ii) The enrichment ingredients listed in the parentheses following a nutrient name shall be discrete compounds and not a food used as a source of a nutrient, such as cod liver oil as a source of vitamins A and D or dried yeast as a source of certain B vitamins. Any such food shall appear only as a distinct ingredient in its descending order of predominance in the ingredient statement.

(iii) An enrichment ingredient added to a food for a functional purpose, other than or in addition to that of supplying a nutrient, shall appear as a distinct ingredient in its descending order of predominance in the ingredient statement.

* * * * *

Interested persons may, on or before June 6, 1978, submit to the Hearing Clerk (HFC-20), Food and Drug Administration, Rm. 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 numbers found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

NOTE.—The Food and Drug Administration has determined that this proposal will not have a major economic impact as defined by Executive Order 11821 (amended by Executive Order 11949) and OMB Circular A-107. A copy of the economic impact assessment is on file with the Hearing Clerk, Food and Drug Administration.

Dated: April 4, 1978.

DONALD KENNEDY,
Commissioner of Food and Drugs.

[FR Doc. 78-9409 Filed 4-6-78; 8:45 am]

[4110-03]

[21 CFR Part 101]

[Docket Nos. 77P-0428 and 77P-0358]

FOOD LABELING

Ingredient Labeling Exemptions

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: This proposal would permit labeling on bakery products, including but not limited to breads, rolls, buns, crackers, stuffing, breading, biscuits, muffins, pretzels, cones, cakes, cookies, pies, pastries, and other sweet goods, to list ingredients present in the product at levels of 2 percent or less by weight at the end of the ingredient statement in other than descending order of predominance. This proposal is based on petitions submitted to the Food and Drug Administration (FDA) by the American Bakers Association (ABA) and the Independent Bakers Association (IBA) and is intended to provide a more flexible format for listing minor ingredients while retaining complete ingredient disclosure to consumers.

DATES: Written comments by June 6, 1978. Proposed effective date: Date of publication of the final order in the FEDERAL REGISTER.

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

FOR FURTHER INFORMATION CONTACT:

Howard N. Pippin, Bureau of Foods (HFF-312), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C Street SW., Washington, D.C. 20204, 202-245-3092.

SUPPLEMENTARY INFORMATION: The Commissioner of Food and Drugs has received petitions from the American Bakers Association (Docket No. 77P-0428) and the Independent Bakers Association (Docket No. 77P-0358). The IBA petition, as modified, requested that ingredients present in bakery products in amounts less than 2 percent by weight of finished food be listed in other than descending order of predominance. The ABA petition, as modified, requested that such ingredients be allowed to be listed at the end of the ingredient statement in other than descending order of predominance.

In support of the proposals, both petitioners contend that if bakers label their products in accordance with the regulations requiring full ingredient disclosure in descending order of predominance the resultant lack of flexibility in labeling will either prevent necessary formula adjustment of the minor ingredients or require the bakers to maintain inordinately large inventories of varying labels.

Both the IBA petition and the ABA petition state that granting the petition for exemption from order of predominance ingredient labeling at the 2 percent level will reduce the number of labels necessary for a single product, enriched white bread, from 34 to 7. The petitions state that this reduction in the number of labels necessary for each product manufactured will result in substantial cost savings in labeling inventory and related expenses.

The ABA petition contends that without an exemption from order of predominance labeling it is questionable whether bakers could continue to react to seasonal and raw material changes by making minor formula changes such as increasing or decreasing levels of dough conditioners or enzymes.

The IBA petition states that 75 percent of the ingredients used in bread are within the category of ingredients contained at a level of 3 percent or less. However, the petitioners agree that a 2 percent exemption would allow sufficient flexibility for the baker to be responsive to seasonal and raw material changes.

The complete petitions are on file with the Hearing Clerk (HFC-20), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, Md. 20857 and may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

From the data submitted in both petitions, the Commissioner has concluded that there is a need for bakers to have available a labeling format that will allow the adjustment of minor ingredients in a formula without requiring a complete label change to meet the requirement of descending order of predominance listing of ingredients.

Therefore, based on the assertions of the petitioners that manufacturers are unable to maintain a uniform quantity of certain minor ingredients used in particular bakery foods because of variations in the raw materials and seasonal conditions, the Commissioner is proposing that ingredients present in bakery products in amounts of 2 percent or less by weight be

exempt from descending order of predominance listing and that such ingredients be grouped at the end of the ingredient statement preceded by the following statement:

Contains 2 percent or less of each of the following:

The Commissioner concludes that since bakery product formula changes most often involve ingredients used at levels of 2 percent of less, the 2 percent or less limitation for nonpredominance ingredient labeling will allow adequate flexibility to the baker while affording full ingredient disclosure to the consumer. Public comment on this point will be particularly welcome.

The Commissioner advises that this exemption from order of predominance listing is proposed specifically for bakery products and does not apply to other foods. It is the opinion of the Commissioner that bakery products are unique in the necessity to vary the formulation frequently to maintain the quality of the product offered for sale because of seasonal conditions and variations in raw materials.

The Commissioner further advises that this exemption from order of predominance listing of ingredients contained in amounts of 2 percent or less does not affect the proposed parenthetical listings of dough conditioners, yeast nutrients, or leavening agents which may be listed in parentheses in other than order of predominance following the appropriate collective term. This proposed regulation will, however, allow the appropriate collective name to be placed in the ingredient statement in other than descending order of predominance when the total amount of dough conditioners, yeast nutrients, or leavening agents present in the product is 2 percent or less.

The Commissioner advises that pending the issuance of a final regulation based on this proposal, FDA will not initiate regulatory action against any bakery product on the basis of imporper order of predominance labeling of ingredients contained at levels of 2 percent or less by weight, provided such ingredients are declared in accordance with this proposal.

The Commissioner proposes that the effective date of any final regulation ruling on this proposal be the date of publication of such regulation in the FEDERAL REGISTER.

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, 403, 701(a), 52 Stat. 1040-1042 as amended, 1047-1048 as amended, 1055 (21 U.S.C. 321, 343, 371(a))) and under authority delegated to the Commissioner (21 CFR 5.1), it is proposed that Part 101 be amended by adding new paragraph § 101.4(d), to read as follows:

§ 101.4 Food; designation of ingredients.

* * * * *

(d) Ingredients required to be declared on the label of a food shall be listed in descending order of predominance, except that in the case of bakery food, if a manufacturer is unable to adhere to a constant pattern of ingredients contained in amounts of 2 percent or less by weight in the product, the listing of the common or usual names of those ingredients contained in amounts of 2 percent or less by weight may be placed at the end of the ingredient statement in other than descending order of predominance following the phrase "contains 2 percent or less of each of the following: _____". For the purpose of this paragraph, the term "bakery food" includes food products in which cereal flour plays a major role in composition, structure, and shape and which is either unleavened or leavened by yeast or chemicals and is processed into a distinct form, unbaked, baked, or fried and either ready-to-eat when purchased or requires thawing, heating or, baking before consumption. The term "bakery food" includes but is not limited to breads, rolls, buns, crackers, stuffing, breading, biscuits, muffins, pretzels, cones, cakes, cookies, pies, pastries, and other sweet goods. The term "bakery food" does not include breakfast cereal, dry mixes requiring home preparation, macaroni and noodle products, pizzas, meat pies, corn chips, or similar products.

Interested persons may, on or before June 6, 1978 submit to the Hearing Clerk (FHC-20), food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

NOTE.—The Food and Drug Administration has determined that this proposal will not have a major economic impact as defined by Executive Order 11821 (amended by Executive Order 11949) and OMB Circular A-107. A copy of the economic impact assessment is on file with the Hearing Clerk, Food and Drug Administration.

Dated: April 4, 1978.

DONALD KENNEDY,
Commissioner of Food and Drugs.

[FR Doc. 78-9410 Filed 4-6-78; 8:45 am]

[4110-03]

[21 CFR PART 146]

[Docket No. 78-0039]

CANNED FRUIT JUICES

Lemon Juice; Standards of Identity and Fill of Container

AGENCY: Food and Drug Administration

ACTION: Proposed rule

SUMMARY: This document proposes to establish standards of identity and fill of container for lemon juice to adopt, insofar as possible, the "Recommended International Standard for Lemon Juice Preserved Exclusively by Physical Means" developed by the Codex Alimentarius Commission. There are no U.S. standards for this product.

DATES: Comments by June 6, 1978. proposed effective date of final rule: The Commissioner proposes that all products initially introduced into interstate commerce on or after July 1, 1979, shall comply with the regulation, except as to any provisions that may be stayed by the filing of proper objections.

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

FOR FURTHER INFORMATION CONTACT:

Benjamin M. Gutterman, Bureau of Foods (HFF-402), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C Street SW., Washington, DC. 20204, 202-245-1231.

SUPPLEMENTARY INFORMATION: This document proposes standards that will: (1) Provide for the use of concentrated lemon juice, with appropriate labeling, as a source of juice ingredient; (2) allow for the use of safe and suitable preservatives as a method of preservation, in addition to physical methods of preservation including heat sterilization, freezing, and refrigeration; (3) standardize "lemon juice from concentrate" at a minimum soluble solids content of 6 percent by weight and a minimum acidity of 4.5 percent by weight, calculated as anhydrous citric acid; (4) permit the addition of lemon oil and lemon essence derived from lemons in accordance with good manufacturing practice; (5) establish a standard of fill of container based upon a minimum of 90 percent of the total capacity of the con-

tainer; and (6) employ a statistical sampling plan for determining compliance with fill of container requirements.

Further, the document invites interested persons to submit comments with supporting data concerning the benefit of including a provision for the addition of concentrate to adjust the soluble solids of lemon juice.

The Food and Agriculture Organization/World Health Organization (FAO/WHO) Codex Alimentarius Commission has submitted to the United States for consideration for acceptance a "Recommended International Standard for Lemon Juice Preserved Exclusively by Physical Means" (CAC/RS 47-1971) hereinafter referred to as the Codex standard.

The United States, as a member of the Food and Agriculture Organization of the United Nations and of the World Health Organization, is under treaty obligation to consider all Codex standards. The rules of procedure of the Codex Alimentarius Commission state that a Codex standard may be accepted by a participating country in one of three ways: full acceptance, target acceptance, or acceptance with specified deviations. A country's acceptance of a Codex standard signifies that, except as provided for by specified deviations, a product that complies with the Codex standard may be distributed freely within the accepting country; insofar as features dealt with by the Codex standard are concerned, products that do not comply, whether domestic or imported, will not be permitted to be distributed without restrictions under the name and description laid down in the standard. The restrictions that may be imposed are not incorporated in the Codex standards, but are left to the legislation and regulations of the individual countries. A participating country that concludes that it cannot accept the Codex standard in any of the three ways is requested to indicate, with the reasons therefor, the manner in which its requirements differ from the Codex standard, and whether products complying with the codex standard will be permitted to move freely in the commerce of that country. Members of the Commission are requested to notify the Secretariat of the Codex Alimentarius Commission-Joint FAO/WHO Food Standards Programme, FAO, Rome, Italy, of their decision.

There are no U.S. standards of identity, quality, or fill of container for lemon juice established by the Food and Drug Administration. There are, however, voluntary grade standards for marketing for canned lemon juice (7 CFR 52.5481 through 7 CFR 52.5490) established by the U.S. Department of Agriculture (hereafter referred to as USDA standards).

The Commissioner has carefully considered the Codex standard as it may relate to the expectations of the American consumer and current industry practices. In doing so he has compared the Codex standard with the provisions of the USDA standards. In his opinion adoption of the Codex standard, as far as practicable, will promote honesty and fair dealing in the interest of consumers and facilitate international trade.

The Commissioner has noted certain differences in the composition and format of the Codex standard as contrasted with the existing U.S. standards. Measurements in the U.S. standards are sometimes stated in units of the U.S. customary system (pounds, inches) or in units of the international (metric) system, or both, whereas the Codex standard uses only the metric system. The Commissioner recognizes that the metric system is generally used throughout the world, and in the U.S. for technical purposes, and that it may eventually be adopted by this country for common usage. The Commissioner therefore proposes that the metric system be used in the U.S. standard for lemon juice with the equivalent units of the U.S. customary system shown parenthetically.

The Codex standard also includes requirements for hygiene, metals (referred to as contaminants), certain basic labeling, and other factors that are not considered a part of food standards under section 401 of the act (the legal basis for the promulgation of food standards), but which are dealt with under other sections of the act and, therefore, are not discussed further in this proposal. The Codex standard sometimes uses subjective terms in stating its requirements; these cannot be expressed in terms precise enough to be legally enforceable, and they are omitted, whenever feasible, from the proposal.

Establishment of U.S. standards of identity and fill of container for lemon juice will be based upon consideration of the following Codex standard, together with comments and supporting data received, and other available information.

Recommend International Standard for Lemon Juice Preserved Exclusively by Physical Means

1. DESCRIPTION

Unfermented but fermentable juice intended for direct consumption, obtained by a mechanical process from the endocarp of sound, ripe lemons (*Citrus limon* Burm. f.) preserved exclusively by physical means.[1] The juice may have been concentrated and later reconstituted with water suitable for the purpose of maintaining the essential composition and quality factors of the juice.

[1] For the purpose of this standard preservation by physical means does not include ionizing radiation.

2. ESSENTIAL COMPOSITION AND QUALITY FACTORS

2.1 *Soluble solids and acidity.* The soluble lemon solids content of lemon juice shall be not less than 6% m/m as determined by refractometer at 20°C, uncorrected for acidity and read as °Brix on the International Sucrose Scales. The total titratable acidity of the lemon juice shall not be less than 4.5% m/m expressed as anhydrous citric acid.

2.2 *Ethanol content.* The ethanol content shall not exceed 3 g/kg.

2.3 *Essential oils.* The essential oils content shall not exceed 0.5 ml/kg.

2.4 *Organoleptic properties.* The product shall have the characteristic colour, aroma and flavour of lemon juice. Natural volatile lemon juice components may be restored to any lemon juice from which natural lemon juice components have been removed.

2.5 *Use of concentrates.* The addition of concentrate to juice is permitted. Only concentrate from lemon (*Citrus limon* Burm. f.) may be used.

3. CONTAMINANTS

		Maximum level
3.1	Arsenic (As)	0.2 mg/kg.
3.2	Lead (Pb)	1.0 mg/kg (temporarily endorsed).[2]
3.3	Copper (Cu)	5 mg/kg.
3.4	Zinc (Zn)	5 mg/kg/
3.5	Iron (Fe)	15 mg/kg/
3.6	Tin (Sn)	250 mg/kg. (temporarily endorsed).[2]
3.7	Total metal content precipitable by potassium hexacyano-Ferrate (II).	20 mg/kg expressed as Fe

[2] The provisional limits of 1 mg/kg for lead and 250 mg/kg for tin are currently under review and will be re-examined in 1973.

4. HYGIENE

4.1 It is recommended that the products covered by the provisions of this standard be prepared in accordance with the Recommended International Code of Hygienic Practice for Canned Fruit and Vegetable Products (Ref. No. CAC/RCP 2-1969) and the Recommended International Code of Hygienic Practice for Quick Frozen Fruits, Vegetables and their Juices (Ref. ALINORM 71/13, Appendix IV).

4.2 When tested by appropriate methods of sampling and examination, the product: (a) shall be free from microorganisms capable of development under normal conditions of storage; and

(b) shall not contain any substances originating from microorganisms in amounts which may be toxic.

5. WEIGHTS AND MEASURES

5.1 *Fill of container.*

5.1.1 Minimum fill. The lemon juice shall occupy not less than 90% v/v of the water capacity of the container.

The water capacity of the container is the volume of distilled water at 20°C which the sealed container will hold when completely filled.

6. LABELLING

In addition to Sections 1, 2, 4 and 6 of the General Standard for the Labelling of Prepackaged Foods (Ref. No. CAC/RS 1-4969) the following specific provisions apply:

6.1 *The name of the food.* The name of the product shall be "lemon juice".

6.2 *List of ingredients.* In the case of lemon juice made from concentrate, the fact of reconstitution shall be declared in the list of ingredients as the first ingredient as follows: "lemon juice made from concentrate" or "reconstituted lemon juice" or "lemon juice made from concentrated lemon juice".

6.3 *Net contents.* The net contents shall be declared by volume in one or more of the following systems of measurement: Metric ("Systeme International"), U.S. or British units, as required by the country in which the product is sold.

6.4 *Name and address.* The name and address of the manufacturer, packer, distributor, importer, exporter or vendor of the product shall be declared.

6.5 *Country of origin.*

6.5.1 The country of origin of the product shall be declared.

6.5.2 When the product undergoes processing in a second country which changes its nature, the country in which the processing is performed shall be considered to be the country of origin for the purposes of labelling.

6/6 *Additional requirements.* The following additional specific provisions shall apply:

6.6.1 No fruit or fruit juice may be represented pictorially on the label except lemons of lemon juice.

6.6.2 Where lemon juice requires to be kept under conditions of refrigeration, there shall be information for keeping and, if necessary, thawing of the product.

6.7 *Bulk packs.* In the case of lemon juice in bulk the information required in 6.1 to 6.6.2 shall either be placed on the container or be given in accompanying documents.

7. METHODS OF ANALYSIS AND SAMPLING

The methods of analysis and sampling referred to hereunder are international referee methods.

7.1 *Taking of sample and expression of results as m/m.* According to the IFJU method No. 1: Determination of relative density and the IFJU General Sheet: Conversion of analytical results from g/l (mg/l) to g/kg (mg/kg) and the reverse.

7.2 *Test for fermentability.* (To be elaborated).

7.3 *Determination of soluble solids.* According to the IFJU method No. 8B, 1968: Estimation of soluble solids (indirect determination). Results are expressed as % m/m sucrose ("degrees Brix") with correction for temperature to the equivalent at 20°C.

7.4 *Determination of ethanol.* According to the IFJU method No. 2, 1968: Determination of alcohol (Ethyl alcohol).[3] Results are expressed as g ethanol/kg.

7.5 *Determination of essential oils.* According to the AOAC (1970) method (Official Methods of Analysis of the AOAC, 1970, 22.096-22.097 and 19.117. Essential oil (37)—Official, First Action). Results are expressed as ml essential oils/kg.

7.6 *Determination of total titratable acids.* According to the IFJU method No. 3, 1968: Determination of titratable acid (total acid). Results are expressed as g anhydrous citric acid/kg.

7.7. *Determination of arsenic.* According to the method of the "Office International de la Vigne et du Vin."[4 5] Results are expressed as mg arsenic/kg.

7.8 *Determination of lead.* According to the IFJU method No. 14, 1964: Determination of lead (photometric method).[5] Results are expressed as mg lead/kg.

7.9 *Determination of copper.* According to the IFJU method No. 13, 1964: Determination of copper (photometric method).[6] Results are expressed as mg copper/kg.

7.10 *Determination of zinc.* According to the AOAC (1970) method (Official Methods of Analysis of the AOAC, 1970, 25.077-25.082: Zinc—Official First Action, Colorimetric Method (*15*).[6] Results are expressed as mg zinc/kg.

7.11 *Determination of iron.* According to the IFJU method No. 15, 1964: Determinatin of iron (photometric method).[6] The determination shall be made after dry ashing as described in Section 5—Remark (b). Results are expressed as mg iron/kg.

7.12 *Determination of tin.* According to the Draft ISO Recommendation No. 2447: Fruit and Vegetable Products—Determination of Tin.[6 7] Results are expressed as mg tin/kg.

7.13 *Determination of total metal content precipitable by potassium hexacyanoferrate (II).* According to the Method 30/22/23 of Schweitzerisches Lebensmittelbuch, Chapter 30, Wein.[6 8] Results are expressed as mg total metal content precipitable by potassium hexacyanoferrate (II)/kg.

7.14 *Determination of sulphur dioxide (checking absence of SO_2).* According to the IFJU method No. 7, 1968: Determination of total sulphur dioxide. Results are expressed as mg SO_2/kg.

7.15 *Determination of water capacity and fill of containers.* According to the method published in the Almanac of the Canning, Freezing, Preserving Industries, 55th Edition, 1970, p. 131-132, E. E. Judge and Sons, Westminster, Md. (U.S.A.).[8 9]

The following is a comparison of what, in the opinion of the Commissioner, are the principal differences between the Codex standard, the USDA standards, and the proposed U.S. standards on which the Commissioner invites comments with supporting data. Following each item of comparison is the action the Commissioner proposes to take:

COMPARISON OF IDENTITY ASPECTS AND PROPOSED COURSE OF ACTIONS

DESCRIPTION OF JUICE

1. Codex (1.) states that lemon juice intended for direct consumption is "unfermented but fermentable."

The USDA standard requires that the juice be "unfermented."

The Commissioner agrees that lemon juice should be the "unfermented" juice of the lemon fruit which, he points out, is characteristic of all freshly extracted fruit juice. However, the Commissioner is proposing to include in the U.S. standard the optional use of chemical preservatives which would inhibit fermentation. Consequently, he is not proposing that lemon juice be "fermentable." The use of "preservatives" is discussed under the heading "Preservation."

BOTANICAL NAME

2. Codex (1.) identifies the botanical designation of lemons as being *Citrus limon* Burm. f.

The USDA standard (7 CFR 52.5481) for lemon juice provides for the use of lemons of the high acid varieties but does not identify the lemon by its botanical name.

The Commissioner, in order to facilitate international trade, is proposing to include the botanical name of lemons in the standard but elects to use the designation *Citrus limon* (L.) Burm. f. based upon published recommendations of horticulturists of this country. Copies of these publications are on file with the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

PRESERVATION

3. Codex (1.) states that the juice is "preserved exclusively by physical

[3] To be amended by IFJU to take into account operating temperatures higher than 20°C.

[4] To be included in the IFJU Manual at a later stage.

[5] Temporarily endorsed.

[6] Temporarily endorsed.

[7] To be finalized by 1972.

[8] To be included in the IFJU Manual at a later stage.

[9] Reproduced in ALINORM 71/23, Appendix V.

means", which would include refrigeration and/or freezing as well as the customary method of heat sterilization.

The USDA standard (7 CFR 52.5481) is restricted to the "canned" product preserved by heat sterilization.

It is the Commissioner's understanding that lemon juice ordinarily is not consumed as a beverage as is common for other juices such as apple, grapefruit, and orange, but is used as the fruit component in diluted and sweetened beverages such as lemonade and punch. He further understands that much of the lemon juice available for direct sales to the American consumer contains safe and suitable preservatives because of the need to protect the food for long periods of time once the container is opened. Because of the manner in which lemon juice is marketed and used in the United States, the Commissioner is proposing to include in the U.S. standard the optional use of safe and suitable preservatives, in addition to providing for heat sterilization, freezing, and refreigeration as physical methods of preservation.

LEMON JUICE PREPARED FROM CONCENTRATE

4. Codex (1.) states that the juice may have been concentrated and later reconstituted with water suitable for the purpose of maintaining the essential composition and quality factors of the juice.

The USDA standard (7 CFR 52.5481) states that the lemon juice is the undiluted and unconcentrated juice from mature lemons. It does not provide for the use of concentrated lemon juice as does Codex.

The Commissioner views the Codex provision as a desirable feature and is so proposing with appropriate labeling.

SOLUBLE LEMON SOLIDS

5. Codex (2.1) specifies that the soluble lemon solids content shall be not less than 6 percent m/m as determined by refractometer.

The USDA standard does not provide for a minimum soluble solids content.

The Commissioner recognizes that lemons vary in composition and natural soluble solids for a number of reasons, and he believes that the unconcentrated liquid obtained from mature lemons should be recognized as lemon juice. Therefore, he is not proposing a minimum soluble solids requirement for lemon juice. At the same time, he is of the opinion that lemon juice prepared from concentrate should be standardized to a minimum soluble solids to prevent over dilution with water. The Commissioner, therefore, is proposing to include the Codex minimum soluble solids requirement of 6 percent by weight for lemon juice prepared from concentrate.

6. Codex (2.1) states that the total titratable acidity is not less than 4.5 percent m/m expressed as anhydrous citric acid.

The USDA standard (7 CFR 52.5488) for Grade C provides an acidity requirement of not less than 4.5 grams nor more than 7.5 grams of acid per 100 milliliters of juice.

The Commissioner recognizes that the acidity of the unconcentrated juice varies for a number of reasons and, therefore, he is not proposing a minimum total titratable acidity requirement for lemon juice. However, the Commissioner is proposing to adopt the Codex provision of a minimum of 4.5 percent by weight for lemon juice prepared from concentrate. The Commissioner notes that this codex minimum acidity requirment is identical with that of the USDA standard at the Grade C level. He questions the need to establish a maximum level, as is stated in the USDA standards, and therefore is not so proposing.

ETHANOL CONTENT

7. Codex (2.2) states that the ethanol content shall not exceed 3 grams per kilogram.

The Commissioner notes that U.S. standards for other juices, such as orange juice and pineapple juice, do not have similar requirements and questions the need for such a provision in the standard for lemon juice. He therefore has not included an ethanol requirement in this proposal.

LEMON OIL AND ESSENCE

8. Codex (2.3) states that the essential oils content shall not exceed 0.5 milliliter per kilogram. Codex further states (2.4) that natural volatile lemon juice components may be restored to any lemon juice from which natural lemon juice components have been removed.

The USDA standards do not have such requirements.

The Commissioner believes that it is desirable to permit adjustment of the lemon oil and/or the lemon essence content in order to compensate for changes that may result either from geographic or seasonal variations in the composition of the fruit used or from the loss of such components during the processing of the fruit. In view of the Codex requiremtent as it concerns lemon oil, the Commissioner is proposing that lemon oil, as well as the lemon essence content, may be adjusted in accordance with good manufacturing practice. However, he particularly invites the submission of any available data in support of a specific maximum for his consideration in the promulgation of a final regulation.

ORGANOLEPTIC PROPERTIES

9. Codex (2.4) states that the product shall have a characteristic color, aroma, and flavor of lemon juice.

The USDA standard for color (7 CFR 52.5486 states that, to be classified as Grade C, lemon juice should have a fairly good color, fairly bright and not offcolor. The USDA standard for flavor (7 CFR 52.5488) states that the food, to be classified as Grade C, should have normal flavor, which may be slightly caramelized or oxidized, but is not off-flavor.

The Commissioner agrees that lemon juice should have a characteristic color, aroma, and flavor. At the same time, he does not believe that either Codex or the USDA standards have sufficiently precise and objective requirements to use in establishing an enforceable standard of quality. He, therefore, is not including such requirements in this proposal. The Commissioner notes, however, that if the food is abnormal in color or flavor, it may be found in violation of section 402 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 342).

ADDITION OF CONCENTRATES TO JUICE

10. Codex (2.5) permits the addition of lemon concentrate to lemon juice.

The USDA standard does not provide for the use of concentrates.

The Commissioner is not proposing at this time to include the Codex provision permitting the addition of concentrate to lemon juice. He invites interested persons to submit comments with supporting data concerning the benefit of such a provision in the U.S. standard for lemon juice. In the event that a benefit is demonstrated, he also invites comments regarding what limitation should be placed on the amount of concentrate which may be added to lemon juice and what type of labeling would be appropriate to inform the consumer of such addition.

LABELING

NAME OF THE FOOD

11. Codex (6.1) states that the name of the product is "lemon juice." Codex (6.2) also states that in the case of lemon juice made from concentrate, the fact of reconstitution shall be declared in the list of ingredients as "lemon juice made from concentrate or "reconstituted lemon juice" or lemon juice from concentrated lemon juice".

The Commissioner agrees that when the juice is prepared from freshly extracted mature lemons the name of the food is "lemon juice." However, when the juice is prepared from concentrate, he does not believe that the fact of reconstitution is sufficiently prominent when declared only as part of the ingredient statement. Therefore, he is proposing that whenever

the food is prepared from concentrate the name shall be "lemon juice from concentrate" or "reconstituted lemon juice."

LIST OF INGREDIENTS

12. Codex (6.2) does not specifically state that all ingredients shall be listed.

The Commissioner is proposing that all ingredients must be declared on the label in accordance with appropriate sections of Part 101 (21 CFR Part 101).

COMPARISON OF FILL OF CONTAINER ASPECTS FOR LEMON JUICE AND PROPOSED COURSE OF ACTION

MINIMUM FILL OF CONTAINER

13. Codex (5.1.1) provides for a minimum fill of not less than 90 percent of the water capacity of the container.

The USDA standard (7 CFR 52.5483) recommends that the container be as full as practical but not less than 90 percent of the water capacity of the container.

The Commissioner believes that the Codex provision is reasonable and will control fill of container. He therefore proposes to adopt the Codex provision of 90 percent minimum fill but is proposing that compliance be based upon the general method for fill of container prescribed in § 130.12(b) (21 CFR 130.12(b)).

LABELING OF SUBSTANDARD FILL OF CONTAINER

14. Codex (5.) does not provide for substandard labeling of lemon juice that fails to meet the fill of container requirements.

In view of the proposed standard of fill of container, the Commissioner is of the opinion that it is reasonable to require that the label of a product that fails to meet the minimum fill of container requirement bear a declaration of substandard fill. He therefore is proposing that a product that does not meet the fill of container requirement be labeled in accordance with § 130.14(b) (21 CFR 130.14(b)).

METHODS OF ANALYSIS

15. Codex (7.) provides methods of analysis for the analytical requirements in the standard, such methods generally being those of the International Federation of Fruit Juice Producers (IFJU).

The USDA standard (7 CFR 52.5490) sets out methods of analysis for (a) "Fine centrifuged pulp" and (b) "Light membranous materials."

The Commissioner proposes to follow the customary practice of referencing Association of Official Analytical Chemists (AOAC) procedures.

METHOD OF SAMPLING

16. Codex (7.1) references the IFJU method No. 1 for sampling and expression of results. The Commissioner is proposing to reference the sampling and acceptance procedure in § 146.3(h) (21 CFR 146.3(h)) as being more appropriate for compliance purposes.

The Commissioner proposes that all products initially introduced into interstate commerce on or after July 1, 1979, shall comply with the regulation, except as to any provisions that may be stayed by the filing of proper objections.

The Commissioner has considered the environmental effects of the issuance or amendment of food standards and has concluded in § 25.1(d)(4) (21 CFR 25.1 (d)(4)) that food standards are not major agency actions significantly affecting the quality of the human environment. Therefore, an environmental impact statement is not required for this proposal.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 401, 701(e), 52 Stat. 1046 as amended, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e))) and under authority delegated to the Commissioner (21 CFR 5.1), it is proposed that Part 146 of Chapter I of Title 21 of the Code of Federal Regulations be amended by adding § 146.114 to read as follows:

§ 146.114 Lemon juice.

(a) *Identity*—(1) *Description.* Lemon juice is the unfermented juice, obtained by mechanical process, from sound, mature lemons (*Citrus limon* (L.) Burm. f.), from which seeds (except embryonic seeds and small fragments of seed which cannot be separated by good manufacturing practice) and excess pulp are removed. The lemon oil and lemon essence (derived from lemons) content may be adjusted in accordance with good manufacturing practice. The juice may have been concentrated and later reconstituted with water. When prepared from concentrated lemon juice, the finished food contains not less than 6 percent, by weight, of soluble solids taken as the refractometric sucrose value (of the filtrate), corrected to 20° C, but uncorrected for acidity, in accordance with the International Scale of Refractive Indices of Sucrose Solutions in table 52 012 of "Official Methods of Analysis of the Association of Official Analytical Chemists," 12th ed., 1975,[10] and has a titratable acidity content of not less than 4.5 percent, by weight, calculated as anhydrous citrus acid. Safe and suitable preservatives may be added. Lemon juice, as defined in this paragraph, may be preserved by heat sterilization (canning), refrigeration, freezing, or by the addition of safe and suitable preservatives. When sealed in a container to be held at ambient temperatures, it is so processed by heat, before or after sealing, as to prevent spoilage.

(2) *Labeling.* (i) The name of the food is:

(*a*) "Lemon juice" if the food is prepared from unconcentrated, undiluted liquid extracted from mature lemons;

(*b*) "Lemon juice from concentrate" if the food is prepared from concentrated lemon juice and water.

(ii) Each of the optional ingredients used shall be declared on the label as required by the applicable sections of Part 101 of this chapter.

(b) [Reserved].

(c) *Fill of container.* (1) The standard of fill of container for lemon juice, except when the food is frozen, is not less than 90 percent of the total capacity of the container as determined by the general method for fill of container prescribed in § 130.12(b) of this chapter.

(2) Compliance is determined as specified in § 146.3(g)(2).

(3) If the lemon juice fails to meet the standard of fill as prescribed in paragraph (c)(1) and (2) of this section, the label shall bear the general statement of substandard fill specified in § 130.14(b) of this chapter, in the manner and form therein prescribed.

Interested persons may, on or before June 6, 1978, submit to the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

NOTE.—The Food and Drug Administration has determined that this proposal will not have a major economic impact as defined by Executive Order 11821 (amended by Executive Order 11949) and OMB Circular A-107. A copy of the economic impact assessment is on file with the Hearing Clerk, Food and Drug Administration.

Dated: March 30, 1978.

HOWARD R. ROBERTS.

NOTE.—Incorporation by reference approved by the Director of the Office of the Federal Register on March 11, 1976 and is on file in the Federal Register library.

[FR Doc. 78-9225 Filed 4-6-78; 8:45 am]

[10] Copies may be obtained from: Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, D.C. 20044.

[1505-01]

[21 CFR Part 448]

[Docket No.78N-0028]

STERILE COLISTIMETHATE SODIUM

Revised Chemical Tests

Correction

In FR Doc. 78-7239, appearing at page 11714, in the issue for Tuesday, March 21, 1978, make the following corrections:

1. On page 11714 in § 448.20a(a)(1)(v), the second line now reading "than 6 percent." should be corrected to read "than 6.0 percent."

2. On page 11715 in § 448.20a(b)(7)(ii), the fourth line now reading "milliliter of 0.2 *N* iodine. The color is" should be corrected to read "milliliter of 0.02 *N* iodine. The color is".

[1505-01]

[21 CFR Part 680]

[Docket No. 77N-0436]

BLOOD GROUP SUBSTANCES A, B AND AB

Proposed Additional Standards

Correction

In FR Doc. 78-7367, appearing at page 11716, in the issue for Tuesday, March 21, 1978, on page 11717, in § 680.22(e), the dilution/reaction table should be corrected to read as follows:

Dilution	Un.	1:2	1:4	1:8	1:16	1:32	1:64	1:128	1:256	1:512,
Reaction	4+	4+	4+	4+	4+	3+	2+	1+	0	0

[4910-22]

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[23 CFR Part 924]

[FHWA Docket No. 78-4]

HIGHWAY SAFETY IMPROVEMENT PROGRAM

Proposed Revision

AGENCY: Federal Highway Administration, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Highway Administration (FHWA) proposes to issue the following revision to the Highway Safety Improvement Program regulations, in order to condense and clarify the existing regulations and to comply with the requirement of the FHWA policy on the minimization of red tape.

DATES: Comments must be received on or before May 22, 1978.

ADDRESS: Submit comments, preferably in triplicate, to FHWA Docket No. 78-4, Federal Highway Administration, Room 4230, 400 Seventh Street, SW., Washington, D.C. 20590. All comments and suggestions received will be available for examination at the above address between 7:45 a.m. and 4:15 p.m. ET, Monday through Friday.

FOR FURTHER INFORMATION CONTACT:

Mr. James L. Rummel, Office of Highway Safety; or Mrs. Kathleen S. Markman, Office of the Chief Counsel, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590.

SUPPMEMENTARY INFORMATION: FHWA proposes to clarify and condense the existing highway safety improvement program regulations, formerly published at 23 CFR Part 655, Subpart E. This format revision will allow the States and local governments the needed flexibility to implement a highway safety program equally effective on all highway systems. The only new requirements added in the proposed regulations are the "hazardous materials" and "people" factors added in proposed § 924.11(a)(2)(ii) (e) and (f) for the purpose of setting priorities for grade crossing projects.

NOTE.—The FHWA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Orders 11821 and 11949 and OMB Circular A-107.

In consideration of the foregoing, the Federal Highway Administration proposes to vacate and reserve Part 655, Subpart E and to add part 924 to Chapter I of Title 23, Code of Federal Regulations, as set forth below.

Issued on: March 27, 1978.

L. P. LAMM,
Executive Director.

PART 924—HIGHWAY SAFETY IMPROVEMENT PROGRAM

Sec.

924.1 Purpose.
924.3 Definition.
924.5 Policy.
924.7 Program Structure.
924.9 Planning.
924.11 Development and Implementation.
924.13 Evaluation.
924.15 Reporting.

AUTHORITY: 23 U.S.C. 105(f), 152, 153, 315, 402; Sec. 203 of the Highway Safety Act of 1973, as amended; and 49 CFR 1.48.

§ 924.1 Purpose.

The purpose of this regulation is to set forth policies for the development and implementation of a comprehensive program for the identification and improvement of hazardous highway locations or features.

§ 924.3 Definition.

The term "State," as used in this regulation, means any one of the 50 States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, and American Samoa except that, for the purpose of implementing Section 203 of the Highway Safety Act of 1973, as amended, "State" means any one of the 50 States, the District of Columbia, and Puerto Rico.

§ 924.5 Policy.

Each State shall develop and implement, on a continuing basis, a highway safety program which has the overall objective of reducing the number and severity of accidents on all highways. The program shall be developed in such a manner that it is responsive to accident experience and variations in traffic volumes, safety improvement effectiveness, and available resources.

§ 924.7 Program structure.

The highway safety program in each State shall consist of separate components for planning, development and implementation, and evaluation of safety projects and programs. These components shall be made up of defined processes developed by the State and subject to acceptance by the Federal Highway Administration (FHWA). The processes may incorporate a range of alternate procedures appropriate for the administration of an effective safety program on specific highway systems, portions of highway systems (low volume roads), or in local political subdivisions.

§ 924.9 Planning.

(a) The planning component of the highway safety program in each State shall incorporate:

(1) A process for collecting and maintaining accident and highway data, including:

(i) A reference system used to locate accidents and highway design elements and operational features,

(ii) A record of accident experience at specific sites such as intersections, highway segments, or spot locations,

(iii) A record of hazardous roadway design elements and roadside obstacles, and

(iv) A record of all public railroad-highway grade crossings which identifies the type of existing warning devices, train and motor vehicle traffic volumes, and other crossing site characteristics, and

(2) A process of data analysis to identify and categorize safety deficiencies in the following areas:

(i) Hazardous locations identified by accident experience,

(ii) Hazardous roadway features or design elements, and

(iii) Hazardous operational practices.

(b) The processes for data collection and analysis may be financed with funds made availabe through 23 U.S.C. 402, 307(c), and, where applicable, 104(f).

§ 924.11 Development and implementation.

(a) The development and implementation component of the highway safety program in each State shall incorporate:

(1) A process for the conduct of an engineering study of the locations identified in § 924.11(a)(2) which results in the development of a program of proposed improvements,

(2) A process for the selection of safety improvements on a priority basis for all State and local roads, considering:

(i) For high-hazard/roadside obstacle safety improvements:

(A) The potential reduction in the number and severity of accidents,

(B) The cost and feasibility of the proposed improvement, and

(C) Other criteria as appropriate in each State, and

(ii) For improvements at public railroad-highway grade crossings:

(A) The legislative requirement that all public grade crossings be provided with standard signing,

(B) The ranking of crossing improvements using the State's current hazard index,

(C) An onsite inspection,

(D) The accident history at the crossing,

(E) The frequency with which trains or motor vehicles carrying hazardous materials use the crossing, and

(F) The number of persons potentially exposed to the hazards associated with the crossing (a "people factor") giving consideration to passenger train load factors; frequency of use by school or transit buses, pedestrians, and bicyclists; or other special situations which expose large numbers of people to crossing hazards, and

(3) A process for scheduling and implementing safety improvements, including:

(i) The inclusion of safety improvements in the Federal-aid program prescribed by 23 U.S.C. 105 and further described in 23 CFR Part 630, Subpart A, and

(ii) The implementation of safety improvements using normal Federal-aid procedures. The States are encouraged to utilize the timesaving procedures incorporated in the FHWA directives system for the types of projects normally undertaken as safety improvements. The Federal Highway Administrator finds it to be in the public interest for a State or local government to use its own forces for implementing safety improvements, if the State so requests.

(b) The processes for developing safety improvements may be financed with funds made available through 23 U.S.C. 402, 307(c) and, where applicable, 104(f).

(c) All categories of safety improvements implemented (constructed) on the Federal-aid system are eligible for regular Federal-aid funding with funds apportioned under 23 U.S.C. 104(b) at the established pro-rata share.

(d) Specific categories of safety improvements may be undertaken on the Federal-aid system (except Interstate) with funds authorized for programs in 23 U.S.C. 152 and 153, and in Section 203(b) of the Highway Safety Act of 1973, as amended. Safety improvements at railroad-highway grade crossings located off the Federal-aid system may be undertaken with funds authorized for the Off-System Rail-Highway Crossings program in section 203(c) of the Highway Safety Act of 1973, as amended. The Federal share of projects undertaken in these categories shall be 90 percent except that, for the section 203 program, this share may be increased when necessary to provide matching funds to a local government where, under State law, State funds may be spent only when a local government produces matching funds.

(e) Under section 203 of the Highway Safety Act of 1973, as amended, at least half the funds shall be used for the installation of protective (warning) devices. The railroad share, if any, of the cost of grade crossing improvements shall be determined in accordance with 23 CFR Part 646, Subpart B.

§ 924.13 Evaluation.

(a) The evaluation component of the highway safety program in each State shall include a process to determine the effect that safety improvements have in reducing the number and severity of accidents including, as a minimum, a comparison of accident numbers and rates before-and-after the improvements are made.

(b) The evaluation component may be financed with funds made available through 23 U.S.C. 402, 307(c), and where applicable, 104(f).

§ 924.15 Reporting.

(a) Each State shall submit a report (04-R2450) to the FHWA Division Administrator by August 31 of each year containing the yearly evaluation of safety improvements and the State's progress in implementing the individual programs established in the Highway Safety Act of 1973, as amended.

(b) The preparation of the State's annual report may be financed with funds made available through 23 U.S.C. 402, 307(c), and, where applicable, 104(f).

[FR Doc. 78-9228 Filed 4-6-78; 8:45 am]

[4310-02]

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[25 CFR Part 43h]

PREPARATION OF A ROLL OF ALASKA NATIVES

Proposed Implementation of Revised Disenrollment Program

MARCH 29, 1978

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

ACTION: Proposed rules.

SUMMARY: The Alaska Native Claims Settlement Act (the "Act") provided that fair and just settlement be made of all land claims by Natives and Native groups of Alaska and directed the Secretary of the Interior to prepare a roll of Alaska Natives. This document proposes regulations to implement the revised disenrollment program carried out under the Act.

DATES: Written comments must be received on or before May 8, 1978.

ADDRESSES: Send comments to: Assistant Secretary—Indian Affairs, 1951 Constitution Avenue, NW., Washington, D.C. 20245.

FOR FURTHER INFORMATION CONTACT:

Ms. Janet L. Parks, Chief, Branch of Tribal Enrollment Services, Bureau of Indian Affairs, 1951 Constitution Avenue, NW., Washington, D.C. 20245, telephone: 202-343-2985.

SUPPLEMENTARY INFORMATION: Section 5 of the Alaska Native Claims Settlement Act as amended by the Act of January 2, 1976, (Pub. L. 94-204,89 Stat. 1145), directed the Secretary of the Interior to prepare a roll of Alaska Natives within two years of the date of passage of the act. Because of the immense nature of that task, the roll was not completed within two years in that administrative appeals were still pending. Rather, the Secretary certified the roll at the end of two years as subject to changes as a result of future legal determinations.

By 1974, the Department realized that the roll contained the names of persons who were ineligible for enrollment under the terms of the Act. Accordingly, the Secretary directed the Bureau of Indian Affairs to conduct a disenrollment program to assure the purity and integrity of the Alaska roll.

Since the disenrollment program has grown in size and complexity, consuming far more time and resources than

expected and incurring disapproval of Native corporations which had four years ago approved the concept of the program, the Department initiated a policy review of the disenrollment program.

Pursuant to that review, the Secretary has determined that finality of the roll is now more important to the Natives than attempting to achieve absolute purity and has therefore directed that the disenrollment program be limited to present contestees who have been challenged on one of the following grounds: death prior to or birth after December 18, 1971, enrollment to the Metlakatla Indian Community as of April 1, 1970, no Native ancestry and lack of U.S. Citizenship either by birth or naturalization.

The purpose of these regulations is to specify how those contests already filed shall be handled under the revised disenrollment policy. These proposed rules do not alter the current deadline for the filing of disenrollment contests (25 CFR 43h.15(c)) and do not, therefore, allow the filing of any new or additional disenrollment challenges. Moreover, the proposed regulations provide in subsection (e) that the coordinator and regional solicitor must base their review and decisions whether to resume or withdraw a contest, on the grounds for ineligibility currently stated in the complaints except that if a person who has no native blood has been challenged on the grounds of having less than ¼ Native blood the contest may be resumed and the complaint may be amended to read "No Native Ancestry." This does not otherwise limit the possibility of amending the complaint under 43 CFR Part 4.1003.

Drafting Information: These regulations were drafted by attorneys in the Division of Indian Affairs of the Office of the Solicitor, Department of the Interior. The principal authors were Scott Keep and Jeanne Franklin of the Solicitor's Office.

This notice is published in exercise of the authority contained in 5 U.S.C. 301 and sections 463 and 465 of the revised statutes (25 U.S.C. 2 and 9), and 230 DM 1 and 2.

FORREST J. GERARD,
Assistant Secretary,
Indian Affairs.

Subchapter F of Chapter I of Title 25 Part 43h of the Code of Federal Regulations is hereby amended by adding new paragraphs to § 43h.15 as follows:

§ 43h.15 Disenrollment.

* * * * *

(d) All disenrollment contests which have been filed, pursuant to this part, and which have not resulted in the issuance of a written opinion by the administrative law judge, as of the date of promulgation of these regulations shall be reviewed by the coordinator together with the regional solicitor.

(e) Following the review of disenrollment contests prescribed by § 43h.15(d), the coordinator and the regional solicitor shall continue to contest an individual's enrollment only where the complaint already filed, states one of the following as grounds for that individual's disenrollment: That such person died before or was born after December 18, 1971, or was enrolled in the Metlakatla Indian Community as of April 1, 1970, or has no native ancestry, or is not a United States citizen either by birth or naturalization. Except that, if the complaint states "less than ¼ Native blood" as the grounds for disenrollment, but the contestee in fact has no native ancestry, the contest may be resumed and the complaint amended to read "No Native Ancestry" as the grounds for disenrollment. Furthermore, if the grounds currently stated or other information included on the face of the complaint and the Statement of reasons attached thereto clearly indicate that a person has been incorrectly placed on the roll as a result of that person's fraud the contest may be resumed and the complaint amended to state fraud as the grounds for disenrollment.

(f) The coordinator and the regional solicitor shall proceed immediately to withdraw or dismiss all other pending enrollment complaints with notice to all parties.

(g) The regional solicitor and coordinator shall complete all reviews called for by § 43h.15(d) no later than September 1, 1978.

(h) For purposes of § 43h.15(e) the coordinator and regional solicitor shall proceed against an individual on grounds that he is not a United States citizen only after they have investigated and satisfied themselves that the contestee has not been naturalized in any state and that the contestee is not a United States citizen by birth in accordance with the appropriate immigration and naturalization laws. A prior ruling by the regional solicitor that an individual was a United States citizen shall be conclusive and the disenrollment complaint shall be dismissed or withdrawn immediately.

[FR Doc. 78-9276 Filed 4-6-78; 8:45 am]

[4310-02]

[25 CFR Part 256]

OFF-RESERVATION TREATY FISHING

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Bureau of Indian Affairs is considering the amendment of the Off-Reservation fishing regulations in order to bring them up to date with recent developments. These amendments are being considered because of the need to make the regulations consistent with new developments in treaty Indian fishing rights, regulatory authority, and in the development of tribal expertise and scientific capabilities.

DATE: Comments must be received on or before May 22, 1978.

ADDRESS: Comments must be provided to the: Bureau of Indian Affairs, Office of the Area Director, Attention: Land Services, P.O. Box 3785, Portland, Oreg. 97208.

FOR FURTHER INFORMATION CONTACT:

Vincent Little, Area Director, Portland Area Office, Bureau of Indian Affairs, P.O. Box 3785, Portland, Oreg. 97208, Phone: 503-234-3361.

SUPPLEMENTARY INFORMATION: These regulations were originally issued in 1967. Since that time, particularly in 1977, there have been substantial changes in the field of fisheries management. The federal courts have further defined treaty Indian fishing rights and have set forth certain requirements to aid in the identification of treaty Indian fishermen. See *United States* v. *Washington*, 384 F. Supp. 312 (W. D. Wash., 1974) and subsequent orders. The Federal Government has also significantly increased its role in the management of fisheries in waters which encompass treaty tribal fishing places. This occurred through the extension of U.S. regulatory authority under the Fishery Conservation and Management Act of 1976, 16 U.S.C. 1801 et seq., as well as by the exercise of regulatory authority under the Pink Salmon and Sockeye Act of 1949, 16 U.S.C. 776, and by implementation of Indian treaty fishing rights under orders of the federal courts. In many instances the management roles of the treaty fishing tribes have expanded, and tribal technical expertise and scientific capabilities have become well recognized and fully established in the fisheries field. Intertribal cooperation in access to productive fisheries and in the sharing of regulatory responsibility for common fisheries has become the pattern.

Amendment of this regulation is being considered because of the need to make it consistent with these developments, and to improve its usefulness to the United States and the treaty fishing tribes in the complex and rapidly developing field of fisheries management. Interested persons are invited to comment on the proposed rules by submitting such written data, views, or arguments as they may desire. Comments should identify the Chapter, Part, and section of the regu-

lations for which comment is provided. Comments should be submitted to the Bureau of Indian Affairs, Office of the Area Director, P.O. Box 3785, Portland, Oreg. 97208, no later than May 22, 1978.

The proposal contained in this Notice may be changed in light of the comments received. All comments submitted will be available for examination by interested persons, both before and after the closing of the comment period. If, after review of the comments, it is determined that changes should be made in this proposal, they will be reflected in the publication of the final rules.

The primary author of this document is: Joe Warner, Lands Division, Bureau of Indian Affairs, Portland Area Office, P.O. Box 3785, Portland, Oreg. 97208 (503-234-3361).

FORREST J. GERARD,
Assistant Secretary,
Indian Affairs.

Section 256 Subpart A is proposed to be amended as follows:

SECTION 256.2 AREA REGULATIONS

(a) Near the end of the first sentence following the words "in conjunction with appropriate State", delete the word "conservation" and substitute in its place the words "or other applicable". Immediately following this change, after the word "laws" delete the word "and" and substitute the word "or" in its place.

(b) After the words "incorporate such State" insert the words "or Federal".

(c) After the words "any affected State," insert the words "of any Federal agency having fisheries management responsibilities for any affected fishery, including a Regional Fisheries Management Council established by Pub. L. 94-265 or the United States section of any international fisheries commission,".

(d) (no change)

(e) After the word "appropriate" insert the words "federal, tribal, or".

SECTION 256.3 IDENTIFICATION CARDS

(a) (no change)

(b) In the second sentence change the year "1977" to "1980". Following the second sentence insert a new sentence "All temporary cards issued after the date of this 1978 amendment shall be stamped or have printed prominently thereon, 'void after December 31, 1980'."

(c) (no change)

(d) After the word "contain" insert the words "the holder's picture and".

(e) (f), (g) and (h). (no change)

SECTION 256.4 IDENTIFICATION OF FISHING EQUIPMENT

In the first sentence after the word "All" insert the word "vessels,". In the second sentence after the words "contrary, any" insert the words "vessel or", and after the words "under State" insert the words "or other applicable".

SECTION 256.5 USE OF UNAUTHORIZED HELPERS OR AGENTS

(Change to read as follows:)

"Any treaty Indian may, if authorized by his tribe, be assisted by his or her spouse, forebears, children, grandchildren or siblings in the excercise of off-reservation treaty-secured fishing rights in accordance with the provisions of this Part 256, *provided That* any such assistant has in his possession at all such times identification comparable to that prescribed in § 256.3 of this Part, which identification shall include signature and Fishery identification card number of the person whom the nonmember is authorized to assist. The Assistant Secretary—Indian Affairs may arrange for the issuance of such identification card. Nothing in this Part 256 shall authorize a nonmember assistant to engage in any fishing activity outside the presence of the authorized member fishermen."

SECTION 256.7 SAVINGS PROVISIONS

(a) and (b) (no change)

(c) Change the word "Indian" to "person", and following the words "prohibited by any" insert the words "applicable tribal", and at the end of the paragraph delete the words "of his tribe".

Part 256 (Throughout all applicable parts.)

Change all parts containing "Commissioner" or "Commissioner of Indian Affairs" to "Assistant Secretary—Indian Affairs" wherever it appears.

Part 256 is amended to read as set forth below:

PART 256—OFF-RESERVATION TREATY FISHING

Sec.
256.1 Purpose.
256.2 Area regulations.
256.3 Identification cards.
256.4 Identification of fishing equipment.
256.5 Use of unauthorized helpers or agents.
256.6 Enforcement and penalties.
256.7 Savings provisions.

AUTHORITY: 25 U.S.C. 2,9; 5 U.S.C. 301

§ 256.1 Purpose.

(a) The purposes of these regulations (Part 256) are:

(1) To assist in protecting the off-reservation nonexclusive fishing rights which are secured to certain Indian tribes by their treaties with the United States;

(2) To promote the proper management, conservation and protection of fisheries resources which are subject to such treaties of the United States;

(3) to provide for determination of restrictions on the manner of exercising nonexclusive fishing privileges under rights secured to Indian tribes by such treaties of the United States necessary for conservation of the fisheries resources;

(4) To assist in the orderly administration of Indian Affairs;

(5) To encourage consultation and cooperation between the States and Indian tribes in the management and improvement of fisheries resources affected by such treaties;

(6) To assist the States in enforcing their laws and regulations for the management and conservation of fisheries resources in a manner compatible with the treaties of the United States which are applicable to such resources.

(b) The conservation regulations of this Part 256 are found to be necessary to assure that the nonexclusive rights secured to certain Indian tribes by treaties of the United States to fish at usual and accustomed places outside the boundaries of an Indian reservation shall be protected and preserved for the benefit of present and future members of such tribes in a manner consistent with the nonexclusive character of such rights. Any exercise of an Indian off-reservation treaty fishing right shall be in accordance with this Part 256 and any applicable area regulations issued hereunder.

§ 256.2 Area regulations.

(a) The Secretary of the Interior may upon request of an Indian tribe, request of a State Governor, or upon his own motion, and upon finding that Federal regulation of Indian fishing in any waters in which Indians have a treaty-secured nonexclusive fishing right is necessary to assure the conservation and wise utilization of the fishery resources for the present and future use and enjoyment of the Indians and other persons entitled thereto, promulgate regulations to govern the exercise of such treaty-secured fishing right in such waters for the purpose of preventing, in conjunction with appropriate State or other applicable laws or regulations governing fishing by persons not fishing under treaty rights, the deterioration of the fishery resources.

(b) In formulating such regulations the Secretary of the Interior may incorporate such State or Federal laws or regulations, or such tribal regulations as have been approved by the Assistant Secretary—Indian Affairs as he finds to be consistent with the Indians' rights under the Treaty and the conservation of the fishery resources.

(c) Before promulgating such regulations the Secretary of the Interior will seek the views of the affected Indian tribes, of the fish or game management agency or agencies of any affect-

ed State, or any Federal agency having fisheries management responsibilities for any affected fishery, including a Regional Fisheries Management Council established by Pub. L. 94-265 or the United States section of any International fisheries commission, and of other interested persons. Except in emergencies where the Secretary finds that the exigencies require the promulgation of regulations to be effective immediately, a notice of proposed rule making will be published in the FEDERAL REGISTER in accordance with 5 U.S.C. 553 to afford an opportunity to submit comments and information, at such times and in such manner as may be specified in the notice. In the event of the emergency promulgation of regulations, interested persons will be afforded, as soon as possible, an opportunity to request amendment or revocation thereof.

(d) Any regulations issued pursuant to this section shall contain provisions for invoking emergency closures or restrictions or the relaxation thereof at the field level when necessary or appropriate to meet conditions not foreseeable at the time the regulations were issued.

(e) Regulations issued pursuant to this § 256.2 may include such requirements for recording and reporting catch statistics as the appropriate Federal, tribal, or state fish and game agencies or the Secretary of the Interior deem necessary for effective fishery management.

§ 256.3 Identification cards.

(a) The Assistant Secretary—Indian Affairs shall arrange for the issuance of an appropriate identification card to any Indian entitled thereto as prima facie evidence that the authorized holder thereof is entitled to exercise the fishing rights secured by the treaty designated thereon. The Assistant Secretary—Indian Affairs may cause a federal card to be issued for this purpose or may authorize the issuance of cards by proper tribal authorities: *Provided,* That any such tribal cards shall be countersigned by an authorized officer of the Bureau of Indian Affairs certifying that the person named on the card is a member of the tribe issuing such card and that said tribe is recognized by the Bureau of Indian Affairs as having fishing rights under the treaty specified on such card. Copies of the form of any identification card authorized pursuant to this section and a list of the authorized Bureau of Indian Affairs issuing or countersigning officials shall be furnished to the fisheries management and enforcement agencies of any State in which such fishing rights may be exercised.

(b) No such card shall be issued to any Indian who is not on the official membership roll of the tribe which has been approved by the Secretary of the Interior. *Provided,* That until December 31, 1980, a temporary card may be issued to any member of a tribe not having an approved current membership roll who submits evidence of his entitlement thereto satisfactory to the issuing officer and, in the case of a tribally issued card, to the countersigning officer. All temporary cards issued after the date of this 1978 amendment shall be stamped or have printed prominently thereon "Void after December 3, 1980". Any Indian claiming to have been wrongfully denied a card may appeal the decision in accordance with Part 2 of this chapter.

(c) No person shall be issued an identification card on the basis of membership in more than one tribe at any one time.

(d) Each card shall state the name, address, tribal affiliation and enrollment number (if any) of the holder, identify the treaty under which the holder is entitled to fishing rights, contain the holders picture and such additional personal identification data as is required on fishing licenses issued under the law of the State or states within which it is used, and be signed by the issuing officer and by the holder.

(e) No charge or fee of any kind shall be imposed by the Assistant Secretary—Indian Affairs for the issuance of an identification card hereunder: *Provided,* That this shall not prevent any Indian tribe from imposing any fee or tax which it may otherwise be authorized to impose upon the exercise of any tribal fishing right.

(f) All cards issued by the Assistant Secretary—Indian Affairs pursuant to this Part 256 shall be and remain the property of the United States and may be retaken by any Federal, State, or tribal enforcement officer from any unauthorized holder. Any card so retaken shall be immediately forwarded to the officer who issued it.

(g) The failure of any person who claims to be entitled to the benefits of a treaty fishing right to have such a card in his immediate personal possession while fishing or engaging in other activity in the claimed exercise of such right to display it upon request to any Federal, State, or tribal enforcement officer shall be prima facie evidence that the person is not entitled to exercise an Indian fishing right under a treaty of the United States.

(h) No person shall allow any use of his identification card by any other person.

§ 256.4 Identification of fishing equipment.

All vessels, fishing gear or other equipment used in the exercise of any off-reservation treaty fishing right shall be marked in such manner as shall be prescribed in regulations issued pursuant to § 256.2 hereof to disclose the identity of its owner or user. In the absence of proof to the contrary, any vessel or fishing gear which is not so marked or labeled shall be presumed not to be used in the exercise of an off-reservation treaty fishing right and shall be subject to control or seizure under State or other applicable law.

§ 256.5 Use of unauthorized helpers or agents.

Any treaty Indian may, if authorized by his tribe, be assisted by his or her spouse, forebears, children, grandchildren or siblings in the exercise of off-reservation treaty-secured fishing rights in accordance with the provisions of this Part 256, provided that any such assistant has in his possession at all such times identification comparable to that prescribed in § 256.3 of this part, which identification shall include the signature and Fishery Identification Card Number of the person whom the nonmember is authorized to assist. The Assistant Secretary—Indian Affairs may arrange for the issuance of such identification card. Nothing in this Part 256 shall authorize a nonmember assistant to engage in any fishing activity outside the presence of the authorized member fisherman.

§ 256.6 Enforcement and penalties.

(a) Any Indian tribe with a tribal court may confer jurisdiction upon such court to punish violations by its members of this Part 256 or of the area regulations issued pursuant thereto. Jurisdiction is hereby conferred upon each Court of Indian Offenses established pursuant to Part 11 of this chapter to punish such violations by members of tribes whose reservations are under the jurisdiction of such court. Courts of Indian Fishing Offenses may be created pursuant to Part 11 of this chapter to punish such violations by members of any tribe or group of tribes for which there is otherwise no Court of Indian Offenses or tribal court with jurisdiction to enforce this Part 256. The provisions of Part 11 of this chapter shall apply to any such court with respect to the exercise of its jurisdiction to enforce this Part 256. All jurisdiction conferred by this section shall apply without regard to any territorial limitations otherwise applicable to the jurisdiction of such court.

(b) Acceptance or use of an identification card issued pursuant to this Part 256 or use of any fishing gear

marked or identified pursuant thereto shall constitute an acknowledgment that the fishing done under such card or with such gear is in the claimed exercise of a tribal fishing right and is subject to the jurisdiction of the tribal court, Court of Indian Offenses, or Court of Indian Fishing Offenses. Except as may be otherwise provided by tribal regulations approved by or on behalf of the Secretary of the Interior, any person claiming to be exercising such tribal right and fishing in violation of the regulations contained in or issued under this Part 256 may be punished by a fine of not to exceed $500, imprisonment of not to exceed 6 months, or both, and shall have his tribal fishing privileges suspended for not less than 5 days for any violation of this Part 256 or of any area regulation issued pursuant thereto. The court shall impound the fishing rights identification card of any person for the period which the fishing privileges are suspended.

§ 256.7 Savings provisions.

Nothing in this Part 256 shall be deemed to:

(a) Prohibit or restrict any persons from engaging in any fishing activity in any manner which is permitted under state law;

(b) Deprive any Indian tribe, band, or group of any right which may be secured it by any treaty or other law of the United States;

(c) Permit any person to exercise any tribal fishing right in any manner prohibited by any applicable tribal ordinance or regulation;

(d) Enlarge the right, privilege, or immunity of any person to engage in any fishing activity beyond that granted or reserved by treaty with the United States;

(e) Exempt any person or any fishing gear, equipment, boat, vehicle, fish or fish products, or other property from the requirements of any law or regulation pertaining to safety, obstruction of navigable waters, national defense, security of public property, pollution, health and sanitation, or registration of boats or vehicles;

(f) Abrogate or modify the effect of any agreement affecting fishing practices entered into between any Indian tribe and the United States or any State or agency of either.

[FR Doc. 78-9288 Filed 4-6-78; 8:45 am]

[4510-27]

DEPARTMENT OF LABOR

Wage and Hour Division

[29 CFR Part 541]

DEFINING AND DELIMITING THE TERMS "ANY EMPLOYEE EMPLOYED IN A BONA FIDE EXECUTIVE, ADMINISTRATIVE, OR PROFESSIONAL CAPACITY (INCLUDING ANY EMPLOYEE EMPLOYED IN THE CAPACITY OF ACADEMIC ADMINISTRATIVE PERSONNEL OR TEACHER IN ELEMENTARY OR SECONDARY SCHOOLS), OR IN THE CAPACITY OF OUTSIDE SALESMAN".

Proposed Rule and Notice of Hearing Thereon

AGENCY: Wage and Hour Division, Labor.

ACTION: Proposed rule and notice of hearing thereon.

SUMMARY: The Wage and Hour Division of the Department of Labor will be conducting a hearing to determine the amount by which the salary test levels for exemption of bona fide executive, administrative, and professional employees should be increased. This action is necessary because current salary tests which were adopted on an interim basis, effective April 1, 1975, no longer provide basic minimum safeguards and protection for the economic position of low paid executive, administrative, and professional employees as contemplated by section 13(a)(1) of the Fair Labor Standards Act and current Department of Labor regulations.

DATES: A public hearing is to be held beginning at 10 a.m. on May 8, 1978. Interested parties desiring to testify in person should notify the Administrator in writing no later than April 26, 1978 of their desire to testify. Interested persons desiring to comment should submit their comments to the Administrator on or before May 8, 1978.

ADDRESS: The hearing will be held in Conference Room N-4437, A, B, C and D, U.S. Department of Labor building, 200 Constitution Avenue NW., Washington, D.C. 20210. Parties desiring to testify and parties desiring to submit comments should submit their requests or comments to Xavier M. Vela, Administrator, Wage and Hour Division, U.S. Department of Labor, NDOL, 200 Constitution Avenue NW., Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT:

Paul G. Campbell, Director, Division of Minimum Wage and Hour Standards, Office of Fair Labor Standards, Wage and Hour Division, U.S. Department of Labor, Washington, D.C. 20210, telephone 202-523-7043.

SUPPLEMENTARY INFORMATION: Section 13(a)(1) of the Fair Labor Standards Act provides an exemption from the minimum wage and overtime compensation requirements of the Act for any employee employed in a bona fide executive, administrative, or professional capacity (including any employee employed in the capacity of academic administrative personnel or teacher in elementary or secondary schools), or in the capacity of outside salesman as such terms are defined and delimited from time to time by regulations of the Secretary of Labor. The regulations provide, among other things, that in order to be exempt as a bona fide executive, administrative or professional employee, an individual must be compensated at a specified minimum level on a salary basis.

The current salary tests were adopted on an interim basis, effective April 1, 1975. This hearing is being held to determine the amount by which the salary test for exemption of bona fide executive, administrative, and professional employees should be increased.

The regulations currently provide that executive or administrative employees, in order to be exempt, must, among other requirements, be paid at a rate of not less than $155 a week on a salary basis ($130 a week if employed in Puerto Rico, the Virgin Islands or American Samoa), and that a professional employee, in order to be exempt must, among other requirements, be paid at a rate of not less than $170 a week on a salary or fee basis ($150 a week if employed in Puerto Rico, the Virgin Islands or American Samoa). These regulations also contain special high salary provisions for such employees who are paid $250 a week or more ($200 a week in Puerto Rico, the Virgin Islands or American Samoa).

Based upon an analysis of increases in the Consumer Price Index; increases in the average weekly earnings of production and non-supervisory employees; increases in the average weekly earnings of selected white collar employees; and legislated increases in the minimum wage provisions of the Fair Labor Standards Act, it is clear that the 1975 interim salary test levels no longer provide basic minimum safeguards and protection for the economic position of low paid executive, administrative, and professional employees as contemplated by section 13(a)(1) of the Act and 29 CFR Part 541 which is issued pursuant thereto.

Therefore, it is proposed that the salary tests in §§ 541.1(f), 541.2(e), and 541.3(e) be increased to $225 a week for executive and administrative employees, and $250 a week for professional employees. It is further proposed that the special salary proviso for high salaried executive, administrative and professional employees in §§ 541.1(f), 541.2(e) and 541.3(e) be increased to $350 a week and that the

salary requirements for the special provision for the motion picture industry in § 541.5a also be increased to $350 a week. All of these salary tests are exclusive of board, lodging or other facilities.

For employees in Puerto Rico, the Virgin Islands and American Samoa, it is proposed that a salary test of $200 a week for executive and administrative employees and $225 a week for professional employees be set. The special salary proviso for high salaried executive, administrative and professional employees in §§ 541.1(f), 541.2(e) and 541.e(3) would be increased for such employees to $300 a week.

Interested parties desiring to testify in person are requested to notify the Administrator in writing. They should furnish the following information:

(1) The name, address, and telephone number of the person(s) appearing.

(2) If appearing in a representative capacity, the person(s) appearing should provide the name(s) and address(es) of the person(s) or organization(s) being represented.

(3) The length of time required for the presentation.

(4) Where written data or comments are to be provided for the record, they should be furnished in triplicate.

Interested parties who do not desire to testify in person but who wish to submit written data, proposals or other related material for the record should provide such, in triplicate, to the Administrator, Wage and Hour Division, U.S. Department of Labor, Washington, D.C. 20210, not later than April 26, 1978.

In an endeavor to hear all interested parties, those persons who have not previously advised the Administrator that they wish to be heard will be heard following those who have so advised the Administrator, but they may be limited to ten minutes for their presentation.

This document was prepared under the direction and control of Herbert J. Cohen, Assistant Administrator, Office of Fair Labor Standards, Wage and Hour Division, U.S. Department of Labor.

Accordingly, it is proposed that 29 CFR Part 541 be amended as follows:

1. Paragraph (f) of § 541.1 is revised to read as follows:

§ 541.1 Executive.

* * * * *

(f) Who is compensated for his services on a salary basis at a rate of not less than $225 per week (or $200 per week, if employed by other than the Federal Government in Puerto Rico, the Virgin Islands, or American Samoa), exclusive of board, lodging, or other facilities: *Provided,* That an employee who is compensated on a salary basis at a rate of not less than $350 per week (or $300 per week, if employed by other than the Federal Government in Puerto Rico, the Virgin Islands or American Samoa), exclusive of board, lodging, or other facilities, and whose primary duty consists of the management of the enterprise in which the employee is employed or of a customarily recognized department or subdivision thereof, and includes the customary and regular direction of the work of two or more other employees therein, shall be deemed to meet all the requirements of this section.

2. Paragraph (e) of § 541.2 is revised to read as follows:

§ 541.2 Administrative.

* * * * *

(e) (1) Who is compensated for his services on a salary or fee basis at a rate or not less than $225 per week ($200 per week, if employed by other than the Federal Government in Puerto Rico, the Virgin Islands, or American Samoa), exclusive of board, lodging, or other facilities, or

(2) Who, in the case of academic administrative personnel, is compensated for services as required by paragraph (e)(1) of this section, or on a salary basis which is at least equal to the entrance salary for teachers in the school system, educational establishment, or institution by which employed: *Provided,* That an employee who is compensated on a salary or fee basis at a rate of not less than $350 per week ($300 per week if employed by other than the Federal Government in Puerto Rico, the Virgin Islands, or American Samoa), exclusive of board, lodging or other facilities, and whose primary duty consists of the performance of work described in paragraph (a) of this section, which includes work requiring the exercise of discretion and independent judgment, shall be deemed to meet all the requirements of this section.

3. Paragraph (e) of § 541.3 is revised to read as follows:

§ 541.3 Professional.

* * * * *

(e) Who is compensated for services on a salary or fee basis at a rate of not less than $250 per week ($225 per week, if employed by other than the Federal Government in Puerto Rico, the Virgin Islands, or American Samoa), exclusive of board, lodging, or other facilities: *Provided,* That this paragraph shall not apply in the case of an employee who is the holder of a valid license or certificate permitting the practice of law or medicine or any of their branches and who is actually engaged in the practice thereof, nor in the case of an employee who is the holder of the requisite academic degree for the general practice of medicine and is engaged in an internship or resident program pursuant to the practice of medicine or any of its branches, nor in the case of an employee employed and engaged as a teacher as provided in paragraph (a)(3) of this section: *Provided further,* That an employee who is compensated on a salary or fee basis at a rate of not less than $350 per week (or $300 per week, if employed by other than the Federal Government in Puerto Rico, the Virgin Islands, or American Samoa), exclusive of board, lodging, or other facilities, and whose primary duty consists of the performance either of work described in paragraph (a) (1) or (3) of this section, which includes work requiring the consistent exercise of discretion and judgment, or of work requiring invention, imagination, or talent in a recognized field of artistic endeavor, shall be deemed to meet all of the requirements of this section.

4. § 541.5a is revised to read as follows:

§ 541.5a Special provision for motion picture producing industry.

The requirements of §§ 541.1, 541.2, and 541.3 that the employee be paid "on a salary basis" shall not apply to an employee in the motion picture producing industry who is compensated at a base rate of at least $350 a week (exclusive of board, lodging, or other facilities).

5. Paragraphs (a) and (b) of § 541.117 are revised to read as follows:

§ 541.117 Amount of salary required.

(a) Except as otherwise noted in paragraph (b) of this section, compensation on a salary basis at a rate of not less than $225 per week, exclusive of board, lodging, or other facilities, is required for exemption as an executive. The $225 a week may be translated into equivalent amounts for periods longer than 1 week. The requirement will be met if the employee is compensated biweekly on a salary basis of $450 semimonthly on a salary basis of $487.50 or monthly on a salary basis of $975. However, the shortest period of payment which will meet the requirement of payment "on a salary basis" is a week.

(b) In Puerto Rico, the Virgin Islands, and American Samoa, the salary test for exemption as an "executive" is $200 per week for other than an employee of the Federal Government.

* * * * *

6. Paragraph (b) of § 541.118 is revised to read as follows:

§ 541.118 Salary basis.

* * * * *

(b) *Minimum guarantee plus extras.* It should be noted that the salary may consist of a predetermined amount constituting all or part of the employee's compensation. In other words, additional compensation besides the salary is not inconsistent with the salary basis of payment. The requirement will be met, for example, by a branch manager who receives a salary of $225 or more a week and in addition, a commission of 1 percent of the branch sales. The requirement will also be met by a branch manager who receives percentage of the sales or profits of the branch, if the employment arrangement also includes a guarantee of at least the minimum weekly salary (or the equivalent for a monthly or other period) required by the regulations. An other type of situation in which the requirement will be met is that of an employee paid on a daily or shift basis, if the employment arrangement includes a provision that the employee will receive not less than the amount specified in the regulations in any week in which the employee performs any work. Such arrangements are subject to the exceptions in paragraph (a) of this section. The test of payment on a salary basis will not be met, however, if the salary is divided into two parts for the purpose of circumventing the requirement of payment "on a salary basis." For example, a salary of $200 in each week in which any work is performed, and an additional $25 which is made subject to deductions which are not permitted under paragraph (a) of this section.

* * * * *

7. Section 541.119 is revised to read as follows:

§ 541.119 Special proviso for high salaried executives.

(a) Except as otherwise noted in paragraph (b) of this section, § 541.1 contains an upset or high salary proviso for managerial employees who are compensated on a salary basis at a rate of not less than $350 per week exclusive of board, lodging, or other facilities. Such a highly paid employee is deemed to meet all the requirements in paragraphs (a) through (f) of § 541.1 if the employee's primary duty consists of the management of the enterprise in which employed or of a customarily recognized department or subdivision thereof and includes the customary and regular direction of the work of two or more other employees therein. If an employee qualifies for exemption under this proviso, it is not necessary to test that employee's qualifications in detail under paragraphs (a) through (f) of § 541.1 of this Part.

(b) In Puerto Rico, the Virgin Islands, and American Samoa the proviso of § 541.1(f) applies to those managerial employees (other than employees of the Federal Government) who are paid on a salary basis at a rate of not less than $300 per week.

(c) Mechanics, carpenters, linotype operators, or craftsmen of other kinds are not exempt under the proviso no matter how highly paid they might be.

8. Paragraphs (a) and (b) of § 541.211 are revised to read as follows:

§ 541.211 Amount of salary or fees required.

(a) Except as otherwise noted in paragraphs (b) and (c) of this section, compensation on a salary or fee basis at a rate of not less than $225 a week, exclusive of board, lodging or other facilities, is required for exemption as an administrative employee. The requirement will be met if the employee is compensated biweekly on a salary basis of $450, semimonthly on a salary basis of $487.50, or monthly on a salary basis of $975.

(b) In Puerto Rico, the Virgin Islands, and American Samoa, the salary test for exemption as an administrative employee is $200 per week for other than an employee of the Federal Government.

* * * * *

9. Section 541.214 is revised to read as follows:

§ 541.214 Special proviso for high salaried administrative employees.

(a) Except as otherwise noted in paragraph (b) of this section, § 541.2 contains a special proviso including within the definition of "administrative" an employee who is compensated on a salary or fee basis at a rate of not less than $350 per week exclusive of board, lodging, or other facilities, and whose primary duty consists of either the performance of office or nonmanual work directly related to management policies or general business operations of the employer or the employer's customers, or the performance of functions in the the administration of a school system, or educational establishment or institution, or of a department of subdivision thereof, in work directly related to the academic instruction or training carried on therein, where the performance of such primary duty includes work requiring the exercise of discretion and independent judgment. Such a highly paid employee having such work as his or her primary duty is deemed to meet all the requirements in § 541.2(a) through (e). If an employee qualifies for exemption under this provisio, it is not necessary to test the employee's qualifications in detail under § 541.2 (a) through (e).

(b) In Puerto Rico, the Virgin Islands, and American Samoa, the proviso of § 541.2(e) applies to those administrative employees other than an employee of the Federal Government who are compensated on a salary or fee basis of not less than $300 per week.

10. Paragraphs (a) and (b) of § 541.311 are revised to read as follows:

§ 541.311 Amount of salary or fees required.

(a) Except as otherwise noted in paragraphs (b) and (c) of this section, compensation on a salary or fee basis at a rate of not less than $250 per week, exclusive of board, lodging or other facilities, is required for exemption as a "professional employee." An employee will meet this requirement if paid a biweekly salary of $500, a semimonthly salary of $541.67 or a monthly salary of $1083.33.

(b) In Puerto Rico, the Virgin Islands, and American Samoa the salary test for exemption as a "professional" for other than employees of the Federal Government is $225 per week.

* * * * *

11. Paragraphs (c) and (d) of § 541.313 are revised to read as follows:

§ 541.313 Fee basis.

* * * * *

(c) The adequacy of a fee payment. Whether it amounts to payment at a rate of not less than $250 per week to a professional employee or at a rate of not less than $225 per week to an administrative employee can ordinarily be determined only after the time worked on the job has been determined. In determining whether payment is at the rate specified in the regulations in Subpart A of this part the amount paid to the employee will be tested by reference to a standard workweek of 40 hours. Thus compliance will be tested in each case of a fee payment by determining whether the payment is at a rate which would amount to at least $250 per week to a professional employee or at a rate of not less than $225 per week to an administrative employee if 40 hours were worked.

(d) The following examples will illustrate the principle stated above:

(1) A singer receives $50 for a song on a 15-minute program (no rehearsal time is involved). Obviously the requirement will be met since the employee would earn $250 at this rate of pay in far less than 40 hours.

(2) An artist is paid $150 for a picture. Upon completion of the assignment. It is determined that the artist worked 20 hours. Since earnings at this rate would yield the artist $300 if 40 hours were worked, the requirement is met.

(3) An illustrator is assigned the illustration of a pamphlet at a fee of $150. When the job is completed, it is determined that the employee worked 60 hours. If the employee worked 40 hours at this rate, the employee would have earned only $100. The fee payment of $150 for work which required 60 hours to complete therefore does not meet the requirement of payment at a rate of $250 per week and the employee must be considered nonexempt. It follows that if in the performance of this assignment the illustrator worked in excess of 40 hours in any week, overtime rates must be paid. Whether or not the employee worked in excess of 40 hours in any week, records for such an employee would have to be kept in accordance with the regulations covering records for nonexempt employees (Part 516 of this chapter).

12. Section 541.315 is revised to read as follows:

§ 541.315 Special proviso for high salaried professional employees.

(a) Except as otherwise noted in paragraph (b) of this section, the definition of "professional" contains a special proviso for employees who are compensated on a salary or fee basis at a rate of at least $350 per week exclusive of board, lodging, or other facilities. Under this proviso, the requirements for exemption in § 541.3 (a) through (e) will be deemed to be met by an employee who receives the higher salary or fees and whose primary duty consists of the performance of work requiring knowledge of an advanced type in a field of science or learning, or work as a teacher in the activity of imparting knowledge, which includes work requiring the consistent exercise of discretion and judgement, or consists of the performance of work requiring invention, imagination, or talent in a recognized field of artistic endeavor. Thus, the exemption will apply to highly paid employees employed either in one of the "learned" professions or in an "artistic" profession and doing primarily professional work. If an employee qualifies for exemption under this proviso, it is not necessary to test the employee's qualifications in detail under § 541.3 (a) through (e).

(b) In Puerto Rico, the Virgin Islands, and American Samoa the second proviso of § 541.3(e) applies to those "professional" employees (other than employees of the Federal government) who are compensated on a salary or fee basis of not less than $300 per week.

13. Section 541.601 is revised to read as follows:

§ 541.601 Special provision for motion picture producing industry.

Under § 541.5a, the requirement that the employee be paid "on a salary basis" does not apply to an employee in the motion picture producing industry who is compensated at a base rate of at least $350 a week (exclusive of board, lodging, or other facilities). Thus, an employee in this industry who is otherwise exempt under §§ 541.1, 541.2, or 541.3 and who is employed at a base rate of at least $350 a week is exempt if he is paid at least pro rata (based on a week of not more than 6 days) for any week when he does not work a full workweek for any reason. Moreover, an otherwise exempt employee in this industry qualifies for exemption if he is employed at a daily rate under the following circumstances: (a) The employee is in a job category for which a weekly base rate is not provided and his daily base rate would yield at least $350 if 6 days were worked: or (b) the employee is in a job category having a weekly base rate of at least $350 and his daily base rate is at least one-sixth of such weekly base rate.

Signed at Washington, D.C., on this 30th day of March 1978.

XAVIER M. VELA,
Administrator,
Wage and Hour Division.

[FR Doc. 78-8889 Filed 4-6-78; 8:45 am]

[4510-23]

Mine Safety and Health Administration

[30 CFR Parts 40, 41, 43, 44, 100]

REPRESENTATIVES OF MINERS: NOTIFICATION OF LEGAL IDENTITY: PROCEDURES FOR PROCESSING HAZARDOUS CONDITIONS COMPLAINTS: RULES OF PRACTICE FOR PETITIONS FOR MODIFICATION OF MANDATORY SAFETY STANDARDS: CIVIL PENALTIES FOR VIOLATIONS OF THE FEDERAL MINE SAFETY AND HEALTH ACT OF 1977

Extension of Comment Period

AGENCY: Department of Labor, Mine Safety and Health Administration (MSHA).

ACTION: Extension of time for comments.

SUMMARY: On Friday, March 3, 1978 (43 FR 9108), proposed rules under the Federal Mine Safety and Health Amendments Act of 1977 were published as part VI of the FEDERAL REGISTER. These proposed rules set forth requirements and procedures for notifying MSHA of the identification of representatives of miners and of the legal identity of mine operators, procedures for processing complaints by miners that hazardous conditions exist in a mine and for processing petitions for modifying the application of a safety standard, and criteria and procedures for the assessment of civil penalties. Interested persons were given until April 3, 1978, to submit comments. The comment period is extended to May 3, 1978.

DATES: Comments must be received on or before May 3, 1978.

ADDRESS: Comments should be sent to: Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 831, Ballston Tower-No. 3, 4015 Wilson Boulevard, Arlington, Va. 22203.

FOR FURTHER INFORMATION CONTACT:

Frank A. White, Room 831, Ballston Tower No. 3, 4015 Wilson Boulevard, Arlington, Va. 22203, phone 703-235-1910.

SUPPLEMENTARY INFORMATION: Several requests for an extension of time to submit comments have been received from mine operators and organizations representing mine operators, particularly in the metal and non-metal mining industries. The requests for extension of time noted that due to delays in mailing many mine operators did not receive copies of the proposed regulations until the week of march 20, 1978. They also stated that the regulations will have a significant impact on the mining industry and are of great importance to the administration and implementation of the new Act. For these reasons, the commenters argued that the initial 30-day comment period was inadequate for thorough review and comment. The requests for an extension of time range from 15 to 60 days. In addition, the recent Executive Order 12044 (March 23, 1978) enunciates an administration policy of permitting at least a 60-day comment period on proposed significant regulations.

After careful consideration of the requests for additional time, it has been determined that an additional 30 days for public comment is warranted. Therefore, the date for submission of comments on the proposed rules published in the FEDERAL REGISTER on Friday, March 3, 1978, is extended to May 3, 1978.

The effort made by many persons to submit comments by April 3, 1978, is greatly appreciated and such persons may submit additional comments within the time specified.

Dated: April 4, 1978.

ROBERT B. LAGATHER,
Assistant Secretary
for Mine Safety and Health.

[FR Doc. 78-9316 Filed 4-6-78; 8:45 am]

[6560-1]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 52]

[FRL 878-6]

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Revisions to the Kern County and Merced County Air Pollution Control Districts' Rules and Regulations in the State of California

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed rulemaking.

SUMMARY: Revisions to the Kern County and Merced County Air Pollution Control Districts' (APCD) rules and regulations have been submitted to the Environmental Protection Agency (EPA) by the California Air Resources Board for the purpose of revising the California State implementation plan (SIP). The intended effect of these revisions is to update the rules and regulations and to correct deficiencies in the SIP. The EPA invites public comments on these rules, especially as to their consistency with the Clean Air Act.

DATES: Comments may be submitted on or before June 6, 1978.

ADDRESSES: Comments may be sent to: Regional Administrator, Attn: Air and Hazardous Materials Division, Air Programs Branch, California SIP Section (A-4), Environmental Protection Agency, Region IX, 215 Fremont Street, San Francisco, Calif. 94105.

Copies of the proposed revisions are available for public inspection during normal business hours at the EPA Region IX office at the above address and at the following locations:

Kern County Air Pollution Control District, 1700 Flower Street, Bakersfield, Calif. 93302.

Merced County Air Pollution Control District, 210 East 13th Street, Merced, Calif. 95340.

California Air Resources Board, 1102 Q Street, P.O. Box 2815, Sacramento, Calif. 95814.

Public Information Reference Unit, Room 2922 (EPA Library), 401 M Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

David R. Souten, Chief, California SIP Section, EPA, Region IX, 415-556-7288.

SUPPLEMENTARY INFORMATION: The California Air Resources Board submitted the following rules and regulations on November 10, 1976, October 13, 1977, and November 4, 1977:

KERN COUNTY APCD

Novembe 10, 1976—Rule 504, Contents of Petitions

October 13, 1977—Rule 108, Stack Monitoring

November 4, 1977—Rule 412.1, Transfer of Gasoline Into Vehicle Fuel Tanks

MERCED COUNTY APCD

November 4, 1977—Rule 411, Gasoline Transfer Into Stationary Storage containers; Rule 411.1, Gasoline Transfer Into Vehicle Fuel Tanks

The State also submitted regulations concerning new source performance standards (NSPS) and national emission standards for hazardous air pollutants (NESHAPS) on November 4, 1977, for Merced County APCD. These NSPS and NESHAPS regulations implement sections 111 and 112 of the Clean Air Act, and are not appropriate for inclusion in a State implementation plan under section 110 of the Act. Therefore, these regulations will be neither approved nor disapproved by EPA as part of an applicable implementation plan. They will, however, be reviewed in determining whether to delegate authority to implement and enforce the NSPS and NESHAPS regulations in the APCD under the appropriate provisions of sections 111 and 112. Announcement of such delegation would appear in a separate FEDERAL REGISTER notice.

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 submitted as revisions to the SIP. The Regional Administrator hereby issues this notice setting forth these revisions, including rule deletions caused thereby, as proposed rulemaking and advises the public that interested persons may participate by submitting written comments to the Region IX Office. Comments received on or before June 6, 1978, will be considered. Comments received will be available for public inspection at the EPA Region IX Office and the EPA Public Information Reference Unit.

(Sec. 110, 301(a), Clean Air Act as amended (42 U.S.C. 7410 and 7601(a)).)

Dated: March 13, 1978.

SHEILA M. PRINDIVILLE,
Regional Administrator.

[FR Doc. 78-9305 Filed 4-6-78; 8:45 am]

[6712-01]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 1]

[Docket No. 16205; FCC 78-224]

RESPONSES TO COMMISSION INQUIRIES AND MAKING OF MISREPRESENTATIONS BY APPLICANTS, PERMITTEES AND LICENSEES

Withdrawal of Proposed Rulemaking

AGENCY: Federal Communications Commission.

ACTION: Withdrawal of proposed rulemaking.

SUMMARY: This action terminates the proceeding proposing the promulgation of rules making more explicit the obligation of those under the Commission's jurisdiction to respond to Commission correspondence and inquiries without adoption of rules. This action is taken primarily because of administrative consideration.

EFFECTIVE DATE: Non-applicable.

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

FOR FURTHER INFORMATION CONTACT:

Mark N. Lipp, Broadcast Bureau, 202-632-7792.

SUPPLEMENTARY INFORMATION:

ORDERS—PROCEEDING TERMINATED

Adopted: March 22, 1978.

Released: March 29, 1978.

In the matter of amendment of rules of broadcast practice and procedure relating to responses to Commission inquiries and the making of misrepresentations to the Commission by applicants, permittees, and licensees, Docket No. 16205.[1]

1. The Commission here considers the notice of proposed rulemaking adopted herein on September 22, 1965 (FCC 65-847, 30 FR 12418), proposing the promulgation of rules making more explicit the obligation of those under the Commission's jurisdiction to respond to Commission correspondence and inquiries; stating that there is a duty to be truthful and accurate in all factual representations to the Commission; and that failure to adhere to these obligations could be enforced by forfeiture and other sanctions. The notice also stated the intention to clarify and define these obligations by rule, because, on occasion, the failure of some applicants, permittees, and licensees to respond timely and accurately to Commission correspondence and inquiries had hindered the Commission in carrying out its licensing and other statutory functions expeditiously.

2. The Commission has decided that this proceeding should be terminated without taking action with respect to the proposed rule(s). It should be understood, however, that this action does not mean that we agree generally or specifically with the views expressed by the parties commenting.[2]

[1] See 30 FR 15438, December 15, 1965.

[2] Comments were receivd from the Federal Communications Bar Association (FCBA), Columbia Broadcasting System, Inc. (CBS), Storer Broadcasting Company (Storer), and the law firms of Cohn and Marks and Molnar and Gammon.

Indeed, our action is dictated primarily by administrative considerations.

3. Accordingly, this proceeding is terminated.

FEDERAL COMMUNICATIONS COMMISSION
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-9231 Filed 4-6-78; 8:45 am]

[6712-01]

[47 CFR Part 1]

[BC Docket No. 78-108; FCC 78-223]

WRITTEN RESPONSES TO COMMISSION INQUIRIES AND THE MAKING OF MISREPRESENTATIONS TO THE COMMISSION BY PERMITTEES AND LICENSEES

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action seeks comments on proposed rules which make explicit (1) the obligation of broadcast permittees and licensees to respond promptly to Commission inquiries and (2) the obligation to refrain from making misrepresentations to the Commission.

DATES: Comments must be filed on or before June 26, 1978, and reply comments must be filed on or before July 26, 1978.

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

FOR FURTHER INFORMATION CONTACT:

Mark N. Lipp, Broadcast Bureau, 202-632-7792.

SUPPLEMENTARY INFORMATION:

In the matter of amendment of rules of broadcast practice and procedure relating to written responses to commission inquiries and the making of misrepresentations to the Commission by permittees and licensees, BC Docket No. 78-108. Notice of proposed rulemaking.

Adopted: March 22, 1978.

Released: March 1, 1978.

1. Notice of Proposed Rule Making is hereby given in the above-entitled matter.

2. The Commission, in the performance of its functions relating to the granting and renewal of licenses, the enforcement of its rules and regulations, the granting and modification of authorizations and other matters properly within its jurisdiction has, on occasion, been unable to carry out its functions promptly and expeditiously because of the failure of some permittees and licensees to respond both timely and accurately to correspondence or other inquiries from the Commission. While, pursuant to the Communications Act of 1934, as amended (particularly sections 308(b) and 312) as well as pursuant to Title 18 U.S. Code 1001, all broadcast permittees and licensees have an obligation to respond to Commission correspondence in a prompt and truthful manner, the present rules specifically defining these obligations are mainly limited to matters pertainng to pending applications or responses to Official Notices of Violation (see §§ 1.65, 1.84, 1.89, 1.513, 1.568, and 1.961 of the Commission's Rules and Regulations.[1]

3. Although most persons making statements to the Commission are already complying with their obligations in this respect, we have, in recent months found several instances of this not being the case. In view of this we believe it desirable to make it clear that all broadcast licensees and permittees making statements to the Commission must promptly and accurately respond to all Commission correspondence and inquiries, and that failure to submit timely and accurate written representations to the Commission may subject licensees and permittees to appropriate administrative sanctions, including a forfeiture pursuant to section 503(b) of the Communications Act. This would be done by adding a new § 1.503 of the Rules and amending § 1.513(d), as set forth in the Appendix hereto.

4. Authority for the adoption of rules proposed herein is found in sections 4(i), 303(r), 308, 312, and 403 of the Communications Act of 1934, as amended.

5. Pursuant to applicable procedures set out in §§ 1.4, 1.415, and 1.419 of the Commission's rules and regulations, interested parties may file comments on or before June 26, 1978, and reply comments on or before July 26, 1978. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such reply comments shall be accompanied by a certificate of service (see §§ 1.420 (a), (b), and (c) of the Commission's rules).

6. In accordance with the provisions of § 1.419 of the Commission's rules and regulations, an original and 5 copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission. However, in an effort to obtain the widest possible response in this proceeding, informal comments, without extra copies, may be submitted. They should specify the docket number, including the entire designation (BC Docket No. 78-108) in the heading. All filings in this proceeding will be available for public inspection by interested persons during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street NW., Washington, D.C.

FEDERAL COMMISSION COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

1. In Part 1, a new § 1.503 is proposed to read as follows:

§ 1.503 Timely and truthful written statements and responses to Commission inquiries and correspondence.

(a) The Commission or its representatives may, in writing, require from any permittee or licensee written statements of fact relevant to a determination whether an application should be granted or denied, or a license revoked, or to some other matter within the jurisdiction of the Commission. Permittees or licensees shall respond to all such request within the times specified. For good cause shown, additional time will be allowed if requested. A response under this paragraph shall include a statement containing the requested information: *Provided, However,* That a response may contain an acknowledgement of receipt of the Commission's inquiry together with a statement specifying good cause for not supplying the requested information.

(b) No permittee or licensee shall in any written response to Commission correspondence or inquiry or in any application, pleading, report, or any other written statement submitted to the Commission, make any misrepresentation bearing on any matter within the jurisdiction of the Commission.

NOTE.—Section 1.503 is limited in application to written matter. However, it implies no change in the Commission's existing policies respecting the obligation of licensees in all instances to respond promptly and truthfully to requests for information deemed necessary to the proper execution of the Commission's functions.

2. Section 1.513(d) is proposed to read as follows:

§ 1.513 Who may sign applications.

* * * * *

(d) Applications, amendments and related statements of fact need not be submitted under oath. With respect to the truth of statements made therein,

[1] The Commission, in 1965, issued a similar *Notice of Proposed Rule Making,* Docket 16205. However, in view of the length of time since comments were filed we are terminating that proceeding under separate Order adopted this same date.

the provisions of § 1.503 shall apply as in the case of permittees and licensees.

[FR Doc. 78-9264 Filed 4-6-78; 8:45 am]

[6712-01]

[47 CFR Part 73]

[BC Docket No. 78-114; RM-2976]

TELEVISION BROADCAST STATIONS IN SALISBURY, MD., AND ROCKY MOUNT, N.C.

Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: Action taken herein proposes the assignment of television Channel 47 to Salisbury, Md. Petitioner, MDV Television Co., states the proposed station could bring a second commerical television service to the community.

DATES: Comments must be received on or before May 26, 1978, and reply comments must be received on or before June 15, 1978.

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

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION:

Adopted: March 27, 1978.

Released: April 3, 1978.

In the matter of amendment of § 73.606(b), table of assignments, television broadcast stations. (Salisbury, Md.), BC Docket No. 78-114, RM-2976. Notice of Proposed rulemaking.

1. Notice of Proposed Rulemaking is hereby given concerning amendment of the Television Table of Assignments (section 73.606(b) of the Commission's rules) as it relates to Salisbury, Md. Petition for rulemaking was filed on behalf of MDV Television Co. ("MDV"), proposing the assignment of television Channel 38 to Salisbury, Md., and the substitution of Channel 64 for noncommerical educational Channel 38 at Seaford, Delaware.

2. On March 3, 1978, MDV amended its petition by proposing the addition of Channel 47 in lieu of Channel 38 to Salisbury. Since the amendment to the petition resolves the conflict over use of Channel 38, the Seaford assignment is no longer affected. Rather, we will proceed with the proposal to assign Channel 47 to Salisbury, Md.

3. Salisbury has one commercial television assignment on which Station WBOC-TV, Channel 16, operates and one noncommercial educational television assignment on which Station WCPB, Channel 28, operates.

4. Salisbury (pop. 15,252), seat of Wicomico County (pop. 54,236)[1] is located in eastern Maryland, approximately 8 Kilometers (5 miles) south of the Delaware border and 137 kilometers (85 miles) southeast of Washington, D.C. Petitioner notes that the proposed station could provide a second commercial and third television outlet in Salisbury. Petitioner contends that the DelMarVa market is over-shadowed (but inadequately served) by three of the top then television markets (Philadelphia, Baltimore and Washington). As a result, petitioner adds, the Delmarva Peninsula is not only denied VHF television assignments but is wholly dependent upon the UHF band for local television broadcast service. It claims that the assignment of Channel 47 to Salisbury would serve the Commission's policy of fostering UHF television development.

5. Channel 47 could be assigned to Salisbury, Md., in compliance with the minimum distance separation requirements and other technical criteria, provided a change in the channel offset is made on the unoccupied and unapplied for Channel 47 assignment at Rocky Mount, N.C., from minus to plus.

6. In view of the foregoing, we find that the public interest would be served by proposing television Channel 47 for assignment to Salisbury, Md. A demand has been shown for its use and it would provide the community with an opportunity to develop a second commercial television broadcast service.

7. Accordingly, the Commission proposes to amend the Television Table of Assignments (§ 73.606(b) of the Commission's rules) with regard to the cities listed below:

City	Channel No.	
	Present	Proposed
Salisbury, Md	16+, *28-	16+, *28-, 47-
Rocky Mount, N.C	47-	47+

8. Authority to institute rulemaking proceedings; showings required; cut-off procedures; and filing requirements are contained in the attached Appendix and are incorporated herein.

NOTE.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

9. Interested parties may file comments on or before May 26, 1978, and reply comments on or before June 15, 1978.

FEDERAL COMMUNICATIONS COMMISSION,

WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

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

APPENDIX

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the TV Table of Assignments, § 73.606(b) of the Commission's rules and regulations, as set forth in the Notice of Proposed Rulemaking to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rulemaking to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rulemaking which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in sections 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rulemaking to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of section 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street NW., Washington, D.C.

[FR Doc. 78-9263 Filed 4-6-78; 8:45 am]

[6712-01]

[47 CFR Part 74]

[Docket No. 19918; RM-2235; FCC 78-226]

FM RADIO BROADCAST TRANSLATOR STATIONS

Memorandum Opinion and Order and Further, Notice of Proposed Rulemaking

AGENCY: Federal Communications Commission.

ACTION: Memorandum opinion and order and further notice of proposed rulemaking.

SUMMARY: FCC proposes change in rules governing FM translators to preclude a primary FM station from establishing or supporting any translator which would serve any area beyond the primary station's 1 mV/m contour. The rule would be designed to avoid a harmful impact on local FM stations in the area of these translators while still providing for service where need exists and public support for a translator to respond to this need. The Commission also proposes to consider a rule to require existing non-conforming stations to comply with the rule at some future date.

DATES: Comments must be received on or before May 5, 1978, and reply comments must be received on or before May 25, 1978

ADDRESSES: Send comments to: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Jonathan David, Broadcast Bureau, Policy and Rules Branch, 202-632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: March 22, 1978.

Released: March 31, 1978.

By the Commission: Commissioner Fogarty concurring in the result.

In the matter of amendment of Part 74, Subpart L of the Commission's rules pertaining to FM radio broadcast translator stations, Docket No. 19918, RM-2235.

1. On January 10, 1974, the Commission released a notice of proposed rulemaking in this proceeding (44 FCC 2d 794, 39 FR 1867), proposing to amend Part 74, Subpart L of the rules pertaining to FM broadcast translator stations.[1] Forty-six parties filed comments in response to the notice and seven filed reply comments.[2]

2. In issuing the notice, the Commission indicated a concern over how the FM translator service had developed. Rather than proceeding along the lines of TV translators, to fill-in areas where reception was inadequate, FM translators were often being used to extend the service areas of FM stations. This was happening even though the present rules prohibit the licensee of the primary FM stations from establishing a translator which would provide reception to places beyond its 1 mV/m contour unless that area does not receive any 1 mV/m FM signal. However, this restriction did not apply to groups unaffiliated with the licensee of the primary station. They could and often did establish translators where the primary station could not. The notice expressed the fear, that, as a result of growth of translators beyond the primary stations 1 mV/m contour, translators were having a harmful impact on local FM stations through audience fragmentation. Thus, the notice proposed to amend section 74.1232 to place a more stringent restriction on the location of FM translator stations. Under the proposal, no translator could provide service to an area beyond the primary station's 1 mV/m contour, if the area already received two 1 mV/m signals. The rule would turn on the number of services in the area and no longer would be based on who desired to establish the translator. The original petition from the National Association of Broadcasters ("NAB")), had spoken in terms of permitting no translator outside the §9-9.1 mV/m contour if the area already received one such signal, but the Commission decided that such a standard could have the effect of fostering monopolies. The two-signal approach was fashioned to meet this objection. Also, comments were requested on the questions of whether existing standard radio stations, as well as existing FM stations, should be afforded protection against the incursion of FM translators in areas already receiving aural services and whether the restrictions on translators, whatever they may be, should be applicable to noncommercial educational FM translators as well as to commercial FM translators.[3]

3. The comments we received ranged from those expressing the view that there should be no changes in the rules to pleas for more stringent regulations. Unfortunately, several of the comments demonstrated a misunderstanding of the nature of this proceeding, the fear being expressed that adoption of the proposed rule would restrict all FM translators to the areas within their primary stations' predicted 1 mV/m contours under all circumstances. This is not what was proposed.

4. A number of comments echoed the arguments in the original petition from the NAB, concerning the prospects of "competitive expansion" of the primary station. This was thought to be the result even if the primary station itself was not establishing the translator, as they noted that the rules permit the primary station to support the translator once it is established.

5. When the Commission issued the notice it stated that it thought the issue of this "competitive expansion" to be worthy of inquiry as it appeared possible that under certain circumstances the translators could pose a threat to the viability of local stations. Nothing has changed our view that the continued existence of local stations is of great importance, and we agree that we should treat the translator service in a fashion which will not endanger the existence of these local stations. After all, it is only these full-fledged stations which respond to local needs, and they do so in a fashion no translator can. Thus, to the extent the viability of these stations is placed into question, some form of action would be warranted. However, we have come to conclude that the form of action proposed earlier is not the appropriate one to take. Although we accept the expressions of concern as genuine—and in fact think some form of action could well be justified—we think other means than those originally proposed could better serve the purpose. As a result of this conclusion, we will deny the NAB proposal (and the variation of it proposed by the Commission) and instead explore another possible form of action.

6. As matters now stand, the development of translators does not bear a necessary relation to the need for the service. The limitation on the primary station establishing a translator outside its 1 mV/m contour falls short of insuring that primary stations do not use translators to establish unfair competitive positions. We believe the

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[1] See 39 FR 12771, April 8, 1974.

[2] These parties are listed in the appendix.

[3] Comments were sought on our proposal to include in the FM translator rules a 60-day termination provision such as is found in the TV translator rules, but no party filed any comment with respect to the latter. Our experience shows that the provisons of such a rule are rarely invoked, but that such a rule has been an important tool in discharging our statutory obligations when the need has arisen. We have, therefore, acted in a separate first report and order to adopt the rules as proposed.

problem arises out of two aspects of the current rules. First, the rules now permit primary stations themselves to establish translators outside their 1 mV/m contours if the area is not within another station's 1 mV/m contour. Even though the intent in establishing such a standard was to help bring service to areas in great need of it, the fact remains that the primary station can use this procedure to enhance its position. Now we are inclined to think that such an exception is not necessary to make service possible. Where the interest in receiving a signal would be expected to be so great it is likely others in the community would band together to seek a translator. The costs are moderate, and if there really is an absence of effective aural service, AM as well as FM, the motivation likely will be there. We do not see why it is realistic to think that only the primary licensee would step forward or why the presence, even abundance of AM service should be ignored as it now is under the present rule. While there are complications in trying to depict the extent of AM coverage, one thing is clear: the local residents know whether they do or do not have service. Its lack could be expected to be the spur to seeking a translator.

7. The present rule has in it another feature which we think warrants changing. As it now stands, the rule is no barrier to a station in enlarging its competitive position by supporting the operation of the translator. The rule is only directed to the establishment of the translator. Not only is this restriction a weak one, even if fully followed, it also invites the possibility of abuse through operational payments in an amount large enough to amortize the installation costs. Even without this, once the translator is built, it becomes an extension of the primary station through the latter's support. Thus, even though our earlier proposal is not being followed, we do feel that action is required.

8. We propose a rule, one far simpler than the one now in effect. It would limit primary stations to the establishing of and supporting of translators within their 1 mV/m contours. None outside this contour could be established, supported or aided in any manner, other than through the giving of rebroadcast consent.[4] Beyond the 1 mV/m contour only nonlicensees, community groups or individuals, could enter the picture. However, unlike our original proposal they would not be limited by any rule designed to foster a monopoly or even a two-signal choice situation. Rather, we would leave it to community conditions to define the need for a translator in the community.

9. Although concern about the economic impact of translators on local stations has been voiced, the data is skimpy. The real question to us is whether the primary station takes unfair competitive advantage. We think our proposal offers protection against that. The concern has been expressed that the primary station, typically from a fairly large city, will attempt to sell advertising to merchants in the town where the translator would be established. This, it is said, would damage the full-fledged station located in this town. While we cannot say that no such situations would occur, we can say that it would be contrary to our usual experience. Normally, there would not be direct competition for advertising. Instead, the cost of advertising on this distant, larger city, station would be expected to be far greater than on the one in the small town because it would be based on the larger audience size and area coverage. In the usual case, the small town merchant would have no interest in paying extra for such unneeded coverage. Thus, in terms of the data on hand, we are hesitant to put ourselves in a position of imposing the originally contemplated restriction, especially when it appears another approach can serve the same ends.

10. There is an additional matter to explore and that is what treatment to give noncommercial educational stations. We contemplate that noncommercial educational stations would be treated as would commercial stations in terms of use of the primary station's 1 mV/m contour. Also, to clear up any confusion, we propose to specify that noncommercial educational reserved frequencies may be used only for translators which are retransmitting the signal of a primary station which also operates as a noncommercial educational station on a frequency reserved for such use. This way we can avoid the problems which would arise if we had to examine individual situations to see if a station on a commercial channel was nonetheless conducting a noncommercial educational operation.

11. Although we are offering the above specific proposal, we are prepared to consider alternative approaches. Parties offering such suggestions, however, should show how their proposal would respond to the concerns we have outlined.

12. This action is taken pursuant to authority found in sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended.

13. *Comments and reply comments.* Pursuant to applicable procedures set out in §§ 1.4, 1.415, and 1.419 of the Commission's rules and regulations, interested parties may file comments on or before May 5, 1978, and reply comments on or before May 25, 1978. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings.

14. *Number of copies.* In accordance with the provisions of § 1.419 of the Commission's rules and regulations, an original and five copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission. If parties filing wish individual Commissioners to receive copies of such pleadings, six additional copies should be filed. In all effort to obtain the widest possible response from members of the general public who wish to express their interest by participating informally, they may do so by submitting one copy of their comments without regard to form, the only requirement being that the docket number of this proceeding should be in the heading.

15. *Public inspection of filings.* All findings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street NW., Washington, D.C.

16. In light of the decision to consider the alternative approach outlined above instead of that contained in the peititon for rule making (RM-2235), filed by the National Association of Broadcasters, that petition is denied.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

APPENDIX I

LIST OF PARTIES FILING COMMENTS IN THIS PROCEEDING

Oak Hills Fellowship, Inc., Bemidji, Minn.
White Pine Broadcasting Company, Ely, Nev.
Cummins Communications, Greater Montana Broadcasting, Great Falls, Mont.
Southern Nevada Communications Corp., Henderson, Nev.
Shoblom Broadcasting, Inc., Lake Havasu City, Ariz.
Minnesota Broadcasters Association
Iowa Broadcasters Association
Wireless of Indiana, Jeffersonville, Ind.
WYFI-FM, Norfolk, Va.
Joseph M. Buch, Barstow, Calif.
Friends of WFCR in Southern Connecticut, Inc., Hamden, Conn.
Jack Straw Memorial Foundation, Seattle, Wash.
Louisa Area Christian Radio Association, Charlottesville, Va.
Northern Community Radio
Uintah Broadcasting Company, Vernal, Utah
Robert A. Jones, La Grange, Ill.

[4] Although this part of the proposal is prospective, we also are proposing to adopt a provision making this requirement applicable, at some future date, to existing nonconforming operations. Tentatively we are inclined to believe that a 3 to 5 year "grandfather" period might be appropriate. Comments on this are invited.

National Religious Broadcasters, Inc.
Brainerd Broadcasting Co., Brainerd, Minn.
Association of Public Radio Stations
Gospel Echo, Inc., Seaside, Oreg.
Moody Bible Institute of Chicago, Chicago, Ill.
Rice County Broadcasting Company, Inc., Lyons, Kans.
Paul A. Stewart, Grand Rapids, Mich.
Roger D. Olsen, Grand Rapids, Minn.
Robert C. Greene, Warrensburg, N.Y.
Gunnison County Television, Inc., Gunnison, Colo.
Capp's TV Electronics, Ventura, Calif.
Heritage Academy, Inc., Hagerstown, Md.
Communications Investment Corporation, Salt Lake City, Utah
Corporation for Public Broadcasting
KPDQ, Inc., Portland, Oreg.
KSL, Inc., Salt Lake City, Utah
Rocky Mountain Broadcasters Association
Dr. Byron W. St. Clair, Silver Spring, Md.
Community Television, Inc., Jacksonville, Fla.
National Association of Broadcasters
Sevier County Commissioners, Richfield, Utah
Piute County Commissioners, Junction, Utah
Wayne County Commissioners, Loa, Utah
Escalante TV Association, Escalante, Utah
Kanab Lions TV, Kanab, Utah
Long Valley TV, Orderville, Utah
Jim Coursolle, Aitkin, Minn.
Colorado Translator Association
New Mexico Governor's Advisory Committee on Educational Broadcasting

PARTIES FILING REPLY COMMENTS IN THIS PROCEEDING

KSL, Inc., Salt Lake City, Utah
Woodland Heights Presbyterian Church, Selma, Ala.
Louisa Area Christian Radio Association, Charlottesville, Va.
Recreation Broadcasting of Aspen, Inc., Aspen, Colo.
Robert A. Jones, La Grange, Ill.
Ray Kassis, Baltimore, Md.
Dr. Byron W. St. Clair, Silver Spring, Md.

[FR Doc. 78-9173 Filed 4-6-78; 8:45 am]

[4310-55]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 17]

ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Correction of Proposed Endangered Status and Critical Habitat for Two Fishes, and Extension of Comment Period

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Correction.

SUMMARY: This document will correct the transposition of common and scientific names associated with the Critical Habitat maps for the Cahaba shiner (*Notropis* sp.) and goldline darter (*Percina aurolineata*) published on November 29, 1977 (42 FR 60765-60768). The comment period, which originally expired on January 30, 1978, was extended for an additional 60 days with a closing date of March 31, 1978 (43 FR 4872-4873) and is now extended for an additional 30 days. This action is being taken to eliminate any possible confusion that existed from this error.

DATE: The comment period is extended for an additional 30 days and will close on April 30, 1978.

ADDRESS: Comments and information should be submitted to the Director (OES), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT:

Mr. Keith M. Schreiner, Associate Director—Federal Assistance, Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240, 202-343-4646.

SUPPLEMENTARY INFORMATION:

BACKGROUND

On November 29, 1977, the Fish and Wildlife Service published (42 FR 60765-60768) a proposal to determine Endangered status and Critical Habitat for four fishes which included the Cahaba shiner (*Notropis* sp.) and goldline darter (*Percina aurolineata*).

In the proposal (42 FR 60765-60768), the common and scientific names of the Cahaba shiner (*Notropis* sp.) and goldline darter (*Percina aurolineata*) which accompanied the Critical Habitat maps and descriptions for these species (42 FR 60767 and 60768) were transposed. For the convenience of the reader the corrected version is reprinted below.

§ 17.95 [Amended]

2. Also, the Service proposes to amend § 17.95(e) Fishes by adding Critical Habitat of the Cahaba shiner after that of the spotfin chub as follows:

CAHABA SHINER

(*Notropis* sp.)

Alabama. Bibb, Shelby, and Jefferson Counties. Main channel of Cahaba River from U.S. Highway 82 crossing at Centreville, Bibb County, upstream to U.S. Highway 31 crossing south of Birmingham, Shelby County.

CRITICAL HABITAT FOR THE CAHABA SHINER

4. § 17.95(e) Fishes is further amended by adding Critical Habitat of the goldline darter after that of the slackwater darter as follows:

GOLDLINE DARTER

(*Percina aurolineata*)

Alabama. Bibb and Shelby Counties. Main channel of Cahaba River from U.S. Highway 82 crossing at Centreville, Bibb County, upstream to Shelby County Highway 52 west of Helena. Bibb County, main channel of Little Cahaba River from its junction with the Cahaba River upstream to Bibb County Highway 10 crossing east of Piper.

CRITICAL HABITAT FOR THE GOLDLINE DARTER

To clarify confusion that may have resulted from the transportation of

common and scientific names associated with the Cahaba shiner and goldline darter Critical Habitat maps in the original proposal, the Service is extending the comment period for an additional 30 days. The closing period for comments is April 30, 1978.

The primary author of this document is Dr. James D. Williams, Office of Endangered Species, 202-343-7814.

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

Dated: April 4, 1978.

HARVEY K. NELSON,
Acting Director,
Fish and Wildlife Service.

[FR Doc. 78-9286 Filed 4-6-78; 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.

[3410-16]

DEPARTMENT OF AGRICULTURE

Soil Conservation Service

ALCONA COUNTY PARK CRITICAL AREA TREATMENT RC&D MEASURE, MICHIGAN

Intent Not to Prepare an Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Alcona County Park Critical Area Treatment RC&D Measure, Alcona County, Mich.

The environmental assessment of this Federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Arthur H. Cratty, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure conserns a plan for critical area treatment. The planned works of improvement include the installation of approximately 350 feet of timber retaining wall; 1,500 feet of rail fence; eight recreation walkways; and 1 acre of seeding. Total construction costs are approximately $12,200: $8,100 RC&D funds and $4,100 local funds.

The notice of intent not to prepare an environmental impact statement has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Arthur H. Cratty, State Conservationist, Soil Conservation Service, 1405 South Harrison Road, East Lansing, Michigan 48823, 517-372-1910, Extension 242. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests at the abvove address.

No administrative action on implementation of the proposal will be taken until May 8, 1978.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program—Pub. L. 87-703, (16 U.S.C. 590a-f, q).)

Dated: March 23, 1978.

EDWARD E. THOMAS,
Assistant Administrator for Land Resources, Soil Conservation Service.

[FR Doc. 78-9186 Filed 4-6-78; 8:45 am]

[3410-16]

BACK CREEK RESERVOIR CRITICAL AREA TREATMENT RC&D MEASURE, NORTH CAROLINA

Intent Not to Prepare an Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Back Creek Reservoir Critical Area Treatment RC&D Measure, Alamance and Orange Counties, N.C.

The environmental assessment of this Federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Jesse L. Hicks, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for reducing erosion and the resulting sedimentation from critically eroding areas. The planned works of improvement include protecting the municipal water supply for the Town of Mebane and the City of Graham. The proposed measure will also protect the soil resource base and thus maintain the productivity of cropland. Wildlife and wildlife resources will be enhanced. Conservtion plans will be developed on 75 percent of the land in the 42,496-acre Back Creek Watershed. Conservation practices planned to treat critically eroding areas include grassed waterways, small sediment ponds, tree planting, grasses and legumes, and field borders (filter strips).

The notice of intent not to prepare an environmental impact statement has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Jesse L. Hicks, State Conservationist, Soil Conservation Service, Room 544, Federal Building, 310 New Bern Avenue, Raleigh, North Carolina 27611, 919-755-4210. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests at the above address.

No administraive action on implementation of the proposal will be taken until May 8, 1978.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program—Pub. L. 87-703, (16 U.S.C. 590a-f, q).)

Dated: March 28, 1978.

EDWARD E. THOMAS,
Assistant Administrator for Land Resources, Soil Conservation Service.

[FR Doc. 78-9187 Filed 4-6-78; 8:45 am]

[3410-16]

BURKESVILLE WATER-BASED RECREATION RC&D MEASURE, KENTUCKY

Intent Not to Prepare an Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Burkesville Water-Based Recreation RC&D Measure, Cumberland County, Ky.

The environmental assessment of this Federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Glen E. Murray, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for water-based recreation. The planned

works of improvement include picnic tables, playground, shelter house, trails, and camping area.

The notice of intent not to prepare an environmental impact statement has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Glen E. Murray, State Conservationist, Soil Conservation Service, 333 Waller Avenue, Lexington, Kentucky 40504, 606-233-2749. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until May 8, 1978.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program—Pub. L. 87-703. (16 U.S.C. 590a-f, q).)

Dated: March 28, 1978.

EDWARD E. THOMAS,
Assistant Administrator for Land Resources, Soil Conservation Service.

[FR Doc. 78-9188 Filed 4-6-78; 8:45 am]

[3410-16]

BURTON ISD EROSION CONTROL RC&D MEASURE, TEXAS

Intent Not To Prepare an Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Burton Independent School District Erosion Control RC&D, Measure, Washington County, Tex.

The environmental assessment of this Federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. George C. Marks, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for stabilization of 5.1 acres of critically eroding school grounds at the high school through the extablishment of vegetation, small grade stabilization structures, diversions, and waterways.

The notice of intent not to prepare an environmental impact statement has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. George C. Marks, State Conservationist, Soil Conservation Service, W. R. Poage Federal Building, 101 South Main Street, P.O. Box 648, Temple, Tex. 76501, 817-334-3011. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until May 8, 1978.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program—Pub. L. 87-703, (16 U.S.C. 590a-f, q).)

Dated: March 28, 1978.

EDWARD E. THOMAS,
Assistant Administrator for Land Resources, Soil Conservation Service.

[FR Doc. 78-9189 Filed 4-6-78; 8:45 am]

[3410-16]

CAMP BARBE 4-H CAMP LAND DRAINAGE RC&D MEASURE, WEST VIRGINIA

Intent Not to Prepare an Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Camp Barbe 4-H Camp Land Drainage RC&D Measure, Wirt County, W. Va.

The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Craig M. Right, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for drainage of 3 acres of camping and recreation area. The planned works of improvement include land smoothing and shaping and subsurface water management structures.

The notice of intent not to prepare an environmental impact statement has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Craig M. Right, State Conservationist, Soil Conservation Service, 75 High Street, P.O. Box 865, Morgantown, West Virginia 26505, 304-599-7151. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until May 8, 1978.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program—Pub. L. 87-703, (16 U.S.C. 590a-f, q).)

Dated: March 22, 1978.

EDWARD E. THOMAS,
Assistant Administrator for Land Resources, Soil Conservation Service.

[FR Doc. 78-9190 Filed 4-6-78; 8:45 am]

[3410-16]

CHARITON VALLEY RC&D AREA CRITICAL AREA TREATMENT MEASURES, IOWA

Intent Not to Prepare an Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that environmental impact statements are not being prepared for the Chariton Valley RC&D Area Critical Area Treatment Measures in Appanoose, Lucas, Monroe, and Wayne Counties, Iowa.

The environmental assessment of this Federal assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. William J. Brune, State Conservationist, has determined that the preparation and review of environmental impact statements are not needed for these measures.

These measures concern plans for critical area treatment. The planned works of improvement include small grade stabilization structures, tile outlet terraces, sediment and water control basins, critical area planting, debris basins, and fencing.

The notice of intent to not prepare environmental impact statements has been forwarded to the Environmental Protection Agency. The basis data developed during the environmental as-

sessment are on file and may be reviewed by interested parties at the Soil Conservation Service, 693 Federal Building, 210 Walnut Street, Des Moines, Iowa 50309, 515-284-4260. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests.

No administrative action on implementation of the proposal will be taken until May 8, 1978.

(Catalog of Federal Domestic Assist- ance Program No. 10.901, Resource Conservation and Development Program—Pub. L. 87-703, (16 U.S.C. 590a-f, q).)

Dated: March 23, 1978.

EDWARD E. THOMAS,
Assistant Administrator for Land Resources, Soil Conservation Service.

[FR Doc. 78-9191 Filed 4-6-78; 8:45 am]

[3410-16]

COAL CREEK WATERSHED PROJECT, OKLAHOMA

Intent to Prepare an Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is being prepared for the Coal Creek Watershed project, Hughes and Pittsburg Counties, Okla.

The environmental assessment of this federally-assisted action indicates that the project may cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Roland R. Willis, State Conservationist, has determined that the preparation and review of an environmental impact statement is needed for this project.

The project concerns a plan for watershed protection and flood prevention. Measures being considered include land treatment, floodwater retarding structures with capacity added for municipal and industrial water supply, channel work, land management, combinations of these measures, and alternatives.

A draft environmental impact statement will be prepared and circulated for review by agencies and the public. The SCS invites participation of agencies and individuals with expertise or interest in the preparation of the draft environmental impact statement. The draft environmental impact statement will be developed by Mr. Roland R. Willis, State Conservationist, Soil Conservation Service, Agricultural Center Building, Farm Road and Brumley Street, Stillwater, Oka. 74074 405-372-7111, ext. 204.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program—Pub. L. 83-566, (16 U.S.C. 1001-1008).)

Dated: March 15, 1978.

JOSEPH W. HAAS,
Assistant Administrator for Water Resources. Soil Conservation Service, U.S. Department of Agriculture.

[FR Doc. 78-9192 Filed 4-6-78; 8:45 am]

[3410-16]

HOYLE CREEK WATERSHED PROJECT, OKLAHOMA

Intent To Prepare an Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is being prepared for the Hoyle Creek Watershed Project, Major County, Okla.

The environmental assessment of this federally-assisted action indicates that the project may cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Roland R. Willis, State Conservationist, has determined that the preparation and review of an environmental impact statement is needed for this project.

The project concerns a plan for watershed protection (reduction in erosion and sedimentation) and flood prevention (reduction in flooding and attendant floodwater and sediment damages). Measures being investigated for possible inclusion in the plan include land treatment, floodwater retarding structures, channel work, land management, and combinations of these measures.

A draft environmental impact statement will be prepared and circulated for review by agencies and the public. The SCS invites participation of agencies and individuals with expertise or interest in the preparation of the draft environmental impact statement. The draft environmental impact statement will be developed by Mr. Roland R. Willis, State Conservationist, Soil Conservation Service, Agricultural Center Building, Farm Road and Brumley Street, Stillwater, Okla. 74074; 405-372-7111, ext. 204.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program—Pub. L. 83-566, (16 U.S.C. 1001-1008).)

Dated: March 15, 1978.

JOSEPH W. HAAS,
Assistant Administrator for Water Resources, Soil Conservation Service, U.S. Department of Agriculture.

[FR Doc. 78-9193 Filed 4-6-78; 8:45 am]

[3410-16]

HUNTINGBURG AIRPORT CRITICAL AREA TREATMENT RC&D MEASURE, INDIANA

Intent Not To Prepare an Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Huntingburg Airport Critical Area Treatment RC&D Measure, Dubois County, Ind.

The environmental assessment of this Federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Buell M. Ferguson, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for critical area treatment. The planned works of improvement include shaping, seedbed preparation, and seeding 28 acres of critically eroding area to permanent grass.

The notice of intent not to prepare an environmental impact statement has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Buell M. Ferguson, State Conservationist, Soil Conservation Service, Atkinson Square-West, Suite 2200, 5610 Crawfordsville Road, Indianapolis, Ind. 46224, 317-269-6515. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until May 8, 1978.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program—Pub. L. 87-703 (16 U.S.C. 590a-f, q).)

Dated: March 22, 1978.

EDWARD E. THOMAS,
Assistant Administrator for Land Resources, Soil Conservation Service.

[FR Doc. 78-9194 Filed 4-6-78; 8:45 am]

[3410-16]

KUSEL LAKE PARK RECREATION RC&D MEASURE, WISCONSIN

Intent Not To Prepare an Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Kusel Lake Park Recreation RC&D Measure, Waushara County, Wis.

The environmental assessment of this Federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. J. C. Hytry, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for water-based recreation development. The planned works of improvement include facilities for picnic sites, water supplies, sanitary facilities, electrical service with distribution facilities, access roads, hiking trails, beach and swimming area, boat launch, group shelters, and parking spaces on about 54 acres of land adjacent to Kusel Lake.

The notice of intent not to prepare an environmental impact statement has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. J. C. Hytry, State Conservationist, Soil Conservation Service, 4601 Hammersley Road, Madison, Wis. 53711, 608-252-5341. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests.

No administrative action on implementation of the proposal will be taken until May 8, 1978.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program—Pub. L. 87-703 (16 U.S.C. 590a-f, q).)

Dated: March 23, 1978.

EDWARD E. THOMAS,
Assistant Administrator for Land Resources, Soil Conservation Service.

[FR Doc. 78-9195 Filed 4-6-78; 8:45 am]

[3410-16]

LAKE AGASSIZ RC&D AREA CRITICAL AREA TREATMENT RC&D MEASURES, NORTH DAKOTA

Intent Not to Prepare Environmental Impact Statemennts

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that enironmental impact statements are not being prepared for the Lake Agassiz RC&D Area Critical Area Treatment RC&D Measures in Cass, Ransom, Richland, Sargent, Steele, and Traill Counties, N. Dak.

The environmental assessment of these Federally assisted actions indicates that the projects will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Allen L. Fisk, State Conservationist, has determined that the preparation and review of environmental impact statements are not needed for this project.

These measures concern plans for critical area treatment. The planned works of improvement include small grade stabilization structures, diversions, grassed waterways, critical area plantings, and fencing.

The notice of intent not to prepare environmental impact statements has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Allen L. Fisk, State Conservationist, Soil Conservation Service, Federal Building, Room 270, Rosser and 3rd Street, Bismarck, N. Dak. 58501, 701-255-4011, extension 421. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until May 8, 1978.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program—Pub. L. 87-703, (16 U.S.C. 590a-f, q).)

Dated: March 23, 1978.

EDWARD E. THOMAS,
Assistant Administrator for Land Resources, Soil Conservation Service.

[FR Doc.78-9196 Filed 4-6-78;8:45 am]

[3410-16]

McLEOD HONOR FARM CRITICAL AREA TREATMENT RC&D MEASURE, OKLAHOMA

Intent Not to Prepare an Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the McLeod Honor Farm Critical Area Treatment RC&D Measure, Choctaw County, Okla.

The environmental assessment of this Federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Roland Willis, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for critical area treatment. The planned works of improvement include concrete liners, diversion terraces, concrete chute, fill material, shaping, smoothing, establishing vegetation, and fertilizer.

The notice of intent not to prepare an environmental impact statement has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Roland Willis, State Conservationist, Soil Conservation Service, Farm Road and Brumley Street, Stillwater, Okla. 74074, 405-624-4360. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until May 8, 1978.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program—Pub. L. 87-703, (16 U.S.C. 590a-f, q).)

Dated: March 22, 1978.

EDWARD E. THOMAS,
Assistant Administrator for Land Resources, Soil Conservation Service.

[FR Doc. 78-9197 Filed 4-6-78; 8:45 am]

[3410-16]

MINERAL COUNTY FAIRGROUNDS LAND DRAINAGE RC&D MEASURE, WEST VIRGINIA

Intent Not To Prepare an Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Mineral County Fairgrounds Land Drainage RC&D Measure, Mineral County, W.V.

The environmental assessment of this Federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Craig M. Right, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for drainage of 11 acres of fairgrounds. The planned works of improvement include land grading and shaping and surface and subsurface water management structures.

The notice of intent not to prepare an environmental impact statement has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Craig M. Right, State Conservationist, Soil Conservation Service, 75 High Street, P.O. Box 865, Morgantown, W.V. 26505, 304-599-7151. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until May 8, 1978.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program—Pub. L. 87-703, (16 U.S.C. 590 a-f, q).)

Dated: March 22, 1978.

EDWARD E. THOMAS,
Assistant Administrator for Land Resources, Soil Conservation Service.

[FR Doc. 78-9198 Filed 4-6-78; 8:45 am]

[3410-16]

NORTH CENTRAL RC&D AREA CRITICAL AREA TREATMENT RC&D MEASURES, SOUTH DAKOTA

Intent Not to Prepare Environmental Impact Statements

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that environmental impact statements are not being prepared for the North Central RC&D Area Critical Area Treatment RC&D Measures in Campbell, Hughes, Hyde, Potter, Sully, and Walworth Counties, S.D.

The environmental assessment of these Federally assisted actions indicates that the projects will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Robert D. Swenson, State Conservationist, has determined that the preparation and review of environmental impact statements are not needed for this project.

These measures concern plans for critical area treatment. The planned works of improvement include small grade stabilization structures, diversions, critical area plantings, debris basins, fencing, and grassed waterways.

The notice of intent not to prepare environmental impact statements has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Robert D. Swenson, State Conservationist, Soil Conservation Service, 200 Fourth Street SW., Huron, S.D. 57350, 605-352-8651. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until May 8, 1978.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program—Pub. L. 87-703 (16 U.S.C. 590a-f, q).)

Dated: March 28, 1978.

EDWARD E. THOMAS,
Assistant Administrator for Land Resources, Soil Conservation Service

[FR Doc. 78-9199 Filed 4-6-78; 8:45 am]

[3410-16]

OYSTER WATER-BASED RECREATION RC&D MEASURE, VIRGINIA

Intent Not to Prepare an Environmental Impact Statement

Pursuant to section 102(2)(C) of the National environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement if not being prepared for the Oyster Water-Based Recreation RC&D Measure, Northampton County, Va.

The environmental assessment of this Federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. David N. Grimwood, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for water-based recreation. The planned works of improvement include replacement of existing bulkheads plus installation of an additional 80 feet of new bulkheading; construction of docking facilities for 7 large, 13 medium, and 10 to 15 small boats; and provision for 2 double-lane launching ramps, with parking space for 90 boats and trailers on a paved surface. Other facilities include water supply, waste pump station, refuge space, adequate sanitary and safety features, a control booth, and observation deck.

The notice of intent not to prepare an environmental impact statement has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. David N. Grimwood, State Conservationist, Soil Conservation Service, 400 North 8th Street, Room 9201, Richmond, Va. 23240, 804-782-2455. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until May 8, 1978.

(Catalog of Federal Domestic Assistance Program No. 10.001, Resource Conservation and Development Program—Pub. L. 87-703 (16 U.S.C. 590a-f, q).)

Dated: March 23, 1978.

EDWARD E. THOMAS,
Assistant Administrator for Land Resources, Soil Conservation Service.

[FR Doc. 78-9200 Filed 4-6-78; 8:45 am]

[3410-16]

RENVILLE COUNTY ROADSIDE CRITICAL AREA TREATMENT RC&D MEASURE, MINNESOTA

Intent Not To Prepare an Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Renville County Roadside Critical Area Treatment RC&D Measure, Renville County, Minn.

The environmental assessment of this Federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Harry M. Major, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for reducing erosion adjacent to county and township roads. The planned works of improvement include grade stabilization structures, side inlet pipes, and critical area plantings.

The notice of intent not to prepare an environmental impact statement has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Harry M. Major, State Conservationist, Soil Conservation Service, 200 Federal Building and U.S. Courthouse, 316 North Robert Street, St. Paul, Minn. 55101, 612-725-7675. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until May 8, 1978.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program—Pub. L. 87-703. (16 U.S.C. 590a-f, q).)

Dated: March 23, 1978.

EDWARD E. THOMAS,
Assistant Administrator for Land Resources, Soil Conservation Service.

[FR Doc. 78-9201 Filed 4-6-78; 8:45 am]

[3410-16]

TENNESSEE VALLEY RC&D AREA CRITICAL AREA TREATMENT RC&D MEASURES, ALABAMA

Intent Not to Prepare Environmental Impact Statements

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that environmental impact statements are not being prepared for the Tennessee Valley RC&D Area Critical Area Treatment RC&D Measures in Cullman, De Kalb, Jackson, Lawrence, Limestone, Madison, Marshall, and Morgan Counties, Alabama.

The environmental assessment of these Federally assisted actions indicates that the projects will not cause significant adverse local, regional, or national impacts on the environment. As a result of these findings, Mr. W. B. Lingle, State Conservationist, has determined that the preparation and review of environmental impact statements are not needed for these measures.

These measures concern plans for critical area treatment. The planned works of improvement include small grade stabilization structures, gully control structures, diversions, critical area plantings, concrete and grass flumes, and grassed waterways.

The notice of intent to prepare environmental impact statements has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. W. B. Lingle, State Conservationist, Soil Conservation Service, 138 South Gay Street, Auburn, Ala. 36830, 205-821-8070. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests.

No administrative action on implementation of the proposal will be taken until May 8, 1978.

Dated: March 22, 1978.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program—Pub. L. 87-703, (16 U.S.C. 590a-f, q).)

EDWARD E. THOMAS,
Assistant Administrator for Land Resources, Soil Conservation Service.

[FR Doc. 78-9202 Filed 4-6-78; 8:45 am]

[3410-16]

TOMBIGBEE RC&D AREA CRITICAL AREA TREATMENT RC&D MEASURES, ALABAMA

Intent Not to Prepare Environmental Impact Statements

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that environmental impact statements are not being prepared for the Tombigbee RC&D Area Critical Area Treatment RC&D Measures in Bibb, Fayette, Greene, Hale, Lamar, Pickens, Sumter, and Tuscaloosa Counties, Ala.

The environmental assessment of this Federally assisted actions indicates that the project will not cause significant adverse local, regional, or national impacts on the environment. As a result of these findings, Mr. W. B. Lingle, State Conservationist, has determined that the preparation and review of an environmental impact statements are not needed for these measures.

These measures concern plans for critical area treatment. The planned works of improvement include small grade stabilization structures, gully control structures, diversions, critical area plantings, concrete and grass flumes, and grassed waterways.

The notice of intent not to prepare environmental impact statements has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. W. B. Lingle, State Conservationist, Soil Conservation Service, 138 South Gay Street, Auburn, Ala. 36830, 205-821-8070. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests.

No administrative action on implementation of the proposal will be taken until May 8, 1978.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program—Pub. L. 87-703, 16 U.S.C. 590a-f, q).)

Dated: March 22, 1978.

EDWARD E. THOMAS,
Assistant Administrator for Land Resources Soil Conservation Service.

[FR Doc. 78-9203 Filed 4-6-78; 8:45 am]

[3410-16]

TRAPPE RIVER CRITICAL AREA TREATMENT RC&D MEASURE, WISCONSIN

Intent Not to Prepare an Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Trappe River Critical Area Treatment RC&D Measure, Marathon County, Wis.

The environmental assessment of this Federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. J. C. Hytry, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for critical area treatment. The planned works of improvement include erosion control practices of critical area planting and rock riprap on about 1,000 feet of streambank on the Trappe River.

The notice of intent not to prepare an environmental impact statement has been forwarded to the Environmental Protection Agency. The basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. J. C. Hytry, State Conservationist, Soil Conservation Service, 4601 Hammersley Road, Madison, Wis. 53711, 608-252-5341. An environmental impact appraisal has been prepared and sent to various Federal, State, and local agencies and interested parties. A limited number of copies of the environmental impact appraisal are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until May 8, 1978.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program—Pub. L. 87-703 (16 U.S.C. 590 a-f, q).)

Dated: March 23, 1978.

EDWARD E. THOMAS,
Assistant Administrator for Land Resources, Soil Conservation Service.

[FR Doc. 78-9204 Filed 4-6-78; 8:45 am]

[3410-16]

SAND-HOGSHOOTER CREEK WATERSHED PROJECT, OKLAHOMA

Intent To Prepare an Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is being prepared for the Sand-Hogshooter Creek Watershed project, Osage, Nowata, and Washington Counties, Okla.

The environmental assessment of this federally-assisted action indicates that the project may cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Roland R. Willis, State Conservationist, has determined that the preparation and review of an environmental impact statement is needed for this project.

The project concerns a plan for watershed protection and flood prevention. Measures being considered include land treatment, floodwater retarding structures, channel work, land management systems, and combinations of these measures.

A draft environmental impact statement will be prepared and circulated for review by agencies and the public. The SCS invites participation of agencies and individuals with expertise or interest in the preparation of the draft environmental impact statement. The draft environmental impact statement will be developed by Mr. Roland R. Willis, State Conservationist, Soil Conservation Service, Agricultural Center Building, Farm Road and Brumley Street, Stillwater, Okla. 74074; 405-372-7111, ext. 204.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program—Pub. L. 83-566 (16 U.S.C. 1001-1008).)

Dated: March 15, 1978.

JOSEPH W. HAAS,
Assistant Administrator for Water Resources, Soil Conservation Service, U.S. Department of Agriculture.

[FR Doc. 78-9205 Filed 4-6-78; 8:45 am]

[3410-16]

TURKEY CREEK WATERSHED PROJECT, OKLAHOMA

Intent to Prepare an Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is being prepared for the Turkey Creek Watershed project, Alfalfa, Garfield, Kingfisher, and Major Counties, Okla.

The environmental assessment of this federally-assisted action indicates that the project may cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Roland R. Willis, State Conservationist, has determined that the preparation and review of an environmental impact statement is needed for this project.

The project concerns a plan for watershed protection and flood prevention. Measures being investigated include land treatment, reservoir sites to retard floodwater, provide for municipal and industrial water supply, and for recreation development, land management, and combinations of these measures.

A draft environmental impact statement will be prepared and circulated for review by agencies and the public. The SCS invites participation of agencies and individuals with expertise or interest in the preparation of the draft environmental impact statement. The draft environmental impact statement will be developed by Mr. Roland R. Willis, State Conservationist, Soil Conservation Service, Agricultural Center Building, Farm Road and Brumley Street, Stillwater, Okla. 74074, 405-372-7111, ext. 204

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program—Pub. L. 83-566, (16 U.S.C. 1001-1008).)

Dated: March 15, 1978.

JOSEPH W. HAAS,
Assistant Administrator for Water Resources, Soil Conservation Service, U.S. Department of Agriculture.

[FR Doc. 78-9206 Filed 4-6-78; 8:45 am]

[3410-16]

WHITE'S MILL RC&D MEASURE, SOUTH CAROLINA

Intent to Prepare an Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of

1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is being prepared for the White's Mill RC&D Measure, Sumter County, S.C.

The environmental assessment of this Federally-assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. However, in compliance with published Soil Conservation Service Guidelines, Mr. George E. Huey, State Conservationist, has determined that an environmental impact statement will be prepared for this measure.

The measure concerns a plan to reduce flooding and provide drainage outlets in this 145 acre agricultural watershed. The planned works of improvement consist of approximately 0.6 miles of channel work on a previously altered ephemeral stream with a bottom width of three feet.

A draft environmental impact statement will be prepared and circulated for review by agencies and the public. The Soil Conservation Service invites participation of agencies and individuals with expertise or interest in the preparation of the draft environmental impact statement. The draft environmental impact statement will be developed by Mr. George E. Huey, State Conservationist, Soil Conservation Service, One Greystone West, 240 Stoneridge Drive, Columbia, S.C. 29210, 803-765-5681.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program—Pub. L. 87-703, (16 U.S.C. 590a-f, q).)

Dated: March 22, 1978.

EDWARD E. THOMAS,
Assistant Administrator for Land Resources, Soil Conservation Service.

[FR Doc. 78-9207 Filed 4-6-78; 8:45 am]

[6320-01]

CIVIL AERONAUTICS BOARD

[Docket No. 32143]

AUSTIN/SAN ANTONIO-ATLANTA SERVICE INVESTIGATION

Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding will be held on May 9, 1978, at 10 a.m. (local time) at the City of Austin Electric Department Building, Electric Department Public Auditorium, 301 West Avenue, Austin, Tex, before the undersigned Administrative Law Judge.

For details of the issues involved in this proceeding, interested persons are referred to the Prehearing Conference Report, served on March 23, 1978, and other documents which are in the docket of this proceeding on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., April 3, 1978.

WILLIAM H. DAPPER,
Administrative Law Judge.

[FR Doc. 78-9282 Filed 4-6-78; 8:45 am]

[6320-01]

[Docket Nos. 30267, 32343; Order 78-4-6]

BRANIFF AIRWAYS, INC.

Order Instituting Dallas/Fort Worth-Philadelphia Service Investigation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 3rd day of April 1978.

On December 20, 1977, Braniff Airways filed a motion for hearing on its application for nonstop authority between Dallas/Ft. Worth, Tex., and Philadelphia, Pa.

In support of its motion, Braniff states that Dallas/Ft. Worth-Philadelphia is the largest remaining Dallas/Ft. Worth monopoly market and the second largest monopoly in the U.S.; that American, the nonstop incumbent, has provided only minimum levels of service, has sustained high load factors, and has not offered its Super Saver fare over this segment; and that it would provide not only first competitive nonstop service, but also its new "Home Free" fare in the market.

The Cities and Chambers of Commerce of Dallas and Fort Worth and the North Texas Commission, the City of Philadelphia and the Greater Philadelphia Chamber of Commerce, the City of Austin,[1] the Austin Chamber of Commerce, and the Lubbock Chamber of Commerce and Board of City Development filed in support of the motion. The City of Houston and the Houston Chamber of Commerce support the motion and, in addition, request the Board to consider additional nonstop authority in the Houston-Philadelphia market. The Department of Justice also supports the motion.

American Airlines answered in opposition. It states that Braniff has not shown the impact of the service proposal on its current schedules and that its estimates of self-diversion and diversion do not fully reflect the impact of the proposal upon itself or other carriers; that its fare proposal would not benefit a significant enough number of passengers to warrant special consideration; and that American's service is comparable to that offered in many similar-sized markets.[2]

We have decided to institute the "Dallas/Fort Worth-Philadelphia Service Investigation," Docket 32343, to consider the need for competitive nonstop authority in the Dallas/Fort Worth-Philadelphia market.[3]

In accordance with the policy announced in our order instituting the "Chicago-Albany/Syracuse-Boston Competitive Service Investigation" (Order 77-12-50), the offer or failure to offer lower prices will be taken into account in determining whether the public convenience and necessity require the award of new authority, and, if so, which carrier(s) should be selected. We therefore expect the instituted investigation to include an examination of the need for and feasibility of various new price/quality options and related issues, as we explained in Order 77-12-50. We repeat, however, that traditional service benefits, including the benefits of city-pair competition, are important issues which will be weighed with price and price/quality considerations. Moreover, as more fully set out in Order 77-12-50, the parties and the judge should focus on whether any new authority should be permissive, whether multiple awards should be made, whether multiple awards may encourage real price competition, and whether they are consistent with the Federal Aviation Act.

Accordingly, it is ordered, That: 1. The motion for hearing of Braniff Airways in Docket 30267 be granted;

2. An investigation designated as the "Dallas/Ft. Worth-Philadelphia Service Investigation," Docket 32343, be instituted pursuant to section 204 of the Act and set for hearing before an administrative law judge of the Board at a time and place to be designated later;

3. This investigation shall consider whether the public convenience and necessity require that new authority be granted in the Dallas/Fort Worth-Philadelphia market; if so, which air carrier(s) should be authorized; and whether the new or existing authority should be subject to any terms, conditions or limitations;

4. Any authority awarded in this investigation shall be ineligible for subsidy;

5. The application of Braniff Airways in Docket 30267 be consolidated

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[1] The City of Austin filed a motion for leave to file a late answer.

[2] Braniff filed a reply accompanied by a motion for leave to file an otherwise unauthorized document. We will grant the motion.

[3] We will not consider Houston-Philadelphia authority in this proceeding. Houston has provided no support for such an expansion and no air carrier has applied for this authority.

into the investigation instituted by paragraph 2, above;

6. The motions of Braniff and the City of Austin for leave to file unauthorized documents be granted;

7. The following be made parties to the investigation instituted by paragraph 2, above: American Airlines, Braniff Airways, Delta Airlines, the City of Dallas, The City of Fort Worth, the Dallas Chamber of Commerce, the Fort Worth Chamber of Commerce, the North Texas Commission, the City of Philadelphia and the Greater Philadelphia Chamber of Commerce, the City of Austin and the Austin Chamber of Commerce, and the Lubbock Chamber of Commerce and Board of City Development;

8. Applications, amendments to applications, motions to consolidate, and petitions for reconsideration of this order shall be filed within 20 days from the date of service of this order and answers shall be filed within 10 days thereafter; [4]

9. All other carriers filing applications that they seek to have consolidated in the investigation instituted by paragraph 2, above, shall file environmental evaluations pursuant to § 312.12 of the Board's Regulations within 30 days of the date of service of this order.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR, [5]
Secretary.

[FR Doc. 78-9284 Filed 4-6-78; 8:45 am]

[6320-01]

[Docket No. 27557]

CARGO CHARTER TRANSFER RATE INVESTIGATION

Hearing

Notice is hereby given pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a public hearing in the above-entitled proceeding is assigned to be held on May 16, 1978, at 10 a.m. (local time) in Room 1003, Hearing Room A, Universal North Building, 1875 Connecticut Avenue NW., Washington, D.C., before the undersigned Administrative Law Judge.

For information concerning the issues involved and other details of this proceeding, interested persons are referred to the various documents which are in the docket of this case on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., April 4, 1978.

THOMAS P. SHEEHAN,
Administrative Law Judge.

[FR Doc. 78-9281 Filed 4-6-78; 8:45 am]

[6320-01]

[Docket Nos. 30693, etc.; Order 78-3-159]

STANDARD AIRWAYS ET AL.

Order Regarding Former Large Irregular Air Service Investigation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 31st day of March 1978.

Application of S. B. Craft and N. Y. Craft, d.b.a. Standard Airways, for exemption pursuant to section 416(b) of the Federal Aviation Act of 1958, as amended, Docket 30693; application of Transocean Air Lines, Inc. for an exemption pursuant to section 416(b) of the Federal Aviation Act of 1958, as amended, Docket 30723; Former Large Irregular Air Service Investigation, Docket 32327.

In April, 1977, Standard Airways and Transocean Air Lines [1] filed separate applications for authority to engage in supplemental air transportation domestically and between the U.S. and most of the rest of the world. [2] The applicants are two of a group of persons who once held operating authority from the Civil Aeronautics Board as large irregular air carriers or "nonskeds"; who applied for certification as supplemental air carriers but either were denied it or had it cancelled; and who, as a consequence, no longer hold authority to engage in air transportation.

In recent years, some of these former non-skeds have stated in every available forum—including hearings before the Subcommittee on Monopoly of the Senate Select Committee on Small Business, a presentation to the Board, and voluminous correspondence with the Board, individual Board Members, and members of the Board's staff—that they want to regain authority and resume common carrier air operations. Many of them argue that they were denied supplemental certificates illegally and, therefore, that they are entitled as a matter of right to "grandfather" supplemental certificates or certificates restoring them to their status as large irregular air carriers.

Basically there are three types of operating authority which some or all of them seek. Although not all of their requests are before us in these dockets, we want to clear the air by discussing them generically and stating what we are prepared to do as well as what we will not or cannot do.

First, some of them seek reinstatement as large irregular air carriers. Specifically, they want nationwide authority to engage in regularly scheduled and individually ticketed air transportation in markets of their own choosing but subject to frequency and regularity restrictions and, perhaps, conditioned on the offering of low fares. Second, some of them seek certification in various markets as scheduled air carriers. Third, some seek authorization by certificate or exemption as supplemental air carriers.

The first of these, the recreation of their status as large irregular air carriers, is the one thing that is clearly beyond the power of the Board under existing law. The supplemental air carrier amendments to the Federal Aviation Act and their legislative history leave no doubt that Congress intended to eliminate the kind of operations authorized in the Large Irregular case. In the face of that prohibition we cannot restore these carriers to the status of large irregulars.

The second, certification in individual markets as scheduled carriers, is open to any and all of the former nonskeds. In fact, four of them are applicants in the pending "Transcontinental Low-Fare Route Proceeding," Docket 30356. Each is free to file a motion to consolidate its own application into any other route proceeding set down by the Board and, in addition, to file applications together with motions for hearing in any other markets. Each is also free to propose operations *in individual markets* similar to the ones they had the authority to conduct, on a nationwide basis, as large irregular air carriers. We will give each such application full and fair consideration.

Finally, they seek authority as supplemental air carriers; and this, in essence, is what Standard and Transocean have requested, by exemption, in the present cases.

In support of their applications they state that they first began operations in air transportation in the 1940's, later received CAB Letters of Registration as non-certificated large irregular

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[4] We delegate to the presiding administrative law judge the authority to consolidate by order any new applications which conform to the scope of the proceeding.

[5] All members concurred.

[1] The full names of the applicants are respectively, S. B. Craft and N. Y. Craft d/b/a Standard Airways and Transocean Air Lines.

[2] Specifically, Standard and Transocean seek exemptions from section 401(d)(3) of the Act which would authorize them to engage in supplemental air transportation domestically and between any point in the United States, its territories and possessions, on the one hand, and any point in South America, Central America, Canada, Mexico, Africa, Europe, India, China, Australia, Micronesia and South Pacific, on the other hand. Standard wishes also to serve Scandinavia, Japan and Antarctica, and Transocean seeks additional authority to the Middle East, Southeast Asia, Asia, U.S.S.R., and Siberia. Both applicants request world-wide military authority. Both request that the authority be for a minimum period of 36 months.

air carriers, and later were made supplemental air carriers; and that, in light of their extensive operating history, they are well experienced to provide the service they now propose. They argue that there is a serious lack of U.S. charter air carriers and aircraft;[3] that, as a result, foreign charter operators are carrying significant amounts of U.S. traffic to the detriment of the national balance of payments; that the President of the United States has recognized the urgent need for additional competitive low cost air services; and that, under these circumstances, it would be in the national, public and economic interest of the U.S. to grant the requested exemption applications. Neither Standard nor Transocean owns large jet aircraft at this time. They advised that they will lease suitable aircraft upon receiving this exemption authority. Both applicants also filed motions requesting that their applications be treated expeditiously without formal hearings. Alternatively, they seek expeditious hearing.[4] Further pleadings in these two dockets are summarized in the margin.[5]

[3]Standard observes that in 1966 there were 13 supplemental carriers and that today there are fewer than five capable of accommodating the nation's international charter demands.

[4]Each applicant further filed a motion requesting that its application be consolidated with those of other "Grandfather" supplemental airline applicants seeking exemption authority to engage in air transportation. By Order 77-6-23, the Board denied these motions to consolidate with Docket 30356, "Transcontinental Low-Fare Route Proceeding," which involves charter authority only as an incident to the scheduled authority which is the principal focus of the case. The Board stated its intention, however, to consider the exemption applications together. On June 27, Standard and Transocean petitioned the Board for reconsideration of Order 77-6-23. This petition was denied by Order 77-11-39.

[5]American Airlines, Braniff Airways, National Airlines, Pan American World Airways and Trans World Airlines (trunkline carriers) jointly filed answers opposing both applicant's exemption applications and their motions for expedited proceedings. The trunkline carriers' answers to Transocean were accompanied by motions requesting leave to file the answers late, which we will grant. United Air Lines has also filed an answer in opposition to Standard's exemption application.

The trunkline carriers suggest that the Board summarily dismiss the two applications on the ground that they are legally deficient in material respects. They argue that it would be impossible for the applicants to make the required showing for an exemption and that they should seek certificates if they want supplemental authority. The trunkline carriers also contend that the applicants have failed to demonstrate any facts that would justify expeditious treatment.

Standard has replied and Transocean has, by reference, adopted Standard's reply. Transocean further adopted as part of its reply the entire record of the Senate Subcommittee on Monopoly of the Select Committee on Small Business hearings into "The Decline of Supplemental Air Carriers in the United States," held in October 1976 and February 1977.

We are genuinely receptive to applications for entry into air transportation by persons not now holding operating authority and for that reason it is with great reluctance that we have decided to deny Standard's and Transocean's exemption applications.

Their applications are broad in scope: they request worldwide supplemental authority, using an unlimited number of aircraft of unspecified size, for a period of 36 months. While we might be willing in some circumstances to grant authority by exemption under any of these three conditions standing alone, we are reluctant to approve the combination of authority requested by these applicants. The exemption process is not intended to cover applications of that magnitude. It is well established that the Act contemplates a basic framework of certificated air service for both route and supplemental air transportation. The Board's authority to grant exemptions is limited to situations in which it finds that enforcement of the certificate requirements would be "an undue burden on a carrier by reason of the limited extent of, or unusual circumstances affecting, the operations" of that carrier, and is not in the public interest. The courts have held, in this connection, that Congress did not carefully construct provisions for the certification of carriers, and at the same time give the Board "power to destroy those elaborate provisions," "American Airlines v. CAB," 235 F. 2d 845, 850 (D.C. Cir.) *cert. denied*, 353 U.S. 905 (1956).

Standard and Transocean have not made a showing of an immediate need for their proposed services strong enough to justify the extraordinary relief they request. Nor have they demonstrated that certification proceedings would be unduly burdensome. In light of these considerations we must conclude that the public interest does not warrant exemption from the ordinary certification procedures mandated by the Act.

Our denial of the exemptions, however, is not a bar to operating authority for these carriers. We are at this time opening a separate docket to consider applications for supplemental certificate authority under section 401(d) (3) of the Act: our solicitation is aimed primarily, though not exclusively, at the former large irregular air carriers. Applicants will have twenty-one days from the service date of this order to file their applications with the Board in a new docket, entitled "Former Large Irregular Air Service Investigation." The application should specify the geographic area over which supplemental authority is requested and the nature of the operations for which certification is sought. After the applications are received we will make a prompt determination on whether to set them for hearing.

We make three observations about any such applications. First, that we will, consistently with the requirements of section 401 of the Act, examine the fitness of applicants to provide the service they propose; while previous air transport experience is clearly relevant to the issue of fitness, we will not find fitness solely on the basis of earlier operations. An applicant in this proceeding will be required to demonstrate that it is currently fit, willing and able to conduct operations, as required by section 401(d)(3).

Second, we will not grant "grandfather" certificates, we are not reopening the records of past proceedings, and we will not undertake an investigation into the history of supplemental air transportation.

Third, we intend to conduct the necessary proceedings, including any hearing, expeditiously and with a minimum of expense to these small entrepreneurs. We will therefore waive the filing fees which would otherwise be required. If there are hearings, the presiding administrative law judge shall also manage the case with a view toward minimizing the cost to the applicants.

Accordingly, it is ordered, That:

1. The motions of Standard and Transocean for expedited treatment of their applications be dismissed;

2. The motions of the trunkline carriers to file answers late to Transocean's application and motion for expedited treatment be granted;

3. The applications of Standard in Docket 30693 and Transocean in Docket 30723 be denied; and

4. A new Docket 32327 be established in which appications for certificates to perform supplemental air transportation may be filed within 21 days of the effective date of this order.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,[6]
Secretary.

[FR Doc. 78-9283 Filed 4-6-78; 8:45 am]

[6]All Members concurred.

[1505-01]

CIVIL AERONAUTICS BOARD

[Order No. 78-3-75]

WESTERN AIR LINES, INC. AND CONTINENTAL AIR LINES, INC., ET AL.

Order To Show Cause

Correction

In FR Doc. 78-7857 appearing on page 12352 in the issue of Friday, March 24, 1978, the order number was inadvertently omitted from the heading. It should be included in the heading in small type as it appears above.

[6335-01]

COMMISSION ON CIVIL RIGHTS

DELAWARE 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 Delaware Advisory Committee (DAC) of the Commission will convene at 12 noon and will end at 2 p.m. on May 3, 1978, at the YMCA, 10th and Walnut Streets, Club Room, Wilmington, Del.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Mid-Atlantic Regional Office of the Commission, 2120 L Street NW., Room 510, Washington, D.C. 20037.

The purpose of this meeting is to discuss program planning.

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

Dated at Washington, D.C., April 3, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 78-9265 Filed 4-6-78; 8:45 am]

[6335-01]

MONTANA 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 Montana Advisory Committee (MAC) of the Commission will convene at 12:30 p.m. and will end at 3 p.m. on May 5, 1978, at Northern Hotel, 28th and 1st Avenue North, Board Room, Billings, Mont.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Rocky Mountain Regional Office of the Commission, 1405 Curtis Street, Suite 1700, Denver, Colo. 80202.

The purpose of this meeting is to review plans and programs for fiscal years 1978, 1979 and 1980.

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

Dated at Washington, D.C., April 3, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 78-9266 Filed 4-6-78; 8:45 am]

[6335-01]

NEW JERSEY 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 New Jersey Advisory Committee (SAC) of the Commission will convene at 6:30 p.m. and will end at 11 p.m. on April 18, 1978, at Jet port, 1000 Spring Street, Elizabeth, N.J.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Northeastern Regional Office of the Commission, 26 Federal Plaza, 1639, New York, N.Y. 10007.

The purpose of this meeting is to get reports from subcommittees.

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

Dated at Washington, D.C., April 3, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 78-9267 Filed 4-6-78; 8:45 am]

[6335-01]

NORTH DAKOTA 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 New Dakota Advisory Committee (SAC) of the Commission will convene at 9:30 a.m. and will end at 12 noon on May 4, 1978, at the United Tribes Conference Room, Building 61, 3315 South Airport Road, Bismarck, N. Dak. 58501.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Rocky Mountain Regional Office of the Commission, 1405 Curtis Street, Suite 1700, Denver, Colo. 80202.

The purpose of this meeting is to discuss plans for fiscal year 1978 and 1979, and the reviewing of the North Dakota report.

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

Dated at Washington, D.C., April 3, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 78-9268 Filed 4-6-78; 8:45 am]

[6335-01]

WYOMING 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 Wyoming Advisory Committee (SAC) of the Commission will convene at 10:30 a.m. and will end at 12:30 p.m. on May 13, 1978, at the Job Service Center, 506 West 17th Street, Cheyenne, Wyo. 82001.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Rocky Mountain Regional Office of the Commission, 1405 Curtis Street, Suite 1700, Denver, Colo. 80202.

The purpose of this meeting is to review the report of its consultation on civil rights in the State. The members will also discuss their participation in future projects.

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

Dated at Washington, D.C., April 3, 1978.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc. 78-9269 Filed 4-6-78; 8:45 am]

[6325-01]

CIVIL SERVICE COMMISSION

DEPARTMENTS OF HEALTH, EDUCATION AND WELFARE, COMMERCE, DEFENSE, ENERGY; PENNSYLVANIA AVENUE DEVELOPMENT CORP., FARM CREDIT ADMINISTRATION

Grant of Authority to Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20) the Civil Service Commission authorizes the following agencies to fill by noncareer executive assignment in the excepted service the positions listed below:

Department of Health, Education and Welfare—Director, Office of Policy, Planning and Research, Office of the Administrator, Health Care Financing Administration.

Department of Commerce—General Counsel, Maritime Administration.

Department of Defense—Assistant General Counsel (Intelligence, Inter-

national and Investigative Programs,) Office of the General Counsel, Office of the Secrtary of Defense.

Department of Energy—Nine positions of Regional Representative of the Secretary and one position of Regional Representative of the Secrtetary/Chairman, Federal Regional Council, (Region IX).

Pennsylvania Avenue Development Corp.—Development Director.

Farm Credit Administration—General Counsel, Office of the General Counsel.

For the United States Civil Service Commission.

JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 78-9105 Filed 4-6-78; 8:45 am]

[6325-01]

MANUAL ON FUND-RAISING WITHIN THE FEDERAL SERVICE FOR VOLUNTARY HEALTH AND WELFARE AGENCIES

Proposed Amendment

AGENCY: Civil Service Commission.

ACTION: Proposed Amendment to the Manual on Fund-Raising Within the Federal Service for Voluntary Health and Welfare Agencies.

SUMMARY: The Civil Service Commission proposes to incorporate the following instructions in the Manual on Fund-Raising Within the Federal Service for Voluntary Health and Welfare Agencies. The proposed revision would permit certain local on-base activities of the Department of Defense to share in the proceeds of the Overseas Combined Federal Campaign.

DATE: Comments from interested agencies and persons must be received on or before April 21, 1978.

ADDRESS: Submit comments to: George J. McQuoid, Assistant to the Chairman, U.S. Civil Service Commission, 1900 E Street, NW., Washington, D.C. 20415.

FOR FURTHER INFORMATION CONTACT:

Joseph S. Patti, phone 202-632-5544.

The proposed revisions are set out below.

GEORGE J. MCQUOID,
Assistant to the Chairman.

3.54 *Overseas Campaign*

* * * * *

3.544 *Participation of Local On-Base Health and Welfare Activities in the Overseas Campaign.* (For instructions see Appendix.)

APPENDIX—PARTICIPATION OF LOCAL ON-BASE HEALTH AND WELFARE ACTIVITIES IN OVERSEAS COMBINED FEDERAL CAMPAIGN

I. Objective. To provide a mechanism to permit certain local on-base activities which participate in the Combined Federal Campaign in the domestic area as member agencies of local United Ways to share in the proceeds of the Overseas CFC, in the absence of a federated fund-raising organization in the overseas area.

II. Proceeds Sharing. Effective with the fall 1978 Overseas CFC, a percentage of the total CFC contributions may be retained at the local level for the use of those morale, welfare and recreational (MWR) activities which meet the eligibility requirements listed in Appendix 2. The National Policy Coordinating Committee for the CFC-Overseas Area will annually review the degree to which MWR activities should share in the overseas campaign receipts. The Committee will recommend to the Chairman of the Civil Service Commission annually the percentage of total campaign receipts to be retained in each overseas area for these activities, which in no case will exceed 10 percent of total contributions. This recommendation will be forwarded to the Civil Service Commission along with those applications which the DoD National Policy Coordinating Committee feels meet the established eligibility criteria. The Chairman of the Civil Service Commission will make the final determination on the percentage of total campaign receipts which will be retained at each local level for this purpose.

Designated contributions will not be affected by this proceeds-sharing arrangement, nor can contributions be designated for MWR activities. Local commanders will assure that the inclusion of such activities in no way affects the voluntary nature of the CFC program.

III. Participating Agencies. Local morale, welfare and recreational activities within a military community which have been authorized by the local Commander to provide on-base services and which do not receive a majority of their financial support from appropriated funds are eligible to apply for inclusion in the CFC proceeds-sharing arrangement.

IV. Application Procedures. MWR activities desiring to participate in the Overseas CFC should submit annually an application through Command channels for review and recommendation by the MWR Eligibility Committee. The Chairman of the Civil Service Commission makes final determination on eligibility. Applications must be received by February 1[1] in the format prescribed in Appendix 1 and meet the eligibility criteria stated in Appendix 2. All applications will be reviewed at the designated overseas command(s), and those which clearly meet the eligibility criteria will be forwarded through channels for a final recommendation by the MWR Eligibility Committee to the Chairman of the Civil Service Commission. Designated overseas commands will be notified each year of those MWR activities eligible to share in the CFC proceeds and the percentage of funds that will be retained at the local level for this purpose.

V. MWR Eligibility Committee. The MWR Eligibility Comfnittee will be appointed by the Chairman of the Civil Service Commission and will consist of three representatives of the Department of Defense (two management representatives and 1 representative from a non-profit NCO association) and two representatives from other Federal agencies which have overseas operations or familiarity with the community structure for the provision of health and welfare organizations.

VI. Distribution of Funds to MWR Activities. The Chairman, National Policy Coordinating Committee for the CFC-Overseas Area will disburse funds, drawn from the central repository of campaign funds to local activities whose participation in the campaign has been approved. The amount of funds so returned will be determined by applying the percentage approved by the Chairman, Civil Service Commission to the total amount raised by the installation or military community concerned.

VII. Implementation. The Department of Defense will issue any implementing instructions necessarily to fairly administer the participation of overseas MWR activities in the overseas campaign.

VIII. Reporting Procedures. As soon as the results of the Overseas CFR are available, the National Policy Coordinating Committee will submit to the Civil Service Commission a report which will include the following information:

1. Total amount raised in campaign;
2. Amount retained for local MWR activities;
3. Number of MWR agencies requesting participation; number turned down at Command level;
4. An assessment of how the procedures worked generally, including any impact on receipts to other voluntary organizations; any problems; any suggestions for improvement of system; and any reaction from contributors.

APPENDIX 1—FORM AND CONTENT OF APPLICATIONS

Applications will be submitted in the following format, with the information documents and data specified:

a. *Name of Activity and Fiscal Year.*

b. *Origin, Purpose and Structure of Organization.* Furnish information to show activity meets eligibility requirements contained in Appendix 2.

c. *Program* (paragraph 1e, Appendix 2). Outline the program and provide specific goals and objectives.

d. *Management* (paragraph 1f, Appendix 2). List board of directors and describe administrative activity in the past year.

e. *Finances* (paragraph 1g, Appendix 2). Furnish certification of installation auditor or nonappropriated fund financial management officer of compliance with accepted Military Department financial system.

f. *Nondiscrimination* (paragraph 1h, Appendix 2). Furnish written assurance of nondiscrimination on the basis of race, color, religion, sex or national origin.

g. *Annual report* (paragraph 1i, Appendix 2). Furnish copy of latest annual report.

h. *Financial Report* (paragraph 1j, Appendix 2). Furnish copy of latest financial report certified by the installation auditor or the nonappropriated fund financial management officer that report was prepared in accordance with standards established by the Military Department concerned.

APPENDIX 2—Eligibility Requirements

Overseas command MWR activities must meet the following eligibility requirements to share in the proceeds of the Combined Federal Campaign-Overseas Area:

a. *Type of Agency.* Only nonprofit, tax-exempt organizations which have been approved by the Commander to provide morale, welfare and recreation services to persons in the overseas command are eligi-

[1] For the 1978 campaign, this date is June 1, 1978.

ble. The agency must not receive a majority of its financial support from appropriated funds.

b. *Integrity of Operations.* Only organizations having a high degree of integrity and responsibility in the conduct of their affairs will be approved. Campaign funds obtained must be used effectively for the announced purposes of the organization.

c. *Avoidance of Competition.* Approval will not be granted to more than one organization meeting a particular human need in the same geographic area unless there is a demonstrated need for such additional service. This does not preclude support to service(s) co-located in the same geographic area and operating separate MWR programs for their respective services.

d. *Use of Campaign Proceeds.* Approval will be granted only for funds used in support of current operations. Funds will not be used for capital improvement purposes. Funds may be used as a supplement to appropriated or nonappropriated funding.

e. *Program.* An active and necessary program providing direct services to persons, with particular regard to the welfare of the persons serviced and efficient operations.

f. *Management.* Direction of the activity by the base Nonappropriated Fund Council or an active voluntary board of directors which serves without compensation and holds regular meetings.

g. *Finances.* Conduct of fiscal operations in accordance with a detailed annual budget, prepared and approved at the beginning of the year with prior authorization of any significant variations from the approved budget. Maintenance of accounting procedures acceptable to an installation auditor and the inspector general.

h. *Nondiscrimination.* A policy and practice of nondiscrimination on the basis of race, color, religion, sex, or national origin applicable to persons served by the organization.

i. *Annual Report.* Preparation of an annual report which includes a full description of the organization's activities and accomplishments. These reports will be a matter of interest in all inspections.

j. *Financial Reports.* Preparation of a consolidated annual financial report in accordance with standards established by the Military Departments.

[FR Doc. 78-9106 Filed 4-6-78; 8:45 am]

[3510-24]

DEPARTMENT OF COMMERCE

Economic Development Administration

HANDI-BAG CO., INC., AND WINBURN TILE MANUFACTURING CO.

Petitions

Petitions were accepted for filing from two firms: (1) Handi-Bag Co., 330 Fifth Avenue, New York, N.Y. 10001, a producer of handbags and purses (accepted on March 29); and (2) Winburn Tile Manufacturing Co., 1709 East Ninth Street, Little Rock, Ark. 72203, a producer of ceramic and vinyl tile (accepted on March 30). The petitions were submitted pursuant to section 251 of the Trade Act of 1974 (Pub. L. 93-618) and section 315.23 of the Adjustment Assistance Regulations for Firms and Communities (13 CFR Part 315).

Consequently, the U.S. Department of Commerce has initiated separate investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Chief, Trade Act Certification Division, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business of the 10th calendar day following the publication of this notice.

CHARLES L. SMITH,
Acting Chief, Trade Act Certification Division, Office of Planning and Program Support.

[FR Doc. 78-9253 Filed 4-6-78; 8:45 am]

[3510-22]

National Oceanic and Atmospheric Administration

MARINE MAMMALS

Modification of Permit

Notice is hereby given that pursuant to the provisions of § 216.33 (d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), Permit No. 112, issued to Coastal Marine Laboratory, University of California, Santa Cruz, Santa Cruz, Calif. 95064, on September 30, 1975 (40 FR 47817), and modified on March 10, 1976 (41 FR 10247), is modified in the following manner:

1. Special Conditions; add the following section B-10, "Not more than four elephant seals may be captured, transported, and maintained for metabolic studies. The animals may be held for up to 72 hours and then released at the site of capture."

This modification is effective on April 7, 1978.

The Permit as modified, and documentation pertaining to the modification are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C.; and

Southwest Regional Director, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, Calif. 90731.

Dated: March 30, 1978.

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

[FR Doc. 78-9256 Filed 4-6-78; 8:45 am]

[6820-33]

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

PROPOSED ADDITIONS

Procurement List 1978

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 1978 commodities to be produced and services to be provided by workshops for the blind and other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: May 10, 1978.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Va. 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 Federal Government will be required to procure the commodities and services listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodities and services to Procurement List 1978, November 14, 1977 (42 FR 59015):

Class 7210

Cover, Mattress 7210-00-140-4231 7210-00-140-4234 7210-00-543-6001

Class 7520

Staple Remover 7520-00-162-6177

SIC 0782

Grounds Maintenance—Cemetery Upkeep (including opening and closing graves), Fort Lawton, Wash.

SIC 7399

Assembly of General Mechanic's Tool Cases, General Services Administration, Kansas City, Mo.

Microfilming Contract Files, Department of the Navy, Trident, Bremerton, Wash.

C. W. FLETCHER,
Executive Director.

[FR Doc. 78-9241 Filed 4-6-78; 8:45 am]

[6351-01]

COMMODITY FUTURES TRADING COMMISSION

ADVISORY COMMITTEE ON STATE JURISDICTION AND RESPONSIBILITIES UNDER THE COMMODITY EXCHANGE ACT

Advisory Committee Meeting

This is to give notice, pursuant to section 10(a) of the Federal Advisory Committee Act, 5 U.S.C. App. I, 10(a), that the Commodity Futures Trading Commission's Advisory Committee on State Jurisdiction and Responsibilities under the Commodity Exchange Act ("Advisory Committee on State Jurisdiction and Responsibilities" or "Advisory Committee") will conduct a public meeting in the Fifth Floor Hearing Room at the Commission's Washington, D.C., headquarters located at room 532, 2033 K Steet NW., Washington, D.C. 20581, on April 21, 1978, beginning at 10 a.m. and lasting until 6 p.m. The Advisory Committee on State Jurisdiction and Responsibilities is an advisory committee created by the Commission for the purpose of receiving advice and recommendations on such matters as state enforcement of the Commodity Exchange Act and enforcement of general state criminal antifraud laws in the commodity area. The purposes and objectives of the Advisory Committee on State Jurisdiction and Responsibilities are more fully set forth at 41 FR 13393 (March 30, 1976).[1]

The summarized agenda for the meeting is as follows:

(a) Consideration of proposed, or actual, amendments to the Commodity Exchange Act affecting jurisdictional matters;

(b) Discussion of standards for commodity pool operators;

(c) Consideration of commodity options regulations;

(d) Discussion of leverage transactions; and

(e) Analysis of recent cases and other matters of interest to the Commission and the states.

The meeting is open to the public. The Chairman of the Advisory Committee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Advisory Committee should mail a copy of the statement to William E. Gressman, Advisory Committee on State Jurisdiction and Responsibilities, Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C. 20581, at least 5 days before the meeting. Members of the public who wish to make oral statements should inform William E. Gressman, telephone 202-254-5529, at least 5 days before the meeting and reasonable provision will be made for their appearance, to the extent time permits, at the conclusion of the meeting to present oral statements of no more than 10 minutes each in duration.

Issued in Washington, D.C., on April 4, 1978.

By the Commission.

WILLIAM T. BAGLEY,
Chairman, Commodity Futures Trading Commission.

[FR Doc. 78-9387 Filed 4-6-78; 8:45 am]

[1] The Commission is in the process of renewing the Advisory Committee for another 2 years (the original 2-year charter will expire Apr. 19, 1978). A notice of renewal of the Advisory Committee is being published in the FEDERAL REGISTER.

[6351-01]

ADVISORY COMMITTEE ON STATE JURISDICTION AND RESPONSIBILITIES UNDER THE COMMODITY EXCHANGE ACT

Renewal

The Commodity Futures Trading Commission has determined to renew for a period of 2 years its advisory committee designated as the "Commodity Futures Trading Commission Advisory Committee on State Jurisdiction and Responsibilities under the Commodity exchange Act" ("Advisory Committee on State Jurisdiction and Responsibilities").[1] As required by section 14(a)(2)(A) of the Federal Advisory Committee Act, 5 U.S.C. App. I, § 14(a)(2)(A), and the guidelines thereunder, the Commission has consulted with the General Services Administration's Committee Management Secretariat, and the Commission certifies that the renewal of the advisory committee is in the public interest in connection with duties imposed on the Commission by the Commodity Exchange Act, as amended, 7 U.S.C. § § 1, et seq.

The objectives and scope of activities of the Advisory Committee on State Jurisdiction and Responsibilities are to conduct public meetings and submit reports and recommendations on matters of joint concern to the states and the Commission, arising under the Commodity Exchange Act, as amended, regarding regulation of commodity transactions and related activities, including the following:

(1) Enforcement by the states, in coordination with the Commission, of the provisions of the Commodity Exchange Act, as amended;

(2) The continued enforceability of general state criminal and civil antifraud laws and similar statutes of general applicability with respect to commodity transactions; and

(3) The nature of instruments and transactions subject to: (a) Exclusive Federal jurisdiction under the Commodity Exchange Act, and (b) concurrent state law jurisdiction.

The General Counsel of the Commission serves as Chairman of this Advisory Committee on State Jurisdiction and Responsibilities. State officials, who have had experience in the commodities and consumer protection fields, serve as members, and one expert in the field of commodities is also a member. In addition, the Commission has appointed as members the Director of its Division of enforcement and the Director of its Intergovernmental Affairs Office.

Interested persons may obtain information or make comments by writing the Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C. 20581.

Issued in Washington, D.C., this 4th day of April 1978.

By the Commission.

WILLIAM T. BAGLEY,
Chairman, Commodity Futures Trading Commission.

[FR Doc. 78-9388 Filed 4-6-78; 8:45 am]

[1] The original 2-year charter of the advisory committee will expire Apr. 19, 1978.

[3125-01]

COUNCIL ON ENVIRONMENTAL QUALITY

TSCA INTERAGENCY TESTING COMMITTEE

Meeting

This notice is intended to advise all interested persons of a scheduled meeting of the TSCA Interagency Testing Committee established under Section 4(e) of the Toxic Substances Control Act for the purpose of making recommendations to the Administrator of the Environmental Protection Agency regarding priorities for issuance of requirements for testing chemical substances and mixtures.

The Committee has invited representatives of the Fire Retardant Chemicals Association to present information on flame retardants to the TSCA Interagency Testing Committee. The meeting will be held Thursday, April 20, at 9 a.m., Room 2010, New Executive Office Building, 726 Jackson Place, NW., Washington, D.C. The portion of the meeting open to the public is expected to end approximately 12 noon, followed by a closed executive session. All interested persons are invited to attend.

Dated: April 5, 1978.

MARVIN E. STEPHENSON,
Chairperson, TSCA Interagency Testing Committee.

[FR Doc. 78-9411 Filed 4-6-78; 8:45 am]

[3910-01]

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF SCIENTIFIC ADVISORY BOARD

Meeting

MARCH 24, 1978.

The USAF Scientific Advisory Board Foreign Technology Division Advisory Group, Air Force Systems Command, will hold meetings on May 4, 1978, from 8 a.m. to 5 p.m. and on May 5, 1978, from 8 a.m to 1 p.m. at Wright-Patterson Air Force Base, Ohio, in room 276, Building 828.

The group will receive classified briefings and participate in classified discussions related to FTD's assessments of foreign defensive missile systems and recent developments in radars. In addition, there will be a discussion of foreign subsonic and transonic aerodynamic developments.

The meetings concern matters listed in section 552b(c), title 5, United States Code, specifically subparagraph (1) thereof, and that accordingly the meetings are closed to the public.

For further information contact the Scientific Advisory Board Secretariat at 202-697-8404.

FRANKIE S. ESTEP,
Air Force Federal Register Liaison Officer, Directorate of Administration.

[FR Doc. 78-9208 Filed 4-6-78; 8:45 am]

[3710-92]

Department of the Army

COASTAL ENGINEERING RESEARCH BOARD

Open Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act (Pub. L. 92-463) notice is hereby given of a meeting of the Coastal Engineering Research Board (CERB) to be held on April 25-27, 1978.

The meeting will be held in the Sheraton Marina Inn, Shoreline Drive, Corpus Christi, Tex., from 0800 to 1615 hours on April 25; from 0800 to 1630 hours on April 26; and from 0800 to 1200 hours on April 27, 1978.

The April 25 morning session will be devoted to presentations on CERB operations; the Coastal Engineering 5-Year Program; Discussion of Long-Term Planning; the Weir Jetty Study, the Hurricane Surge Study; Effect of Recent Storms on California Coastline; and a discussion of the Data Collection on Storm Effects. The afternoon session will be devoted to project briefings by Galveston District and a field inspection of these projects.

The April 26 session will be devoted entirely to field inspection trips by bus and helicopter to projects in and around the Corpus Christi area.

The April 27 session will be devoted to CERB comments on the inspection trips; the Southwestern Division's Research Needs; the FY 79 and 80 Research Program; a description of WES work on Tsunamis; and CERB discussion and comments. Oral participation by the public is scheduled for 1000 hours on April 27, 1978.

The meeting will be open to the public subject to the following limitations:

(a) As the seating capacity of the conference room is limited, it is desired that advance notice of intent to attend be provided. This will assure adequate and appropriate arrangements for all attendants. Members of the public may attend field inspection trips but must provide own transportation.

(b) Written statements, to be made a part of the minutes, may be submitted prior to, or up to 30 days following the meeting, but oral participation by the public is limited because of the time schedule.

Inquiries may be addressed to Colonel John H. Cousins, Executive Secretary, U.S. Army Coastal Engineering Research Board, Kingman Building, Fort Belvoir, Va. 22060, telephone 202-325-7000.

Dated: March 23, 1978.

By authority of the Secretary of the Army.

ROME D. SMYTH,
Colonel, U.S. Army, Director, Administrative Management, TAGCEN.

[FR Doc. 78-9230 Filed 4-6-78; 8:45 am]

[3710-08]

PRIVACY ACT OF 1974

New System of Records

AGENCY: Department of the Army.

ACTION: Notification of a New System of Records.

SUMMARY: The Department of the Army proposes a new record system identified as A0704.06bTRADOC, entitled: "Army Reserve Officers' Training Corps (ROTC) LEADS Referral Card System." The record system notice is published in its entirety below.

DATE: This system shall become effective as proposed without further notice in 30 calendar days from the date of this publication (May 7, 1978), unless comments are received on or before May 7, 1978, which would result in a contrary determination requiring republication for further comments.

ADDRESS: Send comments to the system manager identified in the record system notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Guy B. Oldaker, Administrative Management Diorectorate, The Adjutant General Center, Department of the Army Room GA-084, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20314, telephone 202-693-7831.

SUPPLEMENTARY INFORMATION: The Department of the Army systems of records notices as prescribed by the Privacy Act have been published in the FEDERAL REGISTER as follows:

FR Doc 77-28255 on September 28, 1977, at 42 FR 50396.
FR Doc 77-32975 on November 15, 1977, at 42 FR 59099.
FR Doc 78-1855 on January 23, 1978, at 43 FR 3151.

The Department of the Army has submitted this proposed new system of records on March 2, 1978, pursuant to the provisions of the Office of Management and Budget (OMB) Circular A-108, Transmittal Memoranda No. 1 and No. 3, dated September 30, 1975, and May 17, 1976, respectively, which provide supplemental guidance to Federal Agencies regarding the preparations and submissions of reports of their intention to establish or alter systems of personal records as required by the Privacy Act of 1974 5 U.S.C. 552a(o) (Pub. L. 93-579). This OMB Guidance was set forth in the FEDERAL REGISTER (40 FR 45877) on October 3, 1975.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

APRIL 3, 1978.

A0704.06bTRADOC

System name:

Army Reserve Officers' Training Corps (ROTC) LEADS Referral Card System.

System location:

Primary system: LCS Industries, 10 Pelham Parkway, Pelham Manor, N.Y. 10803.

Decentralized segments: Ayer Direct, 1345 Avenue of the Americas, New York, N.Y. 10019; Office of the Deputy Chief of Staff for ROTC (ODCSROTC), Headquarters (HQ), U.S. Army Training and Doctrine Command (TRADOC), Ft Monroe, Va. 23651; U.S. Army ROTC Region (ROTCR) Hq; ROTC Instructor Group Staffs; and Admissions/Registrars Offices of ROTC host or cross-enrolled institutions.

Categories of individuals covered by the system:

Any U.S. citizen who can reasonably be assumed to be a potential enrollee in the Senior ROTC (SROTC) program.

Categories of records in the system:

System contains individual names, addresses, telephone numbers, social security numbers, high school graduation dates, colleges planning to attend, and enrollment information following recruitment follow-up actions.

Authority for maintenance of the system:

Title 10 U.S.C., chapter 103, sections 2101–2111.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

LCS Industries: To establish and maintain a central computerized master file of prospective SROTC enrollees; to generate SROTC prospect LEADS cards and recruitment management information reports.

ROTC Instructor Group Staffs: To recruit individual SROTC prospects for possible enrollment and to maintain a future reference and follow-up suspense file of prospective enrollees.

HQ, TRADOC; HQ, ROTCR; and Ayer Direct: To analyze SROTC advertising program effectiveness and recruitment activites.

U.S. Army Recruiting Command (USAREC), U.S. Army Reserve (USAR), and Army National Guard (ARNG): To recruit individual prospects for enlistment purposes when the individual has specifically requested transfer of his/her name from the SROTC prospect file to the USAREC, USAR, or ARNG.

Admissions/Registrars Offices: To provide prospective enrollees who have indicated a desire to attend a particular host or cross-enrolled institution with catalogs or other information concerning that school.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

LCS Industries stores information on magnetic tape and magnetic disk in a film library secured by a controlled access roster.

Ayer Direct stores computer print-outs in standard file containers

HQ, TRADOC and HQ, ROTCR store computer print-outs in standard file containers.

ROTC Instructor Group Staffs store LEADS cards in file folders or in standard card index files.

Admissions/Registrars Offices store individual referral data in standard file containers.

Retrievability:

LCS Industries: Filed alphabetically by last name of prospect and by ROTCR.

HQ, TRADOC; HQ, ROTCR; and Ayer Direct: Print-out reports are alphabetized by last name of prospect and by ROTCR. Reports are filed chronologically by month.

ROTC Instructor Group Staffs: LEADS cards are filed alphabetically by last name of prospect.

Admissions/Registrars Offices: Filed alphabetically by last name of prospect.

Safeguards:

LCS Industries: Building and offices are locked in the evening. Keys are controlled. Records are maintained in areas accessible only to authorized personnel who are properly screened and trained.

Ayer Direct: Building employs security guard. Employees carry passes. Records are maintained in areas accessible only to authorized personnel who are properly screened, cleared, and trained.

HQ, TRADOC and HQ, ROTCR: Buildings are located on military reservations. Records are maintained in areas accessible only to authorized personnel who are properly screened, cleared, and trained.

ROTC Instructor Group Staffs and Admissions/Registrars Offices: Buildings are located on college campuses guarded by college security officials. Records are maintained in areas accessible only to authorized personnel who are properly screened, cleared, and trained.

Retention and disposal:

LCS Industries: Records are retained in an active file until the end of the fiscal year in which the data is received, held in an inactive file until expiration of contract.

Ayer Direct: Records are retained in an active file for up to 2 years and then destroyed.

HQ, TRADOC and HQ, ROTCR: Records are retained in an active file for up to 2 years and then destroyed.

ROTC Instructor Group Staffs and Admissions/Registrars Offices: Records are retained for as long as it is deemed necessary for appropriate follow-up action and then destroyed.

System manager and address:

The Deputy Chief of Staff for ROTC, Headquarters, U.S. Army Training and Doctrine Command, Ft Monroe, Va. 23651.

Notification procedure:

Information may be obtained from:

HQ, TRADOC, ODSCROTC (ATRO-AM), Ft Monroe, Va. 23651, telephone: area code 804–727–3077.

Record access procedures:

Request from: individuals should be addressed to: Headquarters, U.S. Army Training and Doctrine Command, Office of the Deputy Chief of Staff for ROTC (ATRO-AM), Ft Monroe, Va. 23651.

Written requests for information should contain the full name of the individual, current address, and telephone number.

Visits are limited to the Office of the Deputy Chief of Staff for ROTC, HQ, TRADOC (ATRO-AM), Ft Monroe, Va. 23651.

For personal visits, the individual should be able to provide some acceptable identification; e.g., driver's license or employing office's identification card.

Contesting record procedures:

The Army's rules for contesting contents and appealing initial determinations are contained in Army Regulation 340–21.

Record source categories:

Magazine, newpapers, and poster advertising coupons; mailback reply cards; letters; walk-ins; referrals from parents, relatives, counselors, teachers, coaches, friends, associates, college registrars, dormitory directors, national testing organizations, honor societies, Boys' Clubs, Boy Scout organizations, Future Farmers of America, minority and civil rights organizations, fraternal and church organizations, neighborhood youth centers, YMCA, YWCA, social clubs, athletic clubs, Boys' State/Boys' Nation, scholarship organizations, previous employers, trade organizations, and other agencies and commands within the Department of Defense.

Systems exempt from certain provisions of the act:

None.

[FR Doc. 78-9239 Filed 4-6-78; 8:45 am]

[3810-70]

Office of the Secretary

DEFENSE SCIENCE BOARD TASK FORCE ON COUNTER-COMMUNICATIONS, COMMAND AND CONTROL (C^3)

Advisory Committee Meeting

The Defense Science Board Task Force on Counter-Communications, Command and Control (C^3) will meet in closed session on May 2 and 3, 1978, in National Center Building No. 1.

The mission of the Defense Science Board Task Force is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on overall research and engineering and to provide long-range guidance in these areas to the Department of Defense.

The Task Force will provide an analysis of the communications, command and control (C^3) employed by potentially hostile forces and identify countermeasures that might be of significant help if the Department of De-

fense were required to counter those forces.

In accordance with section 10(d) of Appendix I, Title 5, United states Code, it has been determined that this Task Force meeting concerns matters listed in section 552b(c) of Title 5 of the United States Code, specifically subparagraph (1) thereof, and that accordingly this meeting will be closed to the public.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

APRIL 3, 1978.

[FR Doc. 78-9226 Filed 4-6-78; 8:45 am]

[3128-01]

DEPARTMENT OF ENERGY

DICKEY-LINCOLN SCHOOL LAKES TRANSMISSION PROJECT DOE/EIS-0008-D

Availability of Draft Environmental Impact Statement and Notice of Public Meetings

Notice is hereby given that the Department of Energy (DOE) has issued a Draft Environmental Impact Statement, DOE/EIS-008-D, Dickey-Lincoln School Lakes Transmission Project. The statement was prepared, pursuant to Implementation of the National Environmental Policy Act of 1969, to define the environmental impact of the electrical transmission facilities that will be required to integrate the generation of electricity into the New England electrical system from the Corps of Engineers' proposed Dickey-Lincoln School Lakes hydroelectric project in northern Maine.

A 138-kv transmission line would be constructed from the proposed Dickey Dam Substation to Fish River Substation in Fort Kent, Maine; a steel double circuit 345-kv transmission line from Dickey Dam Substation to Moore Substation near Littleton, N.H.; a 345.kv wood pole transmission line from Moore Substation to Granite Substation near Barre, Vt.; and a 345-kv wood pole transmission line from Granite Substation to Essex Substation near Essex Junction, Vt. The total length of the proposed lines is 365 miles. In addition to the construction of the new transmission lines, three new substations; expansion of three existing substations; and construction of twelve microwave stations would be required.

Copies of the Draft Environmental Impact Statement have been distributed for review and comment to appropriate Federal, State and local agencies, and other organizations and individuals who are known to have an interest in the activities at the site.

Copies of the statement are available for public inspection at the following locations:

Department of Energy, Library, Room 1223, 20 Massachusetts Avenue, NW., Washington, D.C.
Department of Energy, Room 2107, 12th & Pennsylvania Avenue, Washington, D.C.
Department of Energy, Room 700, 150 Causeway Street, Boston, Mass.
Department of Energy, Federal Building, Room 209, 202 Harlow Street, Bangor, Maine.
U.S. Army of Corps of Engineeers, New England Division, 424 Trapelo Road, Waltham, Mass.

Copies are also available for review in 62 libraries, planning commission offices and town halls throughout northern New England. A list of these depositories is available upon request from the DOE Office in Bangor.

Comments and views concerning the Draft Environmental Impact Statement are requested from other interested agencies, organizations and individuals. Single copies of the statement and/or Appendices will be furnished for review upon request. Requests should be addressed to the Department of Energy, Room 209, Federal Building, 202 Harlow Street, Bangor, Maine 04401, 207-942-8087. Comments should be sent to the same address. Comments should be identified on the outside of the envelope and on the documents submitted to DOE with the designation "Dickey-Lincoln School Lakes Transmission Project." Comments received on the Draft Environmental Impact Statement will be considered in the preparation of the final statement if received by DOE within 60 days from publication of this notice. During this period, additional comments will also be accepted by the U.S. Army Corps of Engineers on its Draft Environmental Impact Statement addressing the dams, reservoirs, and power plants proposed for the Dickey-Lincoln School Lakes Transmission Project (Environmental Impact Statement, Dickey-Lincoln School Lakes, Department of Army, New England Division, Corps of Engineers, Waltham, Massachusetts, August 1977). Comments on the Corps of Engineers document should be addressed to:

Division Engineer, U.S. Army Corps of Engineers, 424 Trapelo Road, Waltham, Mass. 02154.

In accordance with the guidelines of the Council on Environmental Quality, those submitting comments on the Draft Environmental Impact Statement should endeavor to make their comments as specific, substantive, and factual as possible without undue attention to matters of form in the impact statement. However, it would assist in the review of the comments if the comments were organized in a manner consistent with the structure of the Draft Environmental Impact Statement. Emphasis should be placed specifically on the assessment of the environmental impacts of construction and operation of the proposed transmission lines, its supporting facilities, and the acceptability of those impacts on the quality of the environment, particularly as contrasted with the impacts of reasonable alternatives to the proposed action. Commenting entities may recommend modification and/or new alternatives that will enhance environmental quality and avoid or minimize adverse environmental impacts.

The formal public review will include a series of eight public meetings to be held during May 1978. These will be conducted jointly by DOE and U.S. Army Corps of Engineers personnel. The purpose of these meetings is to obtain comments from public and private agencies, organizations, and interested citizens on the DOE Draft Environmental Impact Statement for the Dickey-Lincoln School Lakes Transmission Project and the Corps of Engineers Draft Environmental Impact Statement on the Dickey-Lincoln School Lakes Hydroelectric Project. The dates, times, and locations of the eight public meetings are listed below:

May 1, 1978—6:30 p.m., Fort Kent, Maine. Fort Kent High School Gymnasium, Pleasant St.
May 3, 1978—6:30 p.m., Jackman, Maine. Jackman High School Gymnasium (Forest Hills), Main St.
May 4, 1978—6:30 p.m., Augusta, Maine. Augusta Civic Center—Cushnoc Room, Community Drive.
May 8, 1978—6:30 p.m., Groveton, N.H. Groveton High School Gymnasium, 38 State St.
May 9, 1978—6:30 p.m., St. Johnsbury, Vt. St. Johnsbury Academy, Fuller Gymnasium.
May 10, 1978—6:30 p.m., Montpelier, Vt. Montpelier High School gymnasium, Memorial Dr.
May 11, 1978—6:30 p.m., Concord, N.H. Concord Public Library auditorium, 45 Green St.
May 15, 1978—6:30 p.m., Cambridge, Mass. DOT Systems Center auditorium, 55 Broadway.

Dated at Washington, D.C. this 6th day of April 1978.

For the United States Department of Energy.

WILLIAM S. HEFFELFINGER,
Director of Administration.

[FR Doc. 78-9508 Filed 4-6-78; 9:43 am]

[6740-02]

Federal Energy Regulatory Commission

[Docket Nos. RP76-94, RP76-95, RP76-138 and RP75-106(AP76-1)]

COLUMBIA GAS TRANSMISSION CORP.

Notice of Proposed Changes in FERC Gas Tariff

MARCH 30, 1978.

Take notice that Columbia Gas Transmission Corp., (Columbia) on

March 23, 1978, tendered for filing proposed changes in its FERC Gas Tariff, Original Volume No. 1, as follows:

Forty-first Revised Sheet No. 16
Third Revised Sheet No. 64
Fifteenth Revised Sheet No. 64B

These proposed changes to be effective April 1, 1978, are being filed in accordance with the Commission's letter order issued March 16, 1978, approving Columbia's Stipulation and Agreement in these proceedings.

Forty-first Revised Sheet No. 16 presents Columbia's settlement rates effective March 1, 1977 at Docket Nos. RP76-94, RP-76-95, RP76-138 and RP75-106(AP76-1), further adjusted to give effect to Columbia's subsequent PGA filings effective September 2, 1977, December 1, 1977 and March 2, 1978.

Third Revised Sheet No. 64 and Fifteenth Revised Sheet No. 64B provide for the inclusion of storage in Columbia's Purchased Gas Adjustment provisions.

Copies of the filing were served upon the Company's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, Union Center Plaza Building, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before April 12, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.78-9181 Filed 4-6-78; 8:45 am]

[6740-02]

[Docket Nos. CP78-249 and RM 78-6]

COLUMBIA GAS TRANSMISSION CORP. ET AL.

Authorization of Transportation and Sale of Natural Gas and Granting Petition to Intervene

MARCH 29, 1978.

On March 22, 1978, Columbia Gas Transmission Corp. (Columbia), Northern Natural Gas Co. (Northern), and Panhandle Eastern Pipe Line Co. (Panhandle) filed in Docket No. CP78-249 a petition for waiver of Section 2.68 of the Commission's General Policy and Interpretations (18 CFR 2.68) or in the alternative an application pursuant to section 7(c) of the Natural Gas Act for temporary and permanent certificates of public convenience and necessity authorizing the transportation of natural gas for Weirton Steel Division of National Steel Corp. (Weirton Steel), Weirton, W.V. The gas will be purchased by Weirton Steel from Delhi Gas Pipeline Corp. (Delhi). Approximately 400,000 Mcf of gas will be purchased by Weirton Steel at a price of $2.25 per million Btu's and is proposed to be transported by Columbia, Northern and Panhandle during the period through April 30, 1978.

It is asserted that as a result of the current coal shortage, Weirton Steel is faced with a severe shortage of coke oven gas and the imminent layoff of thousands of employees if a supply of a substitute gaseous fuel, such as natural gas, is not obtained by the company by March 27, 1978. Coke oven gas is a byproduct produced when large volumes of coal are heated in the making of coke, a primary raw material used in the making of iron, and is the primary gaseous fuel used in the process facilities of Weirton Steel's integrated steel mill. It is indicated that Weirton Steel has been able to maintain most of its operations by taking maximum daily volumes of natural gas available from its supplier, Columbia Gas of West Virginia, Inc. (Columbia of West Virginia), to replace the reduced volumes of coke oven gas available. It is estimated that at present rates of consumption, Weirton Steel will have consumed by March 27, 1978, all of the gas available from Columbia of West Virginia for the 5-month winter period ending March 31, 1978. It is asserted that Weirton Steel's shortfall of coke-oven gas is expected to last only until normal coke oven operations can be resumed and that the coal deliveries needed to support normal operations could be established within 20 to 30 days after ratification by the miners of a new labor contract.

It is indicated that the gas which Weirton Steel proposes to purchase from Delhi would preclude the shutdown of substantial portions of Weirton Steel's finishing facilities and the resultant, immediate layoff of 3,000 employees on March 27, 1978, when Weirton Steel's natural gas supply is exhausted. Weirton Steel has already been forced to lay off approximately 1,000 employees because of prior curtailments imposed by its electric power utility, it is stated. The 8,000 remaining jobs at Weirton Steel's plant would be jeopardized by an extended shutdown of facilities. It is asserted that any sudden increase in unemployment, such as will happen absent additional gas supplies, will have a sharp and adverse economic impact on the City of Weirton and the general area thereof.

On March 24, 1978, Weirton Steel filed a telegram, supplementing its affidavit included as part of the certificate application, stating that it needs the additional gas supply to avoid a 50 percent reduction in its hot roll and its annealing operations in which no other fuel is now available which can be used. The hot rolling operation converts a block of semi-finished steel which is 9 inches thick to a coil of strip steel 0.09 inch thick. The annealing operation involves heat treating to give appropriate hardness to the steel. The sheet steel is used in the manufacture of automobiles, appliances, agricultural machinery and buildings, food cans, beverage cans and various metal containers.

On March 24, 1978, Columbia of West Virginia, which serves the Weirton Steel plant, filed a telegram stating that it has no further flexibility in its gas supply to assist Weirton Steel. It is lending gas to Weirton Steel to extend plant operations to March 28, 1978, conditioned on repayment on March 31, 1978, in anticipation of Weirton Steel's receiving gas from Delhi. Columbia of West Virginia supports the application and states its belief that Weirton Steel is in immediate danger of suspension or reduction of operations because of a shortage of coal with resultant layoff of employees.

On March 22, 1978, Delhi filed in Docket No. RM78-6 an application for a finding by the Commission that the proposed sale of natural gas is exempt both as to Delhi and its producer suppliers under § 2.68 of the Commission's General Policy and Interpretations, under §§ 157.22 or 157.42 of the Regulations under the Natural Gas Act (18 CFR 157.22, 157.42) or otherwise as the Commission may deem appropriate. Delhi submits that the sale by Delhi to Weirton Steel is within the spirit of §§ 2.68, 157.22 and 157.42.

Delhi will deliver the subject volumes to Northern at an existing point of interconnection of the facilities of Northern and Delhi in Pecos County, Tex. Northern will transport and redeliver the gas, less 1.5 percent to be retained for unaccounted-for gas and compressor fuel, to Panhandle for the account of Weirton Steel at an existing point of interconnection between the pipelines of Northern and Panhandle near Mullinville, Kans. Panhandle will in turn transport and redeliver the volumes, less 10 percent, to be retained for unaccounted-for gas and compressor fuel, to Columbia at an existing point of delivery near Maumee, Ohio. Columbia will transport and deliver the gas to Columbia of West Virginia for redelivery to Weirton Steel. Columbia's transportation charge for this service will be its average system-wide unit storage and transmission costs, exclusive of company-use and

unaccounted-for gas, which is currently 20.56 cents per Mcf based on revised test year data filed in Docket No. RP76-94. Columbia will retain for company-use and unaccounted-for gas 4 percent of the total volumes received from Panhandle for Weirton Steel's account. All transportation will be on a best-efforts basis, subject to the limits of the Applicants' pipeline capacity and to their customer service obligations.

Section 7(c) of the Natural Gas Act provides, among other things, that the Commission may exempt from the requirements of Section 7 temporary acts or operations for which the issuance of a certificate of public convenience and necessity will not be required in the public interest. The Commission has provided for such circumstances in §§ 2.68, 157.22, and 157.42. These rules contemplate the transportation and/or sale of natural gas in interstate for a short term in emergency situations. The Commission has most recently acted under the Section 7(c) temporary exemption authority in promulgating § 157.42 of the Regulations under the Natural Gas Act by Order No. 4 issued March 15, 1978, in Docket No. RM78-6. Order No. 4 sets out a regulation of general applicability for the exemption of short-term transportation of natural gas in interstate commerce from certificate requirements for electric utilities, and others who will use the gas for electrical generation, experiencing difficulty in securing coal for electric generation during the current coal shortage.

Although the applications in these proceedings request relief under §§ 2.68, 157.22, or 157.42 through waiver, modification, or interpretation, or temporary and permanent certificates under section 7(c), the Commission believes that the most appropriate and timely relief can be afforded by an invocation of the Commission's temporary exemption power under section 7(c) of the Natural Gas Act. Sections 2.68, 157.22, and 157.42 are not specifically applicable to the instant situation and the formal certificate procedure under section 7(c) would not permit a timely response to the instant situation and appears to the Commission to be unnecessary to provide a response to the situation of Weirton Steel while at the same time affording protection to the other elements of the public as contemplated by the Natural Gas Act. As noted in Order No. 4, mineo. p. 6, in *Consumer Federation of America* v. *FPC*, 515 F. 2d 347 (D.C. Cir. 1975), cert. denied 423 U.S. 906 (1975), the court recognized that sudden unanticipated demand for natural gas is one of the situations that would justify use of the temporary exemption power; and, as in Order No. 4 with respect to electric utilities, the Commission believes that the emergency facing Weirton Steel permits the use of such power.

Section 7(c) of the Natural Gas Act permits the Commission to issue an exemption thereunder "by regulation." The term "regulation" is not defined in the Natural Gas Act; however, we interpret the reference to encompass at a minimum any agency action which falls within the Administrative Procedure Act definition of "rule". Section 551(4) of title 5, United States Code, defines "rule" as follows:

> [R]ule means the whole or a part of an agency statement of general or particular applicability and future effect designed to implement, interpret, or prescribe law or policy or describing the organization, procedure, or practice requirements of an agency and includes the approval or prescription for the future of rates, wages, corporate or financial structures or reorganizations thereof, prices, facilities, appliances, services or allowances therefor or of valuations, costs, or accounting, or practices bearing on any of the foregoing.

The action the Commission takes herein falls within the APA definition of "rule"; namely, it is "* * * an agency statement of * * * particular applicability and future effect designed to * * * prescribe law or policy * * *."

Although we recognize that serious economic and social dislocation may result from fuel shortages and that others may require relief under the provisions of the Natural Gas Act, we believe that in almost every case such relief can be afforded without modification or waiver of our rules and regulations and that such relief can be afforded within the contemplation of the certificate requirements of the Natural Gas Act and the regulations thereunder or within the contemplation of §§ 2.68, 157.22, or 157.42. We will entertain other requests for relief under our temporary exemption power; however, we expect that all of those involved in the arrangements will first attempt to fashion their actions so that they will be within the purview of existing procedures. We will require an extraordinary showing as to why they cannot be performed in this way before we will consider acting under the temporary exemption power.

On March 22, 1978, National Steel Corp. filed a petition for leave to intervene in Docket No. CP78-249.

The Commission finds: (1) A temporary emergency exists which requires the transportation and sale of natural gas for Weirton Steel.

(2) The acts and operations contemplated in the instant proceedings are temporary for which issuance of certificates of public convenience and necessity are not required in the public interest.

(3) The acts and operations contemplated in the instant proceedings are not those within the purview of section 2.68 of the Commission's General Policy and Interpretations or §§ 157.22 or 157.42 of the Regulations under the Natural Gas Act.

(4) Participation in Docket No. CP78-249 by National Steel Corp. may be in the public interest.

(5) Because of the emergency to which the instant action responds, good cause exists to take this action without prior notice and opportunity for comment on the instant applications; such notice and opportunity for hearing are impracticable, unnecessary, and contrary to the public interest and good cause exists to make this action immediately effective.

The Commission orders: (A) The emergency transportation of natural gas by Columbia, Northern, and Panhandle, and the emergency sale of natural gas, both as to Delhi and its producer suppliers, are exempted from the requirements of section 7(c) of the Natural Gas Act during the temporary emergency period through April 30, 1978, or until Weirton Steel is able to obtain gas from its traditional sources including maximized production of coke-oven gas, whichever occurs first.

(B) Transportation by Columbia, Northern, and Panhandle shall be subject to interruption by them to the extent they have inadequate capacity to maintain adequate service to existing customers.

(C) Within 24 hours after commencement of deliveries by Columbia, Northern, and Panhandle, they shall notify the Commission by telegram of the amount of gas projected to be transported on a daily basis, the projected duration of the transportation, the date upon which deliveries commenced, and any other elements of the service which may not have been fully described in their application but which may be subject to the jurisdiction of the Commission.

(D) Within 10 days after the termination of deliveries, Columbia, Northern, and Panhandle shall file with the Commission a verified statement in an original and four conformed copies setting forth the volume of gas delivered, the compensation received by each of them, the method by which the price was derived, and amount of gas received and retained to perform the service.

(E) Within 10 days after the termination of deliveries, Delhi shall file with the Commission a verified statement in an original and four conformed copies setting forth the volume of gas sold and delivered and the compensation per volumetric or thermal unit received therefor.

(F) Within 10 days after the termination of deliveries, Weirton Steel shall file with the Commission a verified statement in an original and four conformed copies setting forth the vol-

umes of gas from all sources received and consumed during the emergency period and the end uses of such gas.

(G) National Steel Corp. is permitted to intervene in Docket No. CP78-249 subject to the rules and regulations of the Commission: *Provided, however,* That participation of such intervener shall be limited to matters affecting asserted rights and interests as specifically set forth in the petition to intervene; and *Provided, further,* That the admission of such intervener shall not be construed as recognition by the Commission that it might be aggrieved because of any order of the Commission entered in this proceeding.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-9184 Filed 4-6-78; 8:45 am]

[6740-02]

[Docket No. RP72-140]

GREAT LAKES GAS TRANSMISSION CO.

Notice of Proposed Changes in PGA Gas Tariff Under Purchased Gas Adjustment Clause Provisions

MARCH 30, 1978.

Take notice that Great Lakes Transmission Co. (Great Lakes), on March 16, 1978, tendered for filing Twenty-Sixth Revised Sheet No. 57, to its FPC Gas Tariff, First Revised Volume No. 1, proposed to be effective May 1, 1977.

Great Lakes states that the revised purchased gas cost adjustment reflects a reduction in the cost of gas purchased from TransCanada Pipe Lines Ltd., its sole supplier of natural gas, as a result of a decrease in the Btu content of gas.

In addition, the revised tariff sheet reflects a purchased gas cost surcharge resulting from maintaining an unrecovered purchased gas cost account for the period commencing September 1, 1977 and ending February 28, 1978.

Great Lakes also states that copies of this filing have been served upon its customers and the Public Service Commissions of Minnesota, Wisconsin, and Michigan.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before April 14, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-9182 Filed 4-6-78; 8:45 am]

[6740-02]

[Docket No. ER77-578]

KANSAS GAS & ELECTRIC CO.

Order Granting Intervention, Rejecting a Section 205 Filing and Instituting a Section 206 Investigation

MARCH 30, 1978.

On February 1, 1978, the Commission, inter alia, held that the existing contract provisions between (1) KG&E and the Cooperatives[1] and (2) KG&E and each of the two investor-owned utilities (Kansas Power and Light Co. and Missouri Public Service Co.) will be contravened if the Commission accepts KG&E's September 6, 1977, rate filing under section 205 of the Federal Power Act. Because the Cooperatives and the two investor-owned utilities did not allege that KG&E's filing was in violation of their contractual agreements, the Commission (in Ordering Paragraph B of the February 1 order) directed:

(B) If either Coops [Cooperatives], KP&L or Missouri notifies the Commission within thirty (30) days of the date of issuance of this order and states with specificity that its interpretation of the contract provisions in question is to preclude KG&E from making a Section 205 filing then this order insofar as it allows KP&L [sic] to file pursuant to Section 205 will be voided and a Section 206 proceeding will be instituted applying the just and reasonable rate.

On February 27, 1978 and March 3, 1978 respectively, Kansas Power and Light Company (KPL) and the Cooperatives notified[2] the Commission that their interpretation of the contract provisions in question precludes KG&E from making a section 205 filing. In addition, KPL agrees with the Commission's determination that a section 206 investigation applying the "just and reasonable" burden of proof should be instituted. The Cooperatives, although agreeing that a section 206 investigation should be instituted, postulate that the Commission erred in not applying the stricter "Sierra" burden of proof.[3] We have consistently interpreted similar contractual provisions[4] to mean that the contract contemplates a rate that is not fixed for the full term of the contract, and as such, do not require implementing the stricter "Sierra" burden of proof. See, *Louisiana Power and Light Co.*, Docket No. ER 77-533, order issued November 21, 1977, appeal *sub nom., Louisiana Power & Light Co.* v. *F.E.R.C.*, (5th Cir. No. 77-3452). See also *Detroit Edison Co.*, Docket No. ER77-264, order issued June 30, 1977, *Public Service Co. of New Mexico*, Docket No. E-9454, order issued July 31, 1975, *Indiana and Michigan Electric Co.*, Docket No. E-7740, order issued June 3, 1974. The Cooperatives have not presented any arguments, facts or principles that were not considered by the Commission's February 1 order or, upon such consideration, would warrant any changes (with respect to the burden of proof allegation) in that order. In accordance with Ordering Paragraph (B) of February 1 order, we shall reject KG&E's section 205 filing with respect to the Cooperatives and KPL, and institute a section 206 investigation applying the just and reasonable burden of proof standard with all changes to be prospective in application.

Also on February 27, 1978, KPL filed a petition to intervene (petition). In support of its petition, KPL states:

(1) That KPL makes certain wholesale purchases of power pursuant to contract from KG&E, and KG&E's proposed increase in rates would affect the interests of KPL and its consumers;

(2) that the order of February 1, 1978 specifically addressed the interpretation of the contractual arrangement between KPL and KG&E, and authorized KPL to notify the Commission concerning its interpretation;

(3) that, in light of the Commission's order and the Notification filed by

[1]The Butler Rural Electric Cooperative Association, Inc., The Caney Valley Electric Cooperative Association, Inc., Coffey County Rural Electric Cooperative Association, Inc., The Radiant Electric Cooperative, Inc., The Sedgwick County Electric Cooperative Association, Inc., The Sekan Electric Cooperative Association, Inc., Summer-Cowley Electric Cooperative, Inc., and United Electric Cooperative, Inc.

[2]KPL filed a document entitled "Notification by the Kansas Power and Light Company To Preclude a Section 205 Filing By Kansas Gas & Electric Company", and the Cooperatives filed a document entitled "Notification Pursuant To Order By Commission Issued February 1, 1978."

[3]The Court outlined the standard by which the Commission should discharge its duty under Section 206(a) to reform fixed rate contracts: In such circumstances, the sole concern of the Commission would seen to be whether the rate is so low as to adversely affect the public interest . . . as where it might impair the financial ability of the public utility to continue its service, cast upon other customers an excessive burden, or be unduly discriminatory. (*F.P.C.* v. *Sierra Pacific Power Co.*, 350 U.S. at 355).

[4]The pertinent contractual provisions (which are virtually the same for all Cooperatives) read: "This agreement is subject to the present and future lawful orders, rules and regulations of the State Corporations Commission of Kansas and any other regulatory body having jurisdiction."

KPL, KPL should be granted intervenors status in order to be served with all pleadings, communication, orders, and other documents which affect its interests; and,

(4) that, KPL's interests will not be adequately represented or protected by other parties, and its Petition will not burden or delay these proceedings.

We shall grant KPL's Petition since KPL has demonstrated an interest of such nature that KPL's participation may be in the public interest. (See, Section 1.8(b)(3) of the Commission's Rules of Practice and Procedure.)

The Commission finds: (1) Good cause exists to reject KG&E's proposed rate increase to KPL and the Cooperatives pursuant to Section 205 of the Federal Power Act.

(2) Good cause exists to institute a Section 206 proceeding applying the just and reasonable burden of proof, with all changes to be prospective in application.

(3) Participation of Kansas Power and Light Company in this proceeding may be in the public interest.

The Commission orders: (A) The Kansas Power and Light Co. is hereby permitted to intervene in this proceeding subject to the Rules and Regulations of the Commission: *Provided, however,* That the participation of such intervenor shall be limited to matters affecting asserted rights and interests as specifically set forth in the petition to intervene; and *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 of the Commission entered in this proceeding.

(B) In compliance with Ordering Paragraph (B) of the Commission's February 1, 1977 order, a section 206 investigation is ordered to determine the just and reasonable rates to be charged to KPL and the Cooperatives with all changes to be prospective in application, and said investigation will be based on KG&E's September 6, 1977 filing in which KG&E shall have to meet the just and reasonable burden of proof.

(C) 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. 78-9183 Filed 4-6-78; 8:45 am]

[6740-02]

[Docket No. CP78-240]

TENNESSEE GAS PIPELINE CO., A DIVISION OF TENNECO INC.

Notice of Application

MARCH 30, 1978.

Take notice that on March 17, 1978, Tennessee Gas Pipeline Co., a Division of Tenneco Inc. (Applicant), P.O. Box 2511, Houston, Tex. 77001, filed in Docket No. CP78-240 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of up to 5,000 Mcf of natural gas per day for Transcontinental Gas Pipe Line Corp. (Transco), all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant requests authorization to transport up to 5,000 Mcf of natural gas per day for Transco pursuant to a gas transportation agreement dated March 15, 1978, between the parties. Applicant proposes to transport for Transco, through Applicant's existing pipeline system, natural gas produced in Plaquemines Parish, Louisiana, which gas Transco would purchase from Transco Exploration Co. and Samedan Oil Corp. (Producers). It is indicated that Transco would deliver, or cause to be delievered, such gas to Applicant at an existing measurement platform owned by Applicant and Texas Eastern Transmission Corp. in Plaquemines Parish (Point of Receipt). Applicant states that it would transport such gas for Transco and would redeliver to Transco equivalent volumes, less Applicant's fuel and use allowance associated with such transportation service, at the existing point of interconnection of the facilities of Transco and Applicant near Kinder, Allen Parish, La.

The application states that Transco would pay Applicant each month for said transportation service a volume charge equal to the product of 8.77 cents multiplied by the total volume of gas, expressed in Mcf, delivered during the month, with a provision for a minimum monthly bill based on the applicable transportation quantity. Transco would provide to Applicant, for Applicant's fuel and use allowance associated with this transportation service, daily volumes equal to .63 percent of the volumes received by Applicant for transportation on such day, it is said.

Applicant indicated that it would construct and install measurement facilities at the point of receipt and that Transco would reimburse Applicant for all costs incurred by Applicant in establishing the point of receipt, including the construction and installation of the measurement facilities.

Any person desiring to be heard or to make any protest with reference to said application should on or before April 17, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-9185 Filed 4-6-78; 8:45 am]

[6740-02]

[Docket Nos. CS73-380, *et al.*]

WATSON PETROLEUMS EXPLORATION, LTD., ET AL.

Notice of Applications for "Small Producer" Certificates [1]

MARCH 27, 1978.

Take notice that each of the Applicants listed herein has filed an application pursuant to section 7(c) of the Natural Gas Act and § 157.40 of the Regulations thereunder for a "small producer" certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce, all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before April 24, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commis-

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

sion's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions 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 Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where 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 Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

Docket No.	Date filed	Applicant
CS73-380[1]	Nov. 11, 1977	Watson Petroleums Exploration, Ltd., 2500 First City National Bank Bldg., Houston, Tex. 77002.
CS77-167	Mar. 20, 1978	Susan H. Hillstrom,[2] 999 Green Street, Apt. No. 2603, San Francisco, Calif. 94133.
CS77-364[3]	do	George J. Ablah, d.b.a. Little George Oil Co. and Magnum Land Corp., 680 Fourth Financial Center, Wichita, Kans. 67202
CS78-290	Mar. 3, 1978	Funk Petroleum, Inc., 3180 Liberty Tower, Oklahoma City, Okla. 73102.
CS78-292	Mar. 6, 1978	Gerald E. Harrington, P. O. Box 4026, Station A, Albuquerque, N. Mex. 87106.
CS78-293	do	F. Eugene Harrington, P. O. Box 4026, Station A, Albuquerque, N. Mex. 87106.
CS78-294	do	Mary Jone Chappell, P. O. Box 4026, Station A, Albuquerque, N. Mex. 87106.
CS78-295	do	James V. Harrington, P. O. Box 4026, Station A, Albuquerque, N. Mex. 87106
CS78-296	do	On Coast Petroleum Co., 1200 Hanna Building, Cleveland, Ohio 44115.
CS78-297	do	W. E. Kirkpatrick & Stephen S. Stotts, 1309 Cookson, Ponca City, Okla. 74601.
CS78-298	Mar. 7, 1978	M. C. McClure, Box 310, El Dorado, Kans. 67042.
CS78-299	Mar. 9, 1978	Thomas J. Wintermute (Winco Oil and Gas), 1116 The 600 Bldg., 600 Leopard St., Corpus Christi, Tex. 78473.
CS78-300	do	Thomas R. Cambridge and A. L. Nail, d.b.a. Cambridge & Nail, 803 Bank of the Southwest Bldg., Amarillo, Tex. 79109.
CS78-301	do	Leroy W. James, Route 1, Box 13-B, Dodson, La. 71442.
CS78-302	do	Chandler Development, Inc., 1401 Denver Club Bldg., 518 17th Street, Denver, Colo. 80202.
CS78-303	Mar. 13, 1978	Stanley W. and Ryan Y. Cunningham, Trusts No. 1, 5th Floor, 100 Park Avenue Bldg., Oklahoma City, Okla. 73102.
CS78-304	do	Eugene Saber, M.D., 2715 Basil Lane, Los Angeles, Calif.
CS78-305	Mar. 13, 1978	Perry Oil Co., 5400 N. Brookline, Suite No. 307, Oklahoma City, Okla. 73112
CS78-306	do	Wayne A. Piette, P. O. Box 2156, Midland, Tex. 79702
CS78-307	do	The Rings of Saturn, Inc., 1703 East Skelly Drive, Tulsa, Okla. 74105.
CS78-308	do	The Newhall Land and Farming Co., 23823 Valencia Blvd., Valencia, Calif. 91355.
CS78-309	do	ASA Energy Corp., P. O. Box 640, Duncan, Okla. 73533.
CS78-310	Mar. 14, 1978	John M. Davis, Trustee, P. O. Box 366, Stephens, Ark. 71764.
CS78-311	do	Carolina Exploration Corp., P. O. Box 6317, Columbia, S.C. 29260.
CS78-312	do	Trust for Nancy Rodman Anguish under the will of E. G. Rodman, Jr., Thomas E. Rodman, and W. D. Noel, Trustees, 1701 Pennsylvania Avenue, NW., Washington, D.C. 20006.
CS78-313	do	Earl G. Rodman, Jr., 1701 Pennsylvania Avenue NW., Washington, D.C. 20006.
CS78-314	do	Thomas E. Rodman, 1701 Pennsylvania Avenue NW., Washington, D.C. 20006.
CS78-315	do	Mrs. E. G. Rodman, 1701 Pennsylvania Avenue, NW., Washington, D.C. 20006.
CS78-316	do	Rocket Oil Co., P.O. Box 640, Duncan, Okla. 73533.
CS78-317	Mar. 16, 1978	Towalt Oil & Gas Co., 6000 W. 9th, Amarillo, Tex. 79106.
CS78-318	Mar. 17, 1978	Vaquero Petroleum, Inc., 1640 Capital National Bank, Houston, Tex. 77002
CS78-319	do	New Mexico Energy Corp., 800 Franz Huning SW., Albuquerque, N. Mex. 87104.
CS78-320	Mar. 20, 1978	Saga Petroleum U.S. Inc., 2000 West Loop South, Suite 1650, Houston, Tex. 77027.
CS78-321	do	B. B. Orr, P.O. Box 1608, Longview, Tex. 75601.
CS78-322	do	William M. Plaster, 800 Johnson Bldg., Shreveport, La. 71101.
CS78-323	do	William E. Richardson, 1101 Petroleum Club Bldg., Tulsa, Okla. 74119.
CS78-324	do	Ivan Wilder, P.O. Box 97, Gallatin, Mo. 64640.
CS78-325	do	Brandt Oil Co., 1103 Douglas Bldg., Wichita, Kans. 67202.
CS78-326	do	Panhandle Cooperative Royalty Co., 402 Cravens Bldg., Oklahoma City, Okla. 73102.
CS78-327	do	Cherokee Resources, Inc., 432 Mayo Bldg., Tulsa, Okla. 74103.
CS78-328	do	R. O. Williams, P. O. Box 3012, Midland, Tex. 79702.

[1] Being noticed to reflect waiver of sec. 157.40(b)(2).
[2] Being noticed to reflect name and address change, as evidenced by letter dated Mar. 14, 1978.
[3] Being noticed to include Magnum Land Corp.

[FR Doc. 78-8530 Filed 4-6-78; 8:45 am]

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 878-8]

ADMINISTRATOR'S TOXIC SUBSTANCES ADVISORY COMMITTEE

Open Meeting

AGENCY: Environmental Protection Agency.

ACTION: Notice of open meeting.

SUMMARY: There will be a meeting of the Testing Subcommittee of the Administrator's Toxic Substances Advisory Committee from (9:30 a.m. to 3:30 p.m. on Wednesday, April 26, 1978. The meeting will be held in the mezzanine lecture room, Environmental Sciences Laboratory, The Mount Sinai School of Medicine of the City University of New York, 10 East 102d Street, New York, N.Y. 10029, and will be open to the public.

FOR FURTHER INFORMATION CONTACT:

Dr. H. Wade Fowler, Jr., Executive Secretary, Administrator's Toxic Substances Advisory Committee, Office of Toxic Substances (TS-788), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, telephone 703-557-7560.

SUPPLEMENTAL INFORMATION: The agenda for this meeting will include discussions on the following topics:

1. Role of epidemiology in testing.
2. Retention of epidemiological records.
3. Trigger points of tier testing.

Any member of the public wishing to attend or submit a paper should contact Dr. H. Wade Fowler, Jr., at the address or phone listed above. Interested persons are permitted to file written statements before or after the meeting, and may upon advance notice to the Executive Secretary, present oral statements to the extent that time permits. Persons desirous of making oral statements must notify the Executive Secretary and submit ten copies of a summary not later than April 21, 1978.

Individuals who wish to file written statements are advised to submit copies of statements to the Executive Secretary in a timely manner to ensure appropriate consideration by the Testing Subcommittee.

Dated: March 29, 1978.

STEVEN D. JELLINEK,
Assistant Administrator for Toxic Substances.

[FR Doc. 78-9308 Filed 4-6-78; 8:45 am]

[6560-01]

[FRL 878-4]

AMBIENT AIR MONITORING REFERENCE AND EQUIVALENT METHODS

Notice of Receipt of Application for Reference or Equivalent Method Determination

Notice is hereby given that on March 6, 1978, the Environmental Protection Agency received an application from Beckman Instruments, Inc., Fullerton, Calif., to determine if its Model 953 Ambient Sulfur Dioxide analyzer should be designated by the Administrator of the EPA as an equivalent method under 40 CFR Part 53, promulgated February 18, 1975 (40 FR 7044). If, after appropriate technical study, the Administrator determines that this method should be so designated, notice thereof will be given in a subsequent issue of the FEDERAL REGISTER.

STEPHEN J. GAGE,
Assistant Administrator for Research and Development.

APRIL 4, 1978.

[FR Doc. 78-9309 Filed 4-6-78; 8:45 am]

[6560-01]

[FRL 878-5; OPP-00070]

FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT SCIENTIFIC ADVISORY PANEL

Meeting

AGENCY: Office of Pesticide Programs, Environmental Protection.

AGENCY: (EPA).

ACTION: Notice of open meeting.

SUMMARY: There will be a three-day meeting of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Scientific Advisory Panel from 9:30 a.m. to 4:30 p.m. daily on Tuesday, Wednesday, and Thursday, April 25, 26, and 27, 1978. The meeting will be held in Room 1112A, Crystal Mall, Building No. 2, 1921 Jefferson Davis Highway, Arlington, Va., and will be open to the public.

FOR FURTHER INFORMATION CONTACT:

Dr. H. Wade Fowler, Jr., Executive Secretary, FIFRA Scientific Advisory Panel, Office of Pesticide Programs (WH-566), Room 803, Crystal Mall, Building 2, 1921 Jefferson Davis Highway, Arlington, Va., telephone 703-557-7560.

SUPPLEMENTARY INFORMATION: In accordance with section 25(d) of the amended FIFRA, the Scientific Advisory Panel will comment on the impact on health and the environment of regulatory actions under sections 6(b) and 25(a) prior to implementation. The purpose of this meeting is to discuss the following topics:

1. Summary of Panel comments relative to epidemiological data required for assessment of hazards to farm workers reentering fields treated with pesticides as discussed at the March 1978 meeting of the Panel.

2. General discussion of mutagenesis assays as requirements for registration of pesticides.

3. Presentation of the Proposed Subpart F, Hazard Evaluation: Humans and Domestic Animals of the Guidelines for Registering Pesticides in the United States.

Any member of the public wishing to attend or submit a paper should contact Dr. H. Wade Fowler, Jr., at the address or phone listed above. Public Statements and comments previously submitted to the Panel at earlier meetings on the topics under review will be given full consideration and need not be resubmitted. Interested persons are permitted to file written statements before or after the meeting, and may upon advance notice to the Executive Secretary, present oral statements to the extent that time permits. Written or oral statements will be taken into consideration by the Panel in formulating comments or in deciding to waive comments. Persons desirous of making oral statements must notify the Executive Secretary and submit ten copies of a summary no later than April 21, 1978.

Individuals who wish to file written statements are advised to submit copies of statements to the Executive Secretary in a timely manner to ensure appropriate consideration by the Panel

Dated: March 31, 1978.

EDWIN L. JOHNSON,
Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 78-9306 Filed 4-6-78; 8:45 am]

[6560-01]

[FRL 878-7]

AMERICAN HOECHST CORP. ET AL.

Issuance of Experimental Use Permits

The Environmental Protection Agency (EPA) has issued experimental use permits to the following applicants. Such permits are in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

No. 8340-EUP-2. American Hoechst Corp., Somerville, N.J. 08876. This experimental use permit allows the use of 600 pounds of the herbicide methyl 2-[4-(2,4-dichlorophenoxy)phenoxy] propanoate on soybeans to evaluate control of various annual grasses. A total of 600 acres is involved; the pro-

gram is authorized only in the States of Delaware, Illinois, Indiana, Iowa, Kentucky, Maryland, Michigan, Minnesota, Mississippi, New Jersey, Ohio, Virginia, and Wisconsin. The experimental use permit is effective from February 23, 1978 to February 23, 1979. A temporary tolerance for residues of the active ingredient in or on soybeans has been established.

No. 6922-EUP-2. Armak Co., Chicago, Ill. 60606. This experimental use permit allows the use of the remaining supply of approximately 75 gallons of undecanol as a chemical pinching agent to treat an estimated 2,250,000 chrysanthemums and other flowers; this use was authorized in a previous experimental use permit. The program is authorized only in the States of Alabama, California, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Maryland, Mississippi, Nebraska, New York, North Carolina, Ohio, Oregon, Pennsylvania, Rhode Island, South Carolina, Texas, Vermont, and Virginia. The experimental use permit is effective from January 22, 1978 to January 22, 1979.

No. 239-EUP-73. Chevron Chemical Co., Richmond, Calif. 94804. This experimental use permit allows the use of the remaining supply of approximately 2,540 pounds of the resin soaking-herbicide paraquat dichloride which will be used on conifers; this use was authorized in a previous experimental use permit. Approximately 3,000 acres are involved; the program is authorized only in the States of Alabama, Arkansas, California, Florida, Georgia, Kentucky, Louisiana, Mississippi, Missouri, New York, North Carolina, Oklahoma, Oregon, Pennsylvania, South Carolina, Tennessee, Texas, Virginia, and Washington. The experimental use permit is effective from July 20, 1978 to July 20, 1979.

No. 100-EUP-59. Ciba-Geigy Corp., Greensboro, N.C. 27409. This experimental use permit allows the use of 2,088 pounds of the herbicide metolachlor on corn to evaluate control of various grasses. A total of 1,044 acres is involved; the program is authorized in the forty-eight contiguous States. The experimental use permit is effective from February 24, 1978, to February 24, 1979. A permanent tolerance for residues of the active ingredient in or on corn has been established (40 CFR 180.368).

No. 748-EUP-13. PPG Industries, Inc., Pittsburgh, Pa. 15222. This experimental use permit allows the use of the remaining supply of approximately 3,284 pounds of the fungicide sodium azide on peanuts to evaluate control of pod and black rot; this use was authorized in a previous experimental use permit. A total of 50 acres is involved; the program is authorized only in the States of North Carolina and Virginia. The experimental use permit is effective from February 23, 1978 to February 23, 1979. A temporary tolerance for residues of the active ingredient in or on peanuts has been established.

No. 40458-EUP-2. University of Massachusetts, East Wareham, MA 02538. This experimental use permit allows the use of 24 pounds of the insecticide chlorpyrifos to evaluate control of cranberry weevils, cutworms, spanworms, fruitworms, and Sparganothis fruitworms in cranberry bogs. A total of 10 acres is involved; the program is authorized only in the State of Massachusetts. The experimental use permit is effective from April 1, 1978 to March 31, 1979. It is issued with the limitation that the crop harvested from the treated area will be destroyed.

Interested parties wishing to review the experimental use permits are referred to room E-315, Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M Street SW., Washington, D.C. 20460. It is suggested that such interested persons call 202-755-4851 before visiting the EPA Headquarters Office so that the appropriate permits may be made conveniently available for review purposes. These files will be available for inspection from 8:30 a.m. to 4 p.m. Monday through Friday.

Statutory authority: Section 5 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 89 Stat. 751; 7 US.C. 136(a) et seq.).

Dated: March 29, 1978.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

[FR Doc. 78-9307 Filed 4-6-78; 8:45 am]

[6560-01]

[FRL 878-3]

GRANTS FOR CONSTRUCTION OF TREATMENT WORKS

Program Requirements Memoranda

This notice is published to advise that Program Requirements Memoranda from the Administrator have been distributed to the Environmental Protection Agency Regional Offices and became effective in February, 1978. These Program Requirements Memoranda summarize the Agency's policy on the various subjects addressed in the 1977 Clean Water Act (Pub. L. 95-217). Individually, each sets forth guidance for rigorous review of grant applications to ensure that proposed projects meet the established requirements of both Pub. L. 92-500 and Pub. L. 95-217

FOR ADDITIONAL INFORMATION CONTACT:

Michael B. Cook, Chief, Facility Requirements Branch, Municipal Construction Division (WH-547), Environmental Protection Agency, Washington, D.C. 20460, 202-426-9404.

Dated: April 3, 1978.

THOMAS C. JORLING,
Assistant Administrator for
Water and Hazardous Materials.

[PRN No. 78-3]

FEBRUARY 17, 1978.

SUBJECT: BUY AMERICAN.

From: John T. Rhett, Deputy Assistant Administrator for Water Program Operations (WH-546).

To: Regional Administrators.

Section 215 of the Federal Water Pollution Control Act, as amended by section 39 of the Clean Water Act of 1977 (Public Law 95-217) provides that no grant (Step 3 grant), for which application is received by the Regional Administrator after February 1, 1978, shall be made unless preference is given to the use of domestic construction materials in the construction of sewage treatment works (Buy American).

Municipalities applying for Step 3 grants after February 1, 1978, must be notified that the Buy-American provision will apply to procurements under those Step 3 grants. Grant awarding officials must insure that grants awarded prior to amendment of the Construction Grant Regulations include a special condition requiring the grantee to give preference to domestic construction materials pursuant to section 215 of the Federal Water Pollution Control Act, as amended, and EPA impelementing regulations and guidelines.

The following guidance is provided to aid in implementation of the Buy American provision. The definitions have been adapted from the current Federal Procurement Regulations which EPA has been directed to follow, where applicable.

"Construction material" means any article, material or supply brought to the construction site for incorporation in the building or work. An unmanufactured construction material is a "domestic construction material" if it has been mined or produced in the United States. A manufactured construction material is a "domestic construction material" if it has been manufactured in the United States substantially all from articles, materials, or supplies mined, produced or manufactured (as the case may be) in the United States. Generally, a construction material is considered a domestic construction material if the cost of its components which have been mined, produced, or manufactured in the United States exceeds 50 percent of the cost of all of its components. "Component" means any article, material, or supply directly incorporated in a construction material.

A component shall be considered to have been "mined, produced, or manufactured in the United States" (regardless of its source in fact), if the article, material, or supply in which it is incorporated was manufactured in the United States and the component is of a class or kind determined by the Regional Administrator to be not mined, produced, or manufactured in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality.

Bidding documents for construction work which is funded by a Step 3 grant for which

application is made after February 1, 1978, must include the following statement:

INFORMATION REGARDING BUY AMERICAN PROVISION

(a) The Buy American Provision of Pub. L. 95-217 (section 215 of Pub. L. 92-500 as amended) as implemented by EPA regulations and guidance, generally requires that preference be given to the use of domestic construction material in the performance of this contract.

(b) Bids or proposals offering use of nondomestic construction material may be acceptable for award if the Regional Administrator waives the Buy American provision based upon those factors that are deemed relevant, including: (i) Such use is not in the public interest; (ii) the cost is unreasonable; (iii) the available resources of the Agency are not sufficient to implement the provision; or (iv) the articles, materials, or supplies of the class or kind to be used or the articles, materials, or supplies from which they are manufactured are not mined, produced, or manufactured, as the case may be, in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality for the particular project. The Regional Administrator may also waive the Buy American provision if it is determined that application of this provision is contrary to multilateral government procurement agreements. Such evidence as the EPA Regional Administrator may deem relevant shall be furnished to justify use of nondomestic construction material.

Step 3 contracts must include the following paragraph in addition to Appendix C-2:

BUY AMERICAN

"In accordance with the Buy American provision in Pub. L. 95-217 (section 215 of Pub. L. 92-500 as amended) and implementing EPA regulations and guidelines, the Contractor agrees that preference will be given to domestic construction material by the contractor, subcontractors, materialmen, and suppliers in the performance of this contract."

The Regional Administrator may waive the Buy American provision based upon those factors that are deemed relevant, including: (i) such use is not in the public interest; (ii) the cost is unreasonable; (iii) the available resources of the Agency are not sufficient to implement the provision (subject to the concurrence of the Deputy Administrator); or (iv) the articles, materials, or supplies of the class or kind to be used or the articles, materials, or supplies from which they are manufactured are not mined, produced, or manufactured, as the case may be, in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality for the particular project.

If the Regional Administrator believes that application of the Buy American provision would be contrary to multilateral government procurement agreements, the Regional Administrator may request the Deputy Administrator to waive the provision.

The amount of cost differential by which domestic construction material may be given preference shall generally be the sum determined by computing up to six percent of the bid or offered price of materials of foreign origin including all costs of delivery to the construction site, including any applicable duty, whether or not assessed. Computations will normally be based on costs on the date of opening of bids or proposals.

The Regional Administrator may utilize the appropriate procedures of 40 CFR 35.939 in making determinations, and the "Buy-American" procedures, regulations, precedents and requirements of other Federal departments and agencies shall generally be observed.

The Buy American provision is new to the EPA municipal wastewater construction grants program, and no specific EPA precedents exist. To help create such precedents, where it is determined that the Buy American provision should be waived, or when problems or questions arise, it should be brought to the attention of the Director of the Municipal Construction Division and the Assistant General Counsel-Grants.

[PRM No. 78-4]

FEBRUARY 17, 1978.

Subject: Grant eligibility of land acquired for storage in land treatment systems.

From: John T. Rhett, Deputy Assistant Administrator for Water Program Operations (WH-546).

To: Regional Administrators, Regions I thru X.

PURPOSE

This memorandum provides additional guidance concerning grant eligibility of land acquired by purchase, leasing, or easements for use in land treatment systems.

DISCUSSION

The Agency has previously issued three PRM's on acquiring land for use in land treatment of wastewaters and sludges. PRM 75-25 (formerly PGM-49) covers the interpretation of the eligibility of land acquisition costs for land treatment processes (wastewaters). PRM 75-39 (formerly PGM-67) covers the eligibility of land acquisition costs for the ultimate disposal of residues from wastewater treatment processes (sludges). PRM 77-5 covers the eligibility of leasing or easements in lieu of fee simple purchase for use in either wastewater treatment alternatives or sludge management systems. The Clean Water Act of 1977 (Pub. L. 95-217) requires changes in Section 35.905-23 (definition of treatment works) and 35.940-3 (costs allowable, if approved) of the construction grants regulations (40 CFR Part 35). These changes in the construction grants regulations require a change in eligibility of land costs as described by PRM 75-25, but do not affect PRM 75-39 or PRM 77-5.

POLICY

The Federal Water Pollution Control Act Amendments of 1977 (Pub. L. 95-217) make the land that will be used for storage of treated wastewater in land treatment systems prior to land application an eligible cost as of December 27, 1977. Previously, the cost of land for the temporary storage of effluent was not eligible (PRM 75-25). Acquirement of land for storage purposes must be by purchase rather than lease or easement.

There are two approaches for providing temporary storage that will be cost eligible.

1. The cost of land will be eligible for all ponds constructed specifically to meet storage needs due to climate or a seasonal imbalance between wastewater supply and application schedules. The period and total volume of storage provided should be commensurate with the discussion in section 5.3 (pages 5-30 thru 5-38) of the Design Manual on Land Treatment of Municipal Wastewater (EPA 625/1-77-008). These storage ponds should be designed with the maximum depth appropriate for site conditions.
2. All or part of the land will be eligible for ponds which are constructed for combination treatment and storage purposes if such combination ponds meet the definitions and criteria as listed in (a) through (d) below:

   (a) Storage volume is defined as that portion of the pond designed to provide the total storage needs due to climate or a seasonal imbalance between wastewater supply and application schedules as for (1) above. Storage volume could represent the entire volume of a separate cell or that portion above the treatment volume in a combined treatment/storage cell.

   (b) Treatment volume is that portion of the pond specifically designed for biological stabilization of the wastewater. It may be the entire volume of a treatment cell or the depth below the liquid level that was designed for treatment in a combined treatment/storage cell.

   (c) If the volume provided for storage is greater than the volume provided for treatment in any cell of the pond, then the total land area for that cell is eligible.

   (d) If the volume provided for storage is equal to or less than the volume provided for treatment in any cell of the pond, then the eligible area will be determined as the ratio of the storage volume to the total volume of that cell.

IMPLEMENTING PROCEDURE

The provisions of this program requirements memorandum apply to all projects which had not been given Agency approval of the Step 1 facilities plan as of December 27, 1977. These provisions supplement PRM No. 75-25, which remains in effect.

REFERENCES

Program Requirements Memorandum 75-25 of July 18, 1975 (formerly PGM-49).
Program Requirements Memorandum 75-39 of April 2, 1975 (formerly PGM-67).
Program Requirements Memorandum 77-5 of December 15, 1976.
40 CFR 35.905-23.
40 CFR 35.940-3.
EPA 625/1-77-008: Land Treatment of Municipal Wastewater.

[PRM No. 78-5]

FEBRUARY 17, 1978.

Subject: Interim Management of fiscal year 1978 State priority lists under the 1977 amendments.

From: John T. Rhett, Deputy Assistant Administrator for Water Program Operations (WH-546).

To: Regional Administrators.

PURPOSE

This memorandum outlines EPA policy concerning annual State project priority list management for the remainder of fiscal year 1978 under the Clean Water Act Amendments of 1977. Except as indicated herein, the policy and procedures for priority list management are still reflected in PRN 77-7, Management of State Project Priority Lists.

BACKGROUND

The Clean Water Act of 1977 included several amendments to Pub. L. 92-500 that could potentially affect existing State priority systems and State priority list management. The scope of these changes will not be known until interim regulations implementing the priority list provisions are published. The current situation is as follows:

1. The fiscal year 1978 priority lists are the basis for considering project funding through September 30, 1978. Most fiscal year 1978 priority lists, under the $4.5 billion expected appropriation, have been submitted and reviewed by EPA pursuant to the policies and procedures outlined in PRM 77-7. Many fiscal year 1978 lists have been approved or are approvable, pending receipt of the fiscal year 1978 funds.
2. The fiscal year 1978 authorization for $4.5 billion, contained in the 1977 amendments, has been allotted (subject to appropriation) in accordance with the regulation published in the FEDERAL REGISTER on January 10, 1978. An appropriation of $4.5 billion is expected to be enacted in the next couple of months.
3. Regulations in response to the 1977 amendments are currently in formulation, and will not be published in interim final form before May, 1978.
4. No projects may be funded using the expected fiscal year 1978 appropriation until a fiscal year 1978 priority list has been approved by the Regional Administrator under current policy and procedures.

POLICY

1. States and Regions are to continue to process grant applications up to the point of grant award for projects which reasonably can be expected to receive grants during fiscal year 1978, either because the projects are on or expected to be on an approved or approvable priority list. States may submit but not actually certify the application to EPA for award, however, until funds are available and the priority list approved.
2. Nothing in the 1977 amendments mandates immediate changes to current State priority planning for the fiscal year 1978 planning year. States may elect to propose changes based on the 1977 amendments for fiscal year 1978, but should be advised that such changes cannot be considered by EPA until publication of interim regulations in May, 1978. As a general policy, the Regions should follow the procedures for interim management of the fiscal year 1978 priority lists as outlined below:

For those States with currently approved or approvable fiscal year 1978 priority lists, no modification for compliance with the 1977 Amendments is required or expected.

States which are currently without an approved or approvable fiscal year 1978 priority list should be directed to comply with the State program planning regulations (40 CFR 35.563 through 35.566) and the existing procedures in PRM 77-7 to avoid delay in making awards once funds are made available. The Region should be ready to approve all fiscal year 1978 lists under the existing policy as soon as funds are appropriated. Projects may not be funded in any State in the absence of an approved priority list.

IMPLEMENTATION

All States should immediately be informed of this interim priority list policy. States should continue to process grant applications as provided above. Guidance on preparation of fiscal year 1979 priority systems and lists under the proposed priority list regulations will be issued by Headquarters no later than May 1978.

[PRM No. 78-6]

FEBRUARY 17, 1978.

Subject: Industrial cost recovery—Interim guidance.

From: John T. Rhett, Deputy Assistant Administrator for Water Program Operations (WH-546).

To: Regional Administrators, Regions I thru X.

Attention: Water Division Directors.

I. ISSUE

This memorandum establishes interim guidance on the implementation of industrial cost recovery (ICR) requirements under the Clean Water Act of 1977.

II. DISCUSSION

Section 24 of the Clean Water Act exempts from ICR requirements, any industrial user which discharges 25,000 gpd or less of sanitary waste or a volume of process waste, or combined process and sanitary waste equivalent to 25,000 gpd or less, of sanitary waste if the discharge does not contain pollutants which interfere, or are incompatible with, or contaminate, or reduce the utility of sludge. Regardless of any subsequent change in the Act which might lower the volume of discharge exempted from ICR, industrial users exempt under the current law will never be liable for payments which might have been due after December 31, 1977, until a change in the Act. In addition, an ICR system can be based on a system wide approach, instead of being based on each individual project (regulations to be issued in May will provide guidance on this provision).

Section 75 of the Clean Water Act requires EPA to study the efficiency of, and the need for, the payment by industrial users. A report of findings from this study must be submitted to the Congress by December 27, 1978. Until June 30, 1979, EPA can not require grantees to enforce provisions which require industrial users to make ICR payments. Any payment by industrial users which is due after December 31, 1977, but before July 31, 1979, (the moratorium) shall be paid after the moratorium in accordance with the applicable ICR requirement at that time. The payment may be made in equal annual installments prorated over the remaining useful life of the treatment works.

The Conference Report on section 75 states that:

(1) EPA is to continue to make grants and not to withhold any funding due to failure to comply with current ICR requirements.

(2) The moratorium on ICR payments does not exempt any grantee from the requirement to develop an ICR system.

(3) At the end of the moratorium, if the Congress has not changed the ICR provisions, grantees must begin to collect ICR.

Regulations implementing these sections and detailed guidelines will be issued at a later time, but the following policies are established for immediate use.

III. POLICY

1. Any grant payments withheld due to ICR requirements shall be released. (However, grant payments being withheld for any other requirements are not to be released.)
2. Grantees should be advised that they are not exempt from the requirement to develop ICR systems during the moratorium, and that the cost of developing the system is grant eligible. Any ICR system approved by the Regional Administrator must exempt users discharging the equivalent of 25,000 gpd or less of sanitary waste.
3. EPA officials shall not require grantees to enforce the payment of ICR by industrial users for the period between December 28, 1977, and June 30, 1979. Grantees may collect ICR from users discharging more than the equivalent of 25,000 gpd of sanitary waste, but no payment to the Federal government shall be made. If grantees choose to collect ICR they shall hold 50 percent (the portion which would be sent to EPA in the absence of a moratorium) of the amounts they collect until June 30, 1979, or until EPA provides disbursement guidance, and shall invest those amounts in accordance with ICR Guidelines.
4. Grantees must continue to monitor industrial users during the moratorium to determine their ICR payment obligation in case ICR payments resume after June 30, 1979.
5. Any ICR due for the grantee's ICR year ending before January 1, 1978, must be collected and disbursed in accordance with current ICR requirements.

IV. IMPLEMENTATION

These policies are effective retroactive to December 27, 1977.

[PRM No. 78-7]

FEBRUARY 17, 1978.

Subject: Combined Step 2 and Step 3 Construction Grant Awards (Step 2+3).

From: John T. Rhett, Deputy Assistant Administrator for Water Program Operations (WH-546).

To: Regional Administrators, attn: Water Division Directors.

I. PURPOSE

This memorandum establishes Agency policy on award of Step 2+3 construction grants during fiscal year 1978 as provided in the Clean Water Act of 1977, prior to the promulgation of regulations implementing the combined grant provisions of the Act.

II. DISCUSSION

Section 203(a) of the Clean Water Act of 1977 provides for award of a single construction grant for the combination of Step 2 and Step 3 work for construction of treatment works for communities with populations of 25,000 or less and an estimated total Step 3 construction cost of $2,000,000 or less ($3,000,000 or less in States with unusually high costs of construction as determined by the Administrator). The effect of this provision on construction grant funds is to obligate the funds for both design and construction at the time of award of the Step 2+3 grant.

III. POLICY

Municipal applicants that meet the minimum requirements set forth in this memo-

randum are eligible for award of a Step 2+3 construction grant, and the Regional Administrators are authorized to make such an award upon their determination that these requirements have been satisfactorily met.

In most cases, separate contracts are entered into for Step 2 and for Step 3 work. A grantee may continue to do so when it receives a Step 2+3 grant. A grantee is not required to enter into a single contract for preparation of plans and specifications along with construction when it receives a Step 2+3 grant.

IV. Minimum Requirements

EPA Regional Offices will review all Step 2+3 applications for compliance with the following:

1. *Population.* The population of the applicant municipality must be 25,000 or less as determined by most recent United States Census information.
2. *Costs.* The total estimated Step 3 construction cost of treatment works necessary to comply with the requirements of the Clean Water Act of 1977 must not exceed $2,000,000 (the cost is exclusive of supporting costs such as technical or administrative services) or $3,000,000 in States determined by the Deputy Assistant Administrator for Water Program Operations to have unusually high costs of construction. At the present time, Alaska, California, Hawaii, Illinois, Minnesota and New York are so designated. Based upon Needs Survey standard cost curves, cost in these States were determined to be more than one standard deviation from the norm.
3. *Priority certification.* The States must provide priority certification for the combined Step 2 and 3 project. Projects which appear on an approved priority list for Step 2 funding but not for Step 3 funding are not eligible for a Step 2+3 award. States may amend their project priority list to provide priority for the combined steps; however, such amendments must be consistent with the approved State priority system.

The total amount of the Step 2+3 award must derive from the current State allocation.

V. Grant Conditions

Step 2+3 grants are subject to all requirements that apply to separate Step 2 and Step 3 grants except that only a single application is required and plans and specifications are not required prior to grant award. Additional requirements of a Step 2+3 grant award are:

1. That the grantee identify and maintain a firm schedule for the submission of construction plans and specifications, suitable for bidding purposes, Operation and Maintenance Manual, and an approvable user charge/industrial cost recovery system (UC/ICR); and
2. Plans and specifications and the UC/ICR systems must be submitted and approved in writing by the Regional Administrator prior to advertisement for bids for the Step 3 construction work; and
3. The cost of all Step 3 construction work initiated prior to approval of plans and specifications shall be disallowed with the exception of the cost of those items specifically authorized in accordance with procedures established under § 35.925-18(b) of the current construction grant regulation.

VI. Implementation

States are to be advised at once of the Agency's policy with regard to this subject area and are to be requested to begin immediately reviewing individual grant applications to implement the requirements set forth above. This policy shall not apply to Step 2 grant applications received by the Regions prior to the effective date of this PRM.

[PRM No. 78-8]

February 13, 1978.

Subject: Rejection of all bids: Guidance for EPA concurrence function.

From: John T. Rhett, Deputy Assistant Administrator for Water Program Operations (WH-546).

To: Joseph M. Zorc, Assistant General Counsel, Grants (A-134), Water Division Directors (I-X), Regional Counsels (I-X).

Purpose

The purpose of this PRM is to set forth a revised Agency procedure for handling a proposed rejection by a grantee of all bids on Step 3 projects.

Policy

It is the policy of the Environmental Protection Agency that procurement for Step 3 construction contracts will be undertaken in a manner to best achieve free and open competition. 40 CFR 35.936-3. Achievement of that Federal interest requires a standard which inhibits rejection of all bids and resolicitation. While the Environmental Protection Agency regulations provide that a grantee may reserve the right to reject all bids [40 CFR 35.938-4(h)(2)], the exercise of that right is contingent upon a grantee's demonstration of good cause for that proposed action. Any good cause demonstration must reflect that the public interest is best served by rejection of all bids, considering applicable Environmental Protection Agency requirements. Additionally, the absence of good cause for rejection of all bids is incompatible with the good faith efforts of all associated parties within the grants process as well as self-defeating in terms of local water pollution abatement efforts.

Discussion

The Environmental Protection Agency has established a concurrence function, regarding a grantee's proposed rejection of all bids on Step 3 construction grant projects, to determine whether adequate good cause is demonstrated. The following criteria are representative of circumstances in which good cause for rejection of all bids may be found:

(1) The specifications are ambiguous, inadequate, restrictive, or otherwise deficient and an addendum to the original invitation for bids is no longer possible.

(2) The needs of the grantee have changed and the change could not be imposed upon bidders consistent with applicable procurement requirements.

(3) The specification requirement(s) is (are) determined not to be necessary.

(4) The bids received indicate that the grantee's quality requirements were overstated.

(5) The amounts of all acceptable bids (i.e., responsive and responsible) are reasonable but the grantee is unable to fund the non-Federal share of project costs associated with the lowest acceptable bid (variables to consider, in this regard, are the financial capability of the grantee, the dollar amounts of the bids and their percent over the engineer's estimate).

(6) The amounts of all otherwise acceptable bids (i.e., responsive and responsible) are unreasonable. This is an obvious matter for subjective judgment including some deference to the procuring entity and concerns various factors among which is the validity of the engineer's estimate.

(7) The bids received failed to provide sufficient competition to insure fair prices.

(8) The bids:

(a) Were not independently arrived at in open competition;

(b) Were collusive; or

(c) Were submitted in bad faith.

(9) Applicable Federal law or policy (for example, the National Environmental Policy Act, 42 U.S.C. 4321 et seq.) requires delay or further study of the project.

Good cause for rejection of all bids may not be found where the following is evidenced:

(1) Litigation is instituted concerning contract award, although litigation may prove a proper ground for rejection of all bids where prolonged.

(2) The specification requirements are relaxed by a grantee and the relaxation would not materially affect competition and would result in only minor savings.

(3) The invitation for bids contained omissions, errors or ambiguities which did not adversely affect competition, if:

(a) Award would result in a binding contract concerning all material requirements;

(b) Performance would satisfy the needs of the grantee; and

(c) The rules of formal advertising, as contained in Agency regulation, or fundamental principles of procurement necessary to insure free and open competition, would not be violated.

(4) A local or in-State bidder has not submitted the low bid.

Grant Eligibility

Nothing in this PRM prohibits a Regional Administrator, in recognition of a paramount Federal interest, from limiting the amount of grant assistance on any resolicitation to the Federal share of the lowest bid which could have been accepted by a grantee, or from requiring bid rejection.

Procedure

The above criteria should provide sufficient guidance to permit each Regional Water Division to establish procedures for review of proposed rejections of all bids and concurrence or nonconcurrence on the part of the Agency. Additional review by Headquarters, on a case-by-case basis, is not a requirement for the performance of the Agency concurrence function and generally need not be sought. Advice must be requested from Regional Counsels in matters concerning rejection of all bids. Headquarters should be involved in cases which concern issues of policy definition. A copy of the Regional Office memorandum or other record of each concurrence/nonconcurrence will be forwarded to both the Headquarters Office of Water Program Operations, Municipal Construction Division (WH-547) and the Assistant General Counsel, Grants (A-134).

Generally, after rejection of all bids the plans and specifications or bidding documents will require modification to assure the correction of the circumstances which

led to rejection. In no case will negotiation with a low bidder be utilized in lieu of rejection of all bids and readvertising in order for the grantee to get within budget.

CANCELLATION

This PRM cancels Harold P. Cahill's memorandum of September 1, 1976, (subject: "Rejection of Bids on Step III Construction Grant Projects"), and that of Jack Washburn, dated November 6, 1976, (subject: "Headquarters Concurrence with Regional Offices' Recommendation on Rejection of Bids by Grantees"). The policy and procedures established in this memorandum are effective immediately.

MARCH 3, 1978.

[PRM No. 78-9]

Subject: Funding of sewage collection system projects.

From: John T. Rhett, Deputy Assistant Administrator for Water Program Operations (WH-546).

To: Regional Administrators, Attention: Water Division Directors.

I. PURPOSE

This momorandum supersedes Program Requirements Memorandum (PRM) No. 77-8, on construction grant funding of sewage collection system projects and amends that policy in accordance with Pub. L. 95-217. This memorandum sets forth guidance for rigorous review of grant application to ensure that proposed projects meet the established requirements of both Pub. L. 92-500 and Pub. L. 95-217, plus the construction grant regulations.

II. DISCUSSION

Sewage collection system projects may be grant eligible projects under Pub. L. 92-500 (the Act). Eligibility is limited, however, by Section 211 of the Act which provides for funding of collection systems only (1) for the replacement of major rehabilitation of an existing collection system or (2) for new collection systems in existing communities.

Sewage collection systems are defined in 40 CFR § 35.905-19 as:

For the purpose of § 35.925-13, each, and all, of the commmon lateral sewers, within a publicly-owned treatment system, which are primarily installed to receive wastewaters directly from facilities which convey wastewater from individual structures or from private property, and which include service connection "Y" fittings designed for connection with those facilities. The facilities which convey wastewater from individual structures or from private property to the public lateral sewer, or its equivalent, are specifically excluded from the definition, with the exception of pumping units, and pressurized lines, for individual structures or groups of structures when such units are most-effective and are owned and maintained by the grantee.

The eligibility of sewage collection system projects is further defined in 40 CFR § 35.925-13, which reads:

That, if the project is for, or includes sewage collection system work, such work (a) is for replacement or major rehabilitation of an existing sewer system pursuant to § 35.927-3(a) and is necessary to the total integrity and performance of the waste treatment works servicing such community, or (b) is for a new sewer system in a community in existence on October 18, 1972, with sufficient existing or planned capacity to adequately treat such collected sewage. Replacement of major rehabilitation of an existing sewer system may be approved only if cost-effective and must result in a sewer system design capacity equivalent only to that of the existing system plus a reasonable amount for future growth. A community, for purposes of this section, would include any area with substantial human habitation on October 18, 1972. No award may be made for a new sewer system in a community in existence on October 18, 1972, unless it is further determined by the Regional Administrator that the bulk (generally two-thirds) of the flow design capacity through the sewer system will be for waste waters originating from the community (habitation) in existence on October 18, 1972.

The above sections of the EPA regulations implement section 211 of Pub. L. 92-500.

Section 36 of Pub. L. 95-217 amends section 211 of Pub. L. 92-500 to preclude use of the population density criterion in PRM 77-8 as a test of grant eligibility for collector sewer projects but permits use of the criterion for evaluation alternatives. A one household per two acre density criterion may be used only for identifying less closely populated areas where individual or other small wastewater treatment systems are likely to be more cost-effective than collector sewers and thus must be evaluated in detail if collector sewers are proposed for such areas. Such use of the population density criterion should assist with and simplify the cost-effectiveness analysis for collector sewer projects.

All treatment works funded under the Construction Grants Program must be cost-effective to comply with the requirements of the Acts. Treatment works are defined in section 212 to include sewage collection systems. EPA cost-effectiveness requirements are found in 40 CFR § 35.925 and in Appendix A to 40 CFR, Part 35.

Public disclosure of costs is a fundamental prerequisite for all grants projects, including collection systems. Program Requirements Memorandum 76-3, "Presentation of Local Government Costs of Wastewater Treatment Works in Facility Plans," August 16, 1976, requires that cost information be presented at all public hearings held on facility plans after January 2, 1977. However, public hearings were held on many collection system projects prior to this date. Special meaures are necessary to ensure the public is aware of the cost implications of collection systems prior to their approval.

The following policy is to be followed in preparing future grant applications for collection system projects. This policy supplements all existing Agency regulations and policy statements. It provides guidance for more rigorous review of grant applications to ensure that proposed projects meet the established requirements of the law and regulations. Compliance with this policy will help to assure that only grant eligible and cost-effective collection system projects are funded by EPA.

III. POLICY

EPA policy on the funding of sewage collection systems is as follows:

A. Substantial human habitation

New collector sewer projects are eligible for funding only in a community in existence on October 18, 1972, with sufficient existing or planned capacity to adequately treat such collected sewage. A community qualifying for Federal grant assistance to construct a collector sewer system may be a geographic or jurisdictional area that is smaller than the jurisdiction of the municipality applying for the treatment facility grant. The title II regulation states in Section 35.925-13 that a community would include any area with substantial human habitation on October 18, 1972. The bulk (generally two-thirds) of the flow design capacity through the sewer system is to be for wastewaters originating from the habitation existing on October 18, 1972.

The Agency policy is that areas to be served by new collector sewer projects must meet the requirement for "substantial human habitation." Habitation existing as of October 18, 1972, should be evaluated block by block or, where typical city blocks do not exist, by areas of five acres or less to determine if it is substantial. Collector pipes designed primarily to serve blocks or five acre areas without substantial human habitation as of October 18, 1972, would not be eligible for grant assistance.

B. Cost-effectiveness

New collector sewers must be proven in the facility plan to be necessary and cost-effective in addition to being eligible under the "substantial human habitation" and the two-thirds rule requirements.

New collector sewers should be funded only when the systems in use (e.g., septic tanks or raw discharges from homes) for disposal of wastes from the existing population are creating a public health problem, contaminating groundwater, or violating the point source discharge requirements of the Act. Specific documentation of the nature and extent of health, groundwater and discharge problems must be provided in the facility plan. Where site characteristics are considered to restrict the use of on-site systems, such characteristics (e.g., groundwater levels, soil permeability, topography, geology, etc.) must be documented by soil maps, historical data and other pertinent information.

The facility plan must also document the nature, number and location of existing disposal systems (e.g., septic tanks) which are malfunctioning. A community survey of individual disposal systems is recommended for this purpose, and is grant eligible.

Where the population density within the collection system area is less than 1.7 persons per acre (one household per two acres), collector sewer projects shall be considered non-cost-effective unless a severe pollution or public health problem is specifically documented and collector sewers are shown to be clearly less costly than any of the alternatives for sparsely populated areas as cited below.

In addition, the facility plan must demonstrate, where population density is less than ten persons per acre, that alternatives are less cost-effective than new gravity collector sewer construction and centralized treatment. Such alternatives are cited in the previous Administrator's memorandum of December 30, 1976, subject: "Encouraging Less Costly Wastewater Facilities for Small Communities."

The alternatives to be evaluated include the following: measures to improve operation and maintenance of existing septic tanks, including more frequent inspections, timely pumpouts and prohibition of garbage grinders; new septic tanks; holding tanks and "honey wagons"; various means of upgrading septic tanks, including mounds, al-

ternate leaching fields and pressure sewers plus ponds or other small treatment facilities; and other systems to serve individual households or a cluster of households. Such systems include, for example, wastewater separation, water conservation and recycle systems where feasible.

The facility plan, where applicable, must examine alternatives such as limited sewer service for a portion of a community. For example, septic systems work very well in many small towns except in one isolated area such as a business district where open space for adequate on-site disposal is not available.

The collection system shall not afford capacity for new habitations or other establishments to be located on environmentally sensitive lands such as wetlands, floodplains or prime agricultural lands. Moreover, the proposed collection system must conform with approved 208 plans and air quality plans, Executive Orders on Wetlands and Floodplains, and Agency policy on wetlands.

C. Public disclosure of costs

All projects, including collection systems, on which public hearings were held after January 2, 1977, must comply fully with the requirements of Program Requirements Memorandum 76-3 prior to approval.

Agency policy is to ensure public disclosure of the costs of any collection system projects where a public hearing was held on or before January 2, 1977. Such disclosures shall take the form of a prominently published notice in a local newspaper, and the cost is grant eligible.

The notice shall include the estimated monthly charge for operation and maintenance, the estimated monthly debt service charge, the estimated connection charge and the total monthly charge to a typical residential customer for the new collection system being funded and any other associated wastewater facilities required. Such associated facilities would include new treatment capacity needed to handle the flows from the new collection system.

The charges may only be rough estimates, and may be presented as a range of possible costs when major unknowns exist, such as whether or not substantial parts of the project are grant eligible.

IV. IMPLEMENTATION

The States are to be advised of the issuance of this amended policy at once. All pending and future grant applications for collection system projects or projects containing collection systems are to be reviewed for compliance with this policy.

V. REFERENCES

A. Sections 201, 211, 212, Pub. L. 92-500 and section 36 of Pub. L. 95-217.

B. 40 CFR §§ 35.905-19, 925-7, 925-13, Appendix B.

C. PRM 76-3, "Presentation of Local Government Costs of Wastewater Treatment Works in Facility Plans," August 16, 1976.

D. Memorandum to Regional Administrators from Russell E. Train, "Encouraging Less Costly Wastewater Facilities for Small Communities," December 30, 1976.

[FR Doc. 78-9303 Filed 4-6-78; 8:45 am]

[1505-01]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 876-2; OPP-66041A]

PESTICIDE PROGRAMS

Cancellation of Registration of Pesticide Products; Correction Notice

Correction

In FR Doc. 78-8879, appearing at page 13915 in the issue for Monday, April 3, 1978, the first line in the second paragraph should read, "Delete the entries for EPA Registrations Nos. 352-246, 352-274, and 352-328, appearing in the center and right columns."

[6560-01]

[FRL 879-6]

RECEIPT OF ENVIRONMENTAL IMPACT STATEMENTS

Pursuant to the President's Reorganization Plan No. 1, the Environmental Protection Agency is the official recipient for environmental impact statements (EIS's) and is required to publish the availability of each EIS received weekly. The following is a list of environmental impact statements received by the Environmental Protection Agency from March 27, 1978 through March 31, 1978. The date of receipt for each statement is noted in the statement summary. Under the Guidelines of the Council on Environmental Quality the minimum period for public review and comment on draft environmental impacts statements is forty-five (45) days; the date of submission of comment is May 22, 1978. The thirty (30) day period for each final statement begins on the day the statement is made available to the Environmental Protection Agency 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.

Dated: April 5, 1978.

JOSEPH M. MCCABE,
Acting Director,
Office of Federal Activities.

DEPARTMENT OF AGRICULTURE

Contract: Mr. Barry Flamm, Coordinator, Environmental Quality Activities, U.S. Department of Agriculture, Room 307A, Washington, D.C. 20250, 202-447-3965.

FOREST SERVICE

Draft

William Fork Land Management Plan, Arapaho National Forest, Grand Summit County, Colo., March 31: The proposed action is the implemetation of land management plan for national forest land within the Williams Fort unit, Arapaho National Forest. The William Fork unit is located in the central Colorado mountains, about 50 miles due west of Denver. It lies southeast of Kremmling and North of Dillon in Grand and Summit Counties. The unit contains about 174,221 acres, of which 148,221 acres are national forest system land. The remaining lands are mostly privately owned within the Arapaho National Forest Boundary. Management direction is proposed for all national forest land in the Williams Fork Drainage, southeast of Kremmling, Colo. (ELR Order No. 80309.)

Tonasket Planning Unit, Land Mangement Plan, Okanogan and Ferry Counties, Wash., March 28: The Tonasket planning unit includes about 226,600 acres of national forest lands lying in Okanogan and Ferry Counties, Washington. Okanogan National Forest lands, lying in Okanogan County, total 222,075 acres. Colville National Forest Lands in Ferry County make up the remaining 4,525 acres, through a land management planning process, the forest service divided the planning unit into areas with different management objectives, the overall objective of the land management plan is to provide for the best use of land in relation to the needs and wants of the public and the capabilities and limitations of the land. USDA-FS-R6-DES(ADM)78-8. (ELR Order No. 80295.)

Final

Chugach Moose Fire Management Program, Alaska, March 28: Proposed is the treatment by prescribed burning, over a 10-year period beginning in 1977, of a total of about 22,000 acres of land at 139 sites. The purpose is to improve vegetation for use as forage by Alaskan moose on the national forest portion of the Kenai Peninsula in south central Alaska. Prescribed fire will be used in a planned, controlled, natural way to increase moose populations as past wildfires have done by accident. Adverse impacts may occur as a result of changes in vegetation, decreased older forest wildlife populations, temporary reduction in air quality, and wildfire hazard. USDA-FS-R10—FES-(ADM)-77-07, comments made by: USDA, DOC, EPA, DOI, (ELR order No. 80294.)

South Fork Unit Plan, Malheur National Forest, Grant County, Oreg., March 28: Proposed is the south fork planning unit, Malheur and Ochoco National Forests. The planning unit includes three inventoried roadless areas, three areas for resource production with fish and wildlife habitat, and resource management to achieve optimum amounts of wood fiber, outdoor recreation, water, fish and wildlife habitat, and livestock forage. A wild horse management territory will maintain a maximum of 100 head herd. Adverse effects include some loss of productivity of wood, water, and forage. USDA-FS-R6—FES-(ADM)-76-10, comments made by: USDA, DOC, DOI, DOD. (ELR order No. 80296.)

Kettle Range Unit Plan, Colville National Forest, Ferry County, Wash., March 27: Proposed is an intensive land use plan for the 232,550-acre kettle range planning unit in Colville National Forest, Washington. The plan makes the following land use allocations: 110,870 acres to general management, 64,900 acres to modified management, 7,410 acres to key management, 33,650 acres to scenic recreation, 14,470 acres to highway

scenic management, 1,140 acres to special or natural use, and 110 acres to intensive recreation. Adverse impacts include removal of the vegetative cover and disturbance of the soil on 2,070 acres due to road construction, degradation of air and water, and destruction of old growth stand habitat. USDA-FS-R6-FES-(ADM)-77-4, comments made by: USDA, DOI, FPC, EPA, State and county agencies, business, clubs, organizations. (ELR order No. 80287.)

Final

Cannery Creek, Timber Sale, Aquaculture Site, Alaska, March 28: Proposed is a timber sale near Cannery Creek, Unawik Inlet, Prince William Sound, approximately 70 miles northwest of Cordova, Alaska. The sale is a combination salvage and reservoir right-of-way clearing project for a proposed Alaska Department of Fish and Game salmon hatchery project. The estimated volume is 2,230 mbf which will be coming from 6 clearcut units totalling approximately 166 acres. The gross sale area is 480 acres. The scenic value of the area will be altered by the proposed sale over the next 30 to 40 years. Comment by: EPA, DOT, DOC, AHP, DOI, DOD. (ELR order No. 80293.)

SOIL CONSERVATION SERVICE

Draft

Brush Creek Watershed, Mercer County, W. Va., March 29: This action involves a project for watershed protection and flood prevention in Mercer County, W. Va., to be implemented under authority of the Watershed Protection and Flood Prevention Act and authorized for installation on June 21, 1960. Planned project measures consist of installing conservation land treatment measures on about 4,330 acres, six floodwater retarding structures, four multiple purpose structures, recreation facilities, 1.44 miles of channel work on Glady Fork, and 5.85 miles of channel work on Brush Creek. Since the project authorization, about 80 percent of the work has been installed. (ELR order No. 80299.)

Final

Factory Creek Watershed, Sumter County, Ala., March 28: Proposed is a watershed plan for the Factory Creek Watershed located in rural Sumter County in west central Alabama. Plan implementation calls for watershed protection and flood prevention by means of conservation land treatment measures and 3 single-purpose floodwater retarding structures. Adverse impacts include the loss of 81 acres of wildlife habitat; increased sediment in streams during construction; and a slight increase in stream temperatures below impoundments. Comments made by: USDA, COE, HEW, DOI, EPA, State and local agencies. (ELR order No. 80303.)

U.S. ARMY, CORPS OF ENGINEERS

Contact: Dr. C. Grant Ash, Office of Environmental Policy Department, Attention: 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.

Draft

Fifth Unit Installation, Hartwell Lake, Savannah River; Several counties, Georgia, South Carolina, March 29: This action involves the installation of a fifth generating unit ranging in size from 66,000 to 100,000 kilowatts at Hartwell Lake Dam. The installation would include modification and additions to the existing power intake and power house structures and a transformer and transformer deck pull-off tower to carry the electrical transmission lines to the switch yards. The additional generating unit would increase electrical production during peak power demends from 66,000 to 100,000 kilowatts depending on size of the unit installed. Hartwell Lake is located on the Savannah River on the Georgia and South Carolina border. The dam is 305 miles above the River's mouth. (Savannah District) (ELR Order No. 80302.)

Final

Delta Coves proposed subdivision, permit, Contra Costa County, Calif., March 30: 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 develoment, 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), Comments made by: AHP, USDA, HEW, DOI, DOT, EPA, FPC, State and local agencies, groups and individuals. (ELR Order No. 80307.)

DEPARTMENT OF COMMERCE

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

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION.

Final

Waiver of Alaska Marine Mammal Moratorium, Alaska, March 27: The Marine Mammal Protection Act of 1972 imposed a moratorium on the taking and importing of marine mammals and marine mamal products and preempted the authority of States to manage marine mammals within their jurisdiction effective December 21, 1972. The State of Alaska has since requested the Secretary of Commerce and the Secreatary of Interior to waive the moratorium and return management to the State. This statement discusses the various facets of the above reguest. Comments made by: USDA, DOI, State and local agencies. (ELR Order No. 80286.)

Rhode Island Coastal Management Programs, Rhode Island, March 31: Proposed is the approval by the Secretary of Commerce of the coastal zone management program of the State of Rhode Island. Approval would permit implementation of the proposed program, allowing program administration grants to be awarded to the state, and require that all federal actions be consistent with the program. The impacts of the program will be generally beneficial, although there may be some adverse, short-term economic impacts on some coastal users. Comments made by: DOI, DOD, DOC, HUD, FERC, DOE, NRC, USDA, EPA, DOT. (ELR Order No. 80308.)

Wisconsin Coastal Management Program, Wisconsin: March 30: Proposed is the approval of the coastal management program application of the State of Wisconsin pursuant to the Coastal Zone Management Act, Public Law 92-583. Approval would permit implementation of the proposed program, allowing program administration grants to be awarded to the State, and require that Federal actions be consistent with the program. Approval and implementation of the program will restrict certain land and water uses in parts of the Lake Superior and Lake Michigan coasts of Wisconsin while promoting and encouraging development and use activities in other parts. Comments made by: USDA, DOD, EPA, HUD, DOI, DOT, USCG, FERC, FPC, and State and local agencies. (ELR Order No. 80305.)

Final supplement

Atlantic Groundfish Fisheries (S-2): March 29: This statement supplements a final EIS originally filed with CEQ in March 1977. Proposed is the extension of the fishery plan (Haddock, Cod, Yellowtail Flounder) into the first part of 1978 on an interim basis with provisions for additional quarterly allocations and limitations. The optimum yield figures established in 1977 have not been reduced. The public comment for this supplement has been waived. (ELR Order No. 80300.)

ENVIRONMENTAL PROTECTION AGENCY

Contact: Mr. Joseph M. McCabe, Director, Office of Federal Activities, Room WSMW 537, 401 M Street SW., Washington, D.C. 20460, 202-755-0780.

Draft

Water quality in central Massachusetts, several counties, Massachusetts, March 27: Proposed is the study of technical and management alternatives which have been considered to deal with water quality problems of the central Massachusetts area from now through the next 20 years. The purpose of this program is to develop an interest and understanding of the River Systems and of lakes and ponds, to have people value their water resources. The study area of this project consists of twenty-seven communities located in south central Massachusetts Regional Planning Commission. The total land area of the study area is 627.54 square miles, with a population of 394,261 according to the 1970 Federal Census. (ELR Order No. 80284.)

Final

Lignite-fired steam generators, performance: March 28: Proposed are performance standards for lignite-fired steam-generators. Data gathered since 1971 are sufficient to propose amendments to subpart D of 40 CFR part 60 to limit atmospheric emissions of nitrogen oxides to 260 nonograms per joule heat input (0.6 lb. per million Btu) from lignite-fired steam generators with a heat input of 73 mW thermal (250 million Btu per hour)—equivalent to about 25 mW electrical control of nitrogen oxides emissions to 260 NG/J would reduce emissions from lignite-fired steam generators operating in 1980 by 29 percent. EPA-450/2-76-030B. Comments made by: LAB, FEA, HEW. (ELR Order No. 80297.)

Petrol refinery sulfur plants, standards. This statement sets forth standards for new or modified sulfur recovery plants within petroleum refineries under section III of the Clean Air Act. Depending on the type of emission control system installed to comply with these standards, residual emissions released to the atmosphere will consist of sulfur dioxide (SO_2) or reduced sulfur compounds, i.e. H_2S, COS, and CS_2. The stan-

dards, therefore, limit either the concentration of SO2, or the concentration of H2S and the total concentration of H2S, COS, and CS2, in the gases discharged into the atmosphere from new or modified refinery sulfur recovery plants. EPA—April 2, 1976—016-B. Comments made by: HEW, DOC, State and local agencies, industries. (ELR Order No. 80298.)

GENERAL SERVICES ADMINISTRATION

Contact: Mr. Andrew E. Kauders, Executive Director, Environmental Affairs Division, General Services Administration, 18th and F Streets NW., Washington, D.C. 20405, 202-566-0405.

Draft

Customs service cargo inspection facility, Detroit, Wayne County, Mich., March 29: The proposed action is to acquire and concert an existing truck terminal warehouse facility into a U.S. Customs Service Cargo Inspection Facility at the Ambassador Bridge Border Station, Detroit, Wayne County, Mich. The facility will provide space for aproximately 66 Customs Service employees on a site to be acquired. The facility will include approximately 5,350 square feet of office space, a truck dock inspection warehouse of approximately 14,100 square feet and parking for a minimum of 40 trucks and a minimum of 24 other vehicles. The site area will be approximately 172,000 square feet. (ELR Order No. 80301.)

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

Green Valley Estates, Huntsville, Madison County, Ala., March 31: Proposed is the development of a 300-acre tract of land in Huntsville, Ala. to be entitled Green Valley Estates, over a 10-year period of time, 900 housing units and related community facilities will be constructed. Land is reserved for open space and a school site. The plan also includes an area for commercial use at the intersection of Hollow Road and Highway 231-431. Adverse effects include the conversion of agricultural land to urban use, some increase in air pollution and community noise levels, and increased storm water runoff. HUD-R04-EIS-77-03F. Comments made by: HUD, DOC, DOI, HEW, GSA, FPC, AHP, USDA, EPA, TVA, and State and local agencies. (ELR Order No. 80310.)

Fairmont Park Subdivision, Harris County, Tex., March 28: Proposed is the acceptance for HUD/FHA mortgage insurance purposes of the Fairmont Park subdivision in the city of LaPorte, Tex. Approximately 490 acres remain to be developed in the existing planned community, totalling 1,179 acres; the project will provide housing for approximately 5,170 persons in single family homes. Adverse effects resulting from project implementation include increased groundwater consumption and increased demand for fossil fuels through dependence on the automobile for transportation. Comments made by: EPA, COE, AHP, DOI, USDA, DOT, and State and local agencies, groups. (ELR Order No. 80288.)

Final

Country Colony Subdivision, Montgomery County, Tex., March 31: Proposed is FHA approval for mortgage insurance for Superior Homes, Inc.'s 300.22-acre Country Colony Subdivision in southeastern Montgomery County, Tex. This request for mortgage insurance reflects the fact that this development will exceed the 500-lot threshold, thus requiring an EIS. Adverse effects of the development include increased air and noise pollution, and increased demand upon community services. Comments made by: AHP, USDA, DOI, EPA, and State and local agencies. (ELR Order No. 80311).

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 Executive. Copies are not available from HUD.

Draft

City of San Jose, Three Year Plan, California, March 30: This document describes and assesses the environmental impact of a 3-year housing and community development plan for the city of San Jose. The plan has been developed for local implementation with Federal funding pursuant to the Housing and Community Development Act of 1977. The neighborhood projects generally consist of (1) loans and grants for housing rehabilitation, (2) improvements or additions to existing public parks and community facilities, (3) construction of new parks or community centers, and (4) street and sewer improvements. (ELR Order No. 80306.)

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.

Draft

Canaan Valley National Wildlife Refuge, Tucker County, W. Va., March 28: The U.S. Fish and Wildlife Service proposed to acquire approximately 28,000 acres of mixed wetlands, upland and farmland habitat for the purpose of preserving and maintaining a unique natural ecosystem in Tucker County, W. Va. The area, generally known as the Canaan Valley, would become a unit of the National Wildlife Refuge System to be acquired under the existing authority of the Fish and Wildlife Act of 1956. DES-78-8. (ELR Order No. 80289.)

OHIO RIVER BASIN COMMISSION, MR. FRED E. MORR, CHAIRMAN, SUITE 208-20, 36 EAST FOURTH STREET, CINCINNATI, OHIO 45203, 513-684-3831

Draft

Middle Ohio Main Stem CCJP, Indiana, Kentucky, Ohio, March 31: This action involves the Middle Ohio Main Stem which consists of the Ohio River from the confluence of the Kanawha River to the confluence of the Kentucky River. It includes the minor tributaries to the Ohio River but excludes the Kanawha, Scioto, Licking, Great Miami, and Kentucky Rivers. The 9,050 square-mile drainage area includes parts of Indiana, Kentucky, Ohio and West Virginia. The majority of the two million people living in the area are concentrated in the Cincinnati and Huntington standard metropolitan statistical areas. Proposed is the comprehensive coordinated joint plan for the Middle Ohio Main Stem Basin to see if can support the various demands. (ELR Order No. 80314.)

Lower Ohio Main Stem, comprehensive plan, Indiana, Kentucky, Illinois, March 31: Proposed is the comprehensive coordinated joint plan for the Lower Ohio Main Stem Basin. The Lower Ohio Main Stem Basin consists of the last 435 miles of Ohio River from the mouth of the Kentucky River to the confluence of the Ohio and Mississippi Rivers. It includes the minor tributaries to the Ohio River but excludes the Kentucky, Green, Wabash, Cumberland and Tennessee Rivers. The 12,505 square miles of drainage area includes part of Indiana, Kentucky and Illinois. The major issue concerning this plan is whether the river can continue to support the various demands being placed on it through the year 2000 and beyond. (ELR Order No. 80315.)

Upper Ohio Main Stem CCJP, Pennsylvania, West Virginia, March 31: This action involves the Upper Ohio Main Stem which covers the first 267 miles of the Ohio River and includes parts of Ohio, Pennsylvania and West Virginia. The summary is organized into six major categories of water and related land resources, water supply and energy; natural historical and recreational; water quality control; flood damage abatement; transportation and land resources. Proposed is the comprehensive coordinated joint plan for the Upper Ohio Main Stem Basin. The major issue concerning this plan is whether the river can continue to support the various demands being placed on it through the year 2000 and beyond. (ELR Order # 80313.)

URBAN MASS TRANSPORTATION ADMINISTRATION

Final

Orange Line Relocation & St. Construction, Massachusetts, March 29: Proposed is the granting of a Federal Capital Grant to the Massachusetts Bay Transportation Authority (MBTA) by UMTA for assistance in relocation of 4.7 miles of the existing Orange Rapid Transit Line to the Penn Central Embankment, extending from South Cove to Forest Hills. The application includes removal of the existing elevated structure and the establishment of an interim replacement service along Washington Street, and the construction of a 500-car parking facility at the Forest Hills station. Completion of the project would result in the displacement of up to 21 businesses and 63 homes. Comments made by: DOD, HUD, DOI, EPA, ICC, GSA, DOT, FEA, state and local agencies, groups and individuals. (ELR Order No. 80304.)

DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Environmental Affairs, U.S. Department of Transportation, 400 7th Street SW., Washington, D.C. 20590, 202-426-4357.

FEDERAL HIGHWAY ADMINISTRATION

Draft

Klamath Falls Southside Bypass, Klamath, County: Oreg., March 28: The proposed action is a highway project in Klamath County, situated in the south central portion of Oregon. The proposed southside bypass (FAS-Route 959) would be located south of the Klamath Falls urban area and would ultimately link U.S. Highway 97 (FAR-Route 4) with State Highway 140 at Olene. The bypass would be constructed in

three segments. The first segment will link Highway 97 with Washburn Way. The central segment of the bypass, between Washburn Way and Highway 39 (FAS 419), would be built by Klamath County without Federal assistance and the third segment has not been assessed in this statement. FHWA-OR-EIS-78-4-D. (ELR Order No. 80292.)

Vermont Projects F-028-4(2) and F028-3(5), Caledonia, County: Vt., March 28: This proposed action consists of constructing a four and a half mile segment of a nine mile section of U.S. Route 2 in the towns of Danville and St. Johnsbury, Vermont. Beginning approximately 4.7 miles east of the intersection of U.S. Route 2 and Vermont Route 15 in the town of Danville, the project will extend easterly terminating in the village area of St. Johnsbury. The highway will be two-lane with partially controlled access if built on relocation, and two or four-lane uncontrolled access if constructed on the existing location. FHWA-VT-EIS-78-01-D. (ELR Order No. 80291.)

Final

TN-27, I-24 to TN-28, Marion, County: Tenn., March 28: Proposed is the construction of a section of S.R. 27 from I-24 south of Jasper to Whitwell, in Marion County. The project begins at I-24 south of Jasper and extends in a northeasterly direction on new location to new S.R. 28 at Whitwell. The facility will be a 2- or 4-lane highway with a 48 foot median and a minimum right-of-way of 250 feet. Negative effects include displacement of residences, loss of natural resources, and increases in air and noise pollution. (Region 4), FHWA-TN-EIS-77-02-F, comments made by: DOI, USDA, DOT, TVA, EPA, DOD, and State and local agencies. (ELR Order No. 80290.).

Draft Supplement

U.S. 43, Sunflower to Leroy, Alabama, Washington, County: March 27: The proposed project is to improve the existing two lane U.S. 43 to four lanes from Sunflower north to Leroy, Ala. in Washington County. Basically, the proposal is to utilize the existing roadbed for two lanes of traffic and construct two new lanes generally parallel to complete the four-lane facility. Additional right-of-way required will vary however, basically it will be 32 feet additional on the west side and 118 feet additional on the east side for a total of 150 feet. The existing right-of-way will be increased to a total of 250 feet minimum. The total length of the project is 11 miles. (ELR Order No. 80285.)

FEDERAL AVIATION ADMINISTRATION

Final

National Airport System Plan (NASP), March 31: Proposed are the preparation and adoption of the revised National Airport System Plan (NASP) by January 1, 1978, as required by the Airport and Airway Development Act of 1970, as amended. The NASP sets for the level of development with estimates of implementation costs, for the National Airport system for a period of 10 years. Adverse effects include the consumption of a portion of our energy resources for aviation purposes; exposure to high levels of acoustic noise by persons inhabiting areas near major airports; and a continued contribution to the air pollution problems in certain areas of the country. Comments made by: CAB, DOC, DOT. (ELR Order No. 80312.)

AVAILABILITY OF REPORTS

The EPA has received the following reports for review. Information copies are available from the originating Agency. These reports are not to be considered environmental impact statements.

DEPARTMENT OF DEFENSE—ARMY CORPS

Contact: Dr. Grant Ash, Office of Environmental Policy, attn: DAEN-CWR-P, Office of the Chief of Engineers, 1000 Independence Avenue, SW., Washington, D.C. 20314, 202-695-6795.

Date Received: 3-27-78.

ELR Order No.: 80283.

Title: Maacama Fault Study, Sonoma and Mendocino Counties, California.

DEPARTMENT OF THE INTERIOR

Contact: Mr. Bruce Blanchard, Director, Environmental Project Review, Room 4256, Interior Bldg., Department of the Interior, Washington, D.C. 20240, 202-343-3891.

Date Received: 3-23-78.

ELR Order No.: 80273.

Title: West-Central North Dakota Study on Energy Development.

Correction

The EPA published Notice of Availability for receipt of a draft EIS prepared by the Department of the Interior entitled "West-Central North Dakota Study on Energy Development" (ELR No. 80273) in the FEDERAL REGISTER dated March 31, 1978. It has come to our attention that this document is not an EIS. Therefore, EPA withdraws notice of availability.

[FR Doc. 78-9430 Filed 4-6-78; 8:45 am]

[6712-01]

FEDERAL COMMUNICATIONS COMMISSION

[CC Docket No. 78-107; Transmittal No. 66; FCC 78-215]

RCA AMERICAN COMMUNICATIONS, INC.

Memorandum Opinion and Order Instituting Investigation

Adopted: March 22, 1978.

Released: April 4, 1978.

1. RCA American Communications, Inc. (RCA Americom), filed revisions to its Tariff FCC No. 5 providing for interim leased satellite facilities now scheduled to become effective March 24, 1978. The State of Alaska filed a petition to suspend, to which RCA Americom filed a reply, and a petition to reject, to which RCA Americom filed an opposition. American Telephone & Telegraph Co. (AT&T) filed comments on the revisions and RCA Alaska Communications, Inc. (RCA Alascom), filed comments on the State of Alaska's petitions.

I. BACKGROUND

2. RCA Americom's tariff filing contains revised rates and regulations for the lease of satellite transponder facilities and associated earth stations in the contiguous United States to another common carrier (RCA Alascom), which is authorized to provide interstate message toll telephone service (MTS) and other communications services between points in Alaska and the contiguous United States, and intrastate MTS and other communications services between points in Alaska. RCA Americom provides these facilities on an interim basic, pursuant to a memorandum opinion, order, and authorization, adopted March 30, 1976, by the Chief, Common Carrier Bureau, and further conditioned in *RCA Global Communications, Inc.*, 60 FCC 2d 585 (1976).[1] The interim tariff offering currently in effect provides for RCA Alascom's use of a minimum of four full period transponders and associated shared use of earth station facilities at a monthly charge of $290,000 ($60,000 for each transponder and $50,000 for use of the earth stations). Additional full period transponders are available at $60,000 per month. Occasional transponder use is at the rate of $300 per half hour or fraction thereof. This interim tariff has been extended on a month-by-month basis during the period of RCA Americom's temporary authorization.

3. The question of whether RCA Americom or AT&T should be authorized to provide domestic satellite facilities on a permanent basis to RCA Alascom for its interstate and intrastate services to Alaska is pending before the Commission in the *Alaska Facilities Proceeding. See, RCA Global Communications, Inc.*, 56 FCC 2d 660 (1975), 61 FCC 2d 218 (1976). In *RCA Global Communications, Inc.*, 61 FCC 2d 218, we ordered AT&T and RCA to submit formal technical and economic proposals for providing service on a permanent basis. Further comments and reply comments were also required.

4. The tariff revisions before us now embody RCA Americom's permanent proposal in the *Alaska Facilities Proceeding* but are to be applicable to its interim service offering. The tariff changes would require RCA Alascom to use a minimum of six full period transponders, which could be on a protected or unprotected basis. RCA Alascom would also be able to utilize additional earth station facilities. The

[1] In accordance with our decision in *RCA Global Communications, Inc.*, 56 FCC 2d 660 (1975), the domestic satellite facilities initially operated by RCA Globcom have been transferred to RCA Americom.

rates for each full period protected transponder would be increased from $60,000 to $71,000 per month and the rates for each full period unprotected transponder would be established at $47,500 per month. The earth station fixed charge would be replaced with a $15,000 monthly charge per transponder accessed. Occasional transponder facilities would continue to be charged at $300 for the first half hour, but additional time would be at $10 per minute. Earth station charges for occasional use would be based on charges of $60 for the first half hour and $2 for each consecutive minute. The charge for shared transponders used by RCA Americom and RCA Alascom are to be prorated on the basis of utilization relative to capacity rather than relative use.

II. Contentions of the Parties

A. State of Alaska

5. The State of Alaska advances several arguments in support of its requests to suspend and investigate or reject RCA Americom's tariff revisions. The State contends that the proposed increase in rates is in violation of assurances by RCA Globcom, as trustee, and RCA Alascom that the initially proposed rates would remain in effect throughout the interim period. The State of Alaska also argues that it is not appropriate to permit RCA Americom to implement the permanent facilities proposal in the interim tariff when the Commission has not reached a decision on this question. The State points out that it has objected to the proposals that RCA Alascom be required to own a portion of the RCA satellite system and to lease facilities for a minimum period of 6 years.

6. the State of Alaska also criticizes the ratemaking practices employed by RCA Americom. Specifically, the State contends that the increase in rates to RCA Alascom but not to other customers is discriminatory and in violation of the Commission requirement that RCA Americom's charges to RCA Alascom be no higher than charges for "lease of such capacity by customers with like requirements." 56 FCC 2d at 699. The State also contends that RCA Americom's proposed rate of return for its service to RCA Alascom is significantly higher than for its competitive service offerings. The State of Alaska argues that RCA Americom has overstated its rate base by including facilities not yet in use in providing the service, namely an on-ground spare spacecraft. RCA Americom continues to employ relative use to assign satellite system costs and charges for earth station capacity to RCA Alascom, the State maintains, which results in excessive charges to RCA Alascom. The State also argues that the charges for protected transponder service are excessive since it is not certain that RCA Alascom has the full use of these transponders.

7. The State of Alaska further argues that certain terms are not defined and another is not adequately set forth in RCA Americom's tariff. In addition, the State contends that RCA Americom's tariff does not delineate how transponders are to be shared. Finally, the State urges the Commission to consider in the context of the subject tariff filing the specific issues relative to the accounting order established in *RCA Global Communications, Inc.*, 60 FCC 2d 585, and to consider RCA Alascom's compliance with the "pass through requirements" established by that order.

B. RCA Americom

8. RCA Americom states that the State of Alaska has not raised any substantial questions concerning the lawfulness of its tariff filing. RCA Americom argues that it is under no constraint to maintain its rates to RCA Alascom at the present level, since its authorization did not preclude rate changes without prior Commission consent. RCA Americom defends implementation of its proposal for permanent service to Alaska and maintains that in so doing, the Commission is not required to prejudge the *Alaska Facilities Proceeding*. RCA Americom also argues that the tariff provisions structured to offer service on a 6-year term basis do not require RCA Alascom to take the service for a full 6 years, since the tariff provides for termination of the service at any time subject only to minimal termination liability (see section 2.5.1).

9. RCA Americom argues that its rate of return on facilities devoted to RCA Alascom is reasonable and that it cannot be restricted to lower rates for that service on the basis of lower rates of return for other services, which it claims are the result of circumstances beyond its control. RCA Americom contends that its inclusion in the rate base of the ground spare satellite is proper and consistent with Commission policy, citing *Comsat*, 56 FCC 2d 1101, 1122 (1975). RCA Americom also refutes the claim that the rates for transponder and earth station facilities were based on "relative use." In regard to transponder charges, RCA Americom maintains that the the total investment for the satellite was divided by the total number of transponders giving an average investment per transponder. RCA Americom explains that this average investment figure is independent of the use of the capacity not utilized by RCA Alascom. RCA Alascom's rates for shared transponders also are not dependent on RCA Americom's use of the remainder of the transponder capacity, RCA Americom contends. The earth station charges, RCA Americom explains, cannot reasonably be based on capacity because certain components of earth stations are used with different capacity satellites or multiple satellites. Thus, RCA Americom states that it calculated earth station charges by determining the total costs per year for each individual earth station used and dividing each total by the relative utilization of the station in each year by the carriers using the station. RCA Americom maintains that RCA Alascom's earth station charges are lower by sharing capacity with RCA Americom. Furthermore, RCA Americom advances two reasons for not providing for credit to RCA Alascom in the event protected transponders are leased to other customers on a preemptable basis. RCA Americom argues that the revenues it has derived from that type of service have been insignificant and that the transponders held for RCA Alascom's protection are on a different satellite than the limited preemptable service provided by RCA Americom.

10. RCA Americom argues that it believes the parties agree to and understand the basic principle governing the allocation of charges for shared transponders. It explains the implementation of that concept, as briefly set forth above. In regard to the State's position that certain portions, including definitions, of the tariff are vague, RCA Americom states its amenableness to clarifying those provisions but doubts the necessity of such action. Finally, RCA Americom contends that the conditions imposed on RCA Alascom is *RCA Global Communications, Inc.*, 60 FCC 2d 585, are not relevant to the subject tariff filing and should be treated independently.

C. RCA Alascom

11. RCA Alascom contends that the attempt of the State of Alaska to broaden the scope of any inquiry into the lawfulness of the RCA Americom tariff filing is inappropriate and should be denied. RCA Alascom further emphasizes that it has complied with the conditions placed upon it by the Commission in *RCA Global Communications, Inc.*, 60 FCC 2d 585. RCA Alascom does not oppose the rate increase but refers to a December 16, 1977, letter in which it mentions negotiations between the two carriers that had taken place and requests a meeting of all parties with the Commission staff to discuss appropriate clarification of modification of the revised tariff to meet several of its concerns.

D. AT&T

12. AT&T argues that the tariff filing before us is an attempt by RCA Americom to implement its proposal to provide permanent facilities to RCA

Alascom prior to a Commission decision and thus without Commission authorization. AT&T contends that the effectiveness of this tariff filing would further prejudice the final disposition of the question pending before the Commission. If RCA Americom's tariff proposal is to become effective, AT&T requests that action be taken to insure that no prejudical effect will be created by interim implementation of the tariff.

III. Discussion

13. We find that RCA Americom is not restricted from changing the tariff provisions for its interim service to RCA Alascom. The Bureau's authorization contained no such restriction, and we did not impose a condition of this kind in *RCA Global Communications, Inc.*, 60 FCC 2d 585. Furthermore, absent such a condition, limiting a carrier from filing justified tariff changes would contravene the purpose of carrier-initiated rates and frustrate the intent of section 203 of the Communications Act, 47 U.S.C. § 203.

14. A tariff may be rejected if it is a substantive nullity because of: (1) A failure to publish an effective date that comports with section 203 of the Act or Part 61 of the rules; (2) a lack of required authority to implement a proposed tariff offering (*Matter of Press Wireless, Inc.*, 25 FCC 1466 (1958), *Matter of RCA Communications*, 34 FCC 171 (1963)); or (3) an unlawfulness on its face such as demonstrably conflicts with the Communications Act or a Commission rule, regulation, or order (*Municipal Light Boards* v. *FPC*, 450 F. 2d 1341 (D.C. Cir. 1971), and *Associated Press* v. *FCC*, 448 F. 2d 1095 (D.C. Cir. 1971)). We do not find that such grounds exist with RCA Americom's tariff filing which would require its rejection.

15. Consideration of the interim tariff revisions before us raises the general issue of the relationship between RCA Americom and RCA Alascom. In particular, we are concerned with whether any cross-subsidization between or among services provided by RCA Americom exists and whether agreements and other arrangements for service and facilities between RCA Americom and RCA Alascom are fair, reasonable, and negotiated at arm's length.[2] See, *RCA Global Communications, Inc.*, 56 FCC 2d at 671. The question of the relationship between the two RCA companies pervades several specific concerns we have with regard to the tariff filing. Among those concerns are the 6-year service period and minimum six transponder provisions, the rate of return for the Alaska service, and the method of allocating common costs to Alaskan service.

16. With regard to the 6-year service period,[3] RCA Americom has not justified the imposition of this particular period length in its tariff filing other than to state that the average revenue requirement for transponders was based on a 7-year expected life of satellite investments. However, RCA Americom does not state that the 6-year service period is based on this factor. Likewise, RCA Americom does not advance or substantiate any claim that utilization of a 6-year service period results in rates lower than if based on a shorter term, such as month to month. We are therefore left without any justification for the particular length of service period imposed. In seeking substantiation for the six transponder minimum, we note RCA Americom's Alaska traffic forecasts are 11.4 average transponders for the first year of projection, 13 for the second year, and 13.5 for the third year. The only justification RCA Americom offers for these figures in its cost support data is that these estimates are based on "information derived from customer contact." It seems reasonable to expect forecast studies to be made by RCA Alascom; however, the support material offers no hint of this. The absence of significant justification for these two provisions raises questions as to the actual requirements of RCA Alascom for facilities and whether any benefit is derived from these provisions by RCA Alascom.

17. We are also concerned with the rate of return level set by RCA Americom for its service to RCA Alascom. In response to the State of Alaska's contention drawing attention to the rate differential between the service to RCA Alascom and other services, RCA Americom asserts that a 12 percent rate of return on the facilities devoted to RCA Alascom is reasonable. RCA Americom further maintains that being precluded from earning a sufficient rate of return on other services resulting from conditions over which it has no control should have no bearing on its rate of return for Alaskan service. Beyond this, we are left with no other justification for the 12 percent rate of return. The appropriateness of this level is of concern to us, especially in view of the fact that the same space and ground facilities are utilized in providing both MTS/WATS and competitive service offerings. Since RCA Americom's service to RCA Alascom involves for the most part noncompetitive services, the rate base and rate of return are of more than passing interest. Moreover, the differing terms and rates between this tariff and RCA Americom's full time transponder tariff (FCC No. 1) raise questions regarding the possibility of discrimination between like communications services. Whether the two tariffs offer "like" services must be explored, as well as the justness and reasonableness of any differences.

18. RCA Americom states that it has revised the method of prorating charges for shared transponders from relative use to utilization relative to capacity. The proposed methods of allocation of costs for both transponders and earth stations are described in paragraph 9 above. We are concerned with the reasonableness of these methods of allocating joint and common costs, particularly since, as noted above, both competitive and noncompetitive services are involved.

19. In considering RCA Americom's tariff revisions, we are cognizant of the fact that several unresolved proceedings will have a bearing on various aspects of this tariff filing and some of the questions raised. These ongoing proceedings include the following: (1) The *Alaska Facilities Proceeding* (File Nos. W-P-C-726, 740, 787), which is to determine whether RCA Americom or AT&T should provide permanent domestic satellite facilities to RCA Alascom; (2) the *Integration of Rates and Services* proceeding,[4] which seeks to accomplish integration of rates for services between the United States mainland and Alaska (as well as other offshore points) into the domestic patterns; and (3) the establishment of a Federal-State Joint Board to address separations procedures applicable to Alaska[5] (and other offshore points) and the resultant division of revenues in the interstate revenue pool for service to Alaska.

20. RCA Americom's tarrif therefore raises several substantial issues. As indicated above, they include the relationship and dealings between RCA Americom and RCA Alascom, the reasonableness of the 6-year service period and minimum transponder provisions, the rate of return and rate level for the Alaska service, and the method of allocating common costs to Alaskan service. The seriousness of these issues requires us to institute an investigation into RCA Americom's

[2] In this regard, we note that RCA Alascom did not oppose this rate increase or otherwise make any formal comment on the tariff changes of their impact on its customers. This is particularly strange in view of RCA Alascom's letter of December 16, 1977, in which it indicated that it has a number of unspecified concerns with the revised tariff filing. At best this presents a curious picture of arm's length dealing.

[3] Related to this provision is a termination penalty equal to 2 percent per year of the unexpired term multiplied by the annual charge of the transponder facilities canceled.

[4] 61 FCC 2d 380 (1976), recon., 65 FCC 2d 324 (1977).

[5] See, *Notice of Inquiry, Proposed Rulemaking and Creation of Federal-State Joint Board*, Docket No. 21263, 64 FCC 2d 1033 (1977).

tariff filing. We take this action despite possible complications imposed by the pending proceedings set forth in paragraph 19 above in resolution of the issues found to require investigation. In particular, we recognize the importance of the *Alaska Facilities Proceeding* to this proceeding. If AT&T is authorized to provide permanent satellite facilities for Alaska services, continuation of the investigation would most likely be unnecessary. On the other hand, if RCA Americom is designated the carrier to provide satellite facilities to Alaska, we anticipate that some of the issues may be modified by that decision.[6] Currently, we anticipate a decision in that proceeding in about 2 or 3 months. Therefore, we will order an investigation at this time, with specific issues and procedures to be delineated in a separate order. We anticipate that the actual commencement of the hearing phase would be deferred until after a decision is reached in the facilities case.

21. In addition to instituting an investigation, we are also suspending the proposed rate increase for 5 months and are imposing an accounting order. We believe suspension for the maximum statutory period is warranted because of the sizable rate increase involved and the other substantial questions involved. The monthly charges for full period transponders and earth station facilities will be increased from $290,000 to a minimum of $375,000 or a maximum of $516,000. The amount of this rate increase would undoubtedly have a substantial impact on the Alaskan ratepayer.[7]

22. Accordingly, *It is ordered*, That, pursuant to sections 4(i), 4(j), 201, 202, 204, 205, and 403 of the Communications Act of 1934, as amended, an investigation is instituted into the lawfulness of the tariff schedules filed by RCA American Communications, Inc., with transmittal No. 66, including any cancellations, amendments or reissues thereof.

23. *It is further ordered*, That, pursuant to the provisions of section 204 of the Act, the revised tariff schedules filed by RCA Americom with Transmittal No. 66 are hereby suspended until August 24, 1978, and that RCA Americom, as to the operation of such tariff schedules shall, in the case of all increased charges and until further order of the Commission, keep accurate account of all amounts received by reason of such increases and upon completion of the hearing and decision herein, the Commission may by further order, require the refund thereof, with interest, pursuant to section 204 of the Act, and the carrier shall file such reports on the amounts accounted for as the Chief, Common Carrier Bureau, shall require.

24. *It is further ordered*, That, pursuant to sections 4(i) and 4(j) of the Act, hearings in this investigation are deferred pending further Commission order which will designate the specific hearing issues.

25. *It is further ordered*, That RCA Americom is made a party respondent herein and that the State of Alaska, RCA Alascom and the trial staff of the Common Carrier Bureau are made parties pursuant to section 1.221(d) of the Commission's rules, and that all other interested persons wishing to participate may do so by filing a notice of intention to participate within 30 days of the date of publication of this order in the FEDERAL REGISTER.

26. *It is further ordered*, That, the petition to reject filed by the State of Alaska is denied.

27. *It is further ordered*, That, the petition to suspend filed by the State of Alaska is granted to the extent indicated herein.

28. *It is further ordered*, That the Secretary shall cause a copy of this order to be published in the FEDERAL REGISTER.

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-9261 Filed 4-6-78; 8:45 am]

[6712-12]

[SS Docket No. 78-118 etc.]

RUSSELL V. YANDA ET AL.

Order Designating Applications for Consolidated Hearing on Stated Issues

Adopted: March 29, 1978.

Released: April 3, 1978.

In the matters of revocation of license of Russell V. Yanda, Route 2, Box 427, Gleason, Wis. 54435, licensee of station KAGA-8332 in the Citizens Band Radio Service, SS Docket No. 78-118; and revocation of license of Russell V. Yanda, Route 2, Box 427, Gleason, Wis. 54435, licensee of station WD9DIE in the Amateur Radio Service, SS Docket No. 78-119; and suspension of license of Russell V. Yanda, Route 2, Box 427, Gleason, Wis. 54435, Amateur Novice Class Operator Licensee, SS Docket No. 78-120; and application of Russell V. Yanda, Route 2, Box 427, Gleason, Wis. 54435, for Amateur Technician Class Operator and Station licenses, SS Docket No. 78-121.

The Chief, Safety and Special Radio Services Bureau, has under consideration revocation of the license of Citizens Band (CB) radio station KAGA-8332, licensed to Russell V. Yanda. Also under consideration is revocation of the license of Amateur radio station WD9DIE, also licensed to Yanda, and suspension of Yanda's Amateur Novice Class radio operator license. Also under consideration is Yanda's application for an Amateur Technician Class radio operator license and station license.

Russell V. Yanda is the licensee of CB Radio Station KAGA-8332, which license was granted on December 7, 1976, for a five-year term. Yanda also holds Amateur Novice Class radio operator and station licenses, WD9DIE, which were granted on April 12, 1977, for a two year term. Currently pending before the Commission is Yanda's application, dated August 12, 1977, for Amateur Technician Class operator and station licenses.[1]

It appears, That on June 24, 1977, between the hours of 10:11 a.m. and 10:41 a.m., Central Daylight Time, Yanda operated a radio transmitter on the frequency 27,550.91 KHz, using single sideband voice emission, without a license to engage in such radio operation, in willful violation of section 301 of the Communications Act of 1934, as amended. The frequency 27,550.91 KHz is assigned to neither the Citizens Band, nor the Amateur Radio Services. It is within a band of frequencies which are assigned to the United States Government.

Willful or repeated vioation of the provisions of the Communications Act constitutes grounds for revocation of Citizens Band and Amateur radio station licenses and for suspension of an Amateur operator's license. Furthermore, in light of the conduct alleged herein, the Commission is unable to determine, as required by section 309(a) of the Communications Act, whether a grant of Yanda's application for Amateur Technician Class operator and station licenses would serve the public interest, convenience and necessity.

[6] For example, we anticipate that RCA Americom's and RCA Alascom's compliance with the conditions imposed on the interim facilities authorization (*RCA Global Communications, Inc.*, 60 FCC 2d 528), including the accounting order and "pass through" requirements as raised herein by the State of Alaska, will be considered in reaching a decision in the *Alaska Facilities Proceeding*.

[7] We expect RCA Alascom to take the necessary steps to insure that it will be prepared to pass through to its ratepayers any refunds it receives from RCA Americom if the subject tariff filing is found to be unlawful by the investigation instituted herein. In this regard, we note that RCA Alascom has submitted a plan to pass through to its customers the savings resulting from its use of RCA Americom's satellite. This submission was required by the Commission in *RCA Global Communications, Inc.*, 60 FCC 2d 585.

[1] Yanda took and passed the Technician Class Amateur Radio examinations on August 12, 1977, at which time he was issued an Interim Amateur Permit authorizing his operation with Technician Class privileges. His Interim Amateur Permit was set aside by telegram sent November 1, 1977. See section 97.32 of the Commission's Rules.

Accordingly, it is ordered, Pursuant to section 312 (a)(4) and (c) of the Communications Act of 1934, as amended, and § 0.331 of the Commission's rules, that Yanda show cause why the licenses for CB radio station KAGA-8332 and Amateur radio station WD9DIE should not be revoked, and appear and give evidence in respect thereto at a hearing before an Administrative Law Judge, at a time and place to be specified by subsequent order. (See Enclosure.)

It is further order, Under authority contained in section 303(m)(1)(A) of the Communications Act of 1934, as amended, and § 0.331 of the Commission's rules, that the Novice Class Amateur operator license of Russell V. Yanda in suspended for the remainder of the license term. (See Enclosure.)

It is further ordered, That, pursuant to section 309(e) of the Communications Act of 1934, as amended, and §§ 1.973(b) and 0.331 of the Commission's rules, that Yanda's application for Amateur Technician Class Operator and Station Licenses is designated for hearing, to be held before an Administrative Law Judge at a time and place to be specified by subsequent order, upon the following issues:

(1) To determine whether Russell V. Yanda has made radio transmissions on frequencies allocated by the Commission to radio services in which he was not licensed.

(2) To determine in light of the evidence adduced pursuant to issue (1) above, whether Russell V. Yanda has transmitted radio communications in wilful violation of section 301 of the Communications Act of 1934, as amended.

(3) To determine, in light of the resolution of issues (1) and (2), above, whether Russell V. Yanda possesses the requisite qualifications to be a licensee of the Commission.

(4) To determine in light of the foregoing issues, whether the public interest, convenience and necessity would be served by a grant of Russell V. Yanda's application for Amateur Technician Class Operator and Station licenses.

It is further ordered, That, in order to obtain a hearing on the matters specified in this Order, the respondent shall, within 30 days[2] of receipt of this Order, return the enclosed reply form, indicating the course of action he has chosen with respect to each matter. Failure to file the enclosed reply form within 30 days shall constitute a waiver of the respondent's hearing rights.

It is further ordered, Pursuant to the provisions of § 1.227 of the Commission's rules, That the proceedings specified in this Order regarding the revocations, the suspension and the application are consolidated for hearing.

[2]The provisions of §§ 1.85 and 1.221(c) of the Commission's rules are waived insofar as they fix time limits within which the respondent must reply to the suspension and application matters.

It is further ordered, That the burden of proceeding with the introduction of evidence and the burden of proof for revocation of Citizens Band radio station license KAGA-8332 (SS Docket No. 78-118), for revocation of Amateur Radio station license WD9DIE (SS Docket No. 78-119) and for suspension of Amateur Novice Class Radio operator license WD9DIE (SS Docket No. 78-120) is on the Bureau, pursuant to section 312(d) of the Communications Act of 1934, as amended; the burden of the introduction of evidence and the burden of proof for grant of the Application for Amateur Technician Class operator and station licenses (SS Docket No. 78-121) is on the respondent, pursuant to section 309(e) of the Communications Act of 1934, as amended.

It is further ordered, That a copy of this Order shall be sent by Certified Mail—Return Receipt Requested and by Regular Mail to the licensee at his address of record as shown in the caption.

Chief, Safety and Special Radio Services Bureau.

GERALD M. ZUCKERMAN,
Chief, Legal, Advisory and Enforcement Division.

RUSSELL V. YANDA ET AL.

[SS Docket Nos. 78-118 etc.]

In the matters of revocation of license of Russell V. Yanda, Route 2, Box 427, Gleason, Wis. 54435, licensee of Station KAGA-8332 in the Citizens Band Radio Service, SS Docket No. 78-118; and revocation of license of Russell V. Yanda, Route 2, Box 427, Gleason, Wis. 54435, licensee of Station WD9DIE in the Amateur Radio Service, SS Docket No. 78-119; and suspension of license of Russell V. Yanda, Route 2, Box 427, Gleason, Wis. 54435, Amateur Novice Class Operator Licensee, SS Docket No. 78-120; and application of Russell V. Yanda, Route 2, Box 427, Gleason, Wis. 54435, for Amateur Technician Class Operator and Station Licenses, SS Docket No. 78-121.

1. RESPONDENT'S REPLY TO ORDER TO SHOW CAUSE WHY CITIZENS BAND RADIO STATION LICENSE KAGA-8332 SHOULD NOT BE REVOKED

Respondent hereby informs the Commission by the placing of a check mark in the appropriate block below, which course of action he will take in this matter:

☐ 1. Respondent will appear and present evidence at the hearing.

☐ 2. Respondent waives his right to a hearing in this matter and does not submit a written statement.

☐ 3. Respondent waives his right to a hearing in this matter and submits the attached written statement.[3]

2. RESPONDENT'S REPLY TO ORDER TO SHOW CAUSE WHY AMATEUR RADIO STATION LICENSE WD9IE SHOULD NOT BE REVOKED

Respondent hereby informs the Commission by the placing of a check mark in the appropriate block below, which course of action he will take in this matter:

☐ 1. Respondent will appear and present evidence at the hearing.

☐ 2. Respondent waives his right to a hearing in this matter and does not submit a written statement.

☐ 3. Respondent waives his right to a hearing in this matter and submits the attached written statement.[3]

3. RESPONDENT'S REPLY TO ORDER SUSPENDING AMATEUR RADIO OPERATOR LICENSE WD9DIE

Respondent hereby informs the Commission, by the placing of a check mark in the appropriate block below, which course of action he will take in this matter:

☐ 1. Respondent will appear at a hearing on the suspension order.

☐ 2. Respondent does not desire a hearing on the suspension order and encloses his Novice Class Amateur Radio Operator license to be held by the Commission for the duration of the suspension.

RESPONDENT'S REPLY TO THE ORDER DESIGNATING APPLICATION FOR HEARING

Respondent hereby informs the Commission, by the placing of a check mark in the appropriate block below, which course of action he will take in this matter:

☐ 1. Respondent will appear on the date fixed for the hearing and present evidence on the issues specified in the designation order.

☐ 2. Respondent will not appear on the date fixed for hearing and understands that, as a result, his application will be dismissed with prejudice.

Respectfully submitted,

Dated:————, 1978.

RUSSELL V. YANDA,
Respondent.

EXPLANATION OF PROCEDURES

1. *Revocation.* Section 1.91 of the Commissions rules provides that in order to have a hearing before an Administrative Law Judge, you have 30 days from the release date of this Order in which to state that you will appear and present evidence on the matters specified in the Order. If you are unable to appear at a hearing in Washington, D.C., you may request that the hearing be near your residence. Such request should be supported by whatever facts you feel necessary.

Your right to a hearing is waived if you (1) fail to file a timely appearance or (2) file within 30 days a statement waiving the right to a hearing. When hearing is waived, you may submit a statement denying or seeking to mitigate or justify the matters alleged in the Order to Show Cause. The Chief Administrative Law Judge will then certify the case to the Commission. The matter will be handled by the Chief, Safety and Special Radio Services Bureau, who will determine whether a revocation order should be issued or the matter should be dismissed. This determination will be made using all information available, including statements you have filed. See Enclosure.

2. *Suspension.* If you want a hearing on the suspension you have 30 days from the release date in which to request it in writing. Section 1.85 of the Rules provides that if you have a hearing, the suspension will be

[3]If this statement is intended to be in mitigation, it should include information as to (1) corrective action, if any, that has been taken and (2) the reasons, if any, why you believe that your radio station license should not be revoked.

held in abeyance until the conclusion of the proceedings. If you do not want a hearing, the suspension will go into effect in 30 days, and during that 30 days you must send your operator license to the Commission to hold during the suspension. See Enclosure.

3. *Application.* In order to have a hearing on your application, you have 30 days from the release date of this Order to request it. Section 1.221(c) of the rules provides that if you do not request a hearing, the application will be dismissed with prejudice. See Enclosure. When an application has been dismissed with prejudice, § 1.916 of the Commission's rules provides that the Commission will not consider a new application of the same type filed by you for a period of 12 months from the effective date of the dismissal.

[FR Doc. 78-9167 Filed 4-6-78; 8:45 am]

[1610-01]

GENERAL ACCOUNTING OFFICE

REGULATORY REPORTS REVIEW

Receipt of Report Proposals

The following request for clearance of reports intended for use in collecting information from the public was received by the Regulatory Reports Review Staff, GAO, on April 3, 1978. See 44 U.S.C. 3512 (c) and (d). The purpose of publishing this notice in the FEDERAL REGISTER is to inform the public of such receipt.

The notice includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed FCC requests are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed requests, comments (in triplicate) must be received on or before April 25, 1978, and should be addressed to Mr. John M. Lovelady, Assistant Director, Regulatory Reports Review, U.S. General Accounting Office, room 5106, 441 G Street, NW., Washington, D.C. 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff, 202-275-3532.

FEDERAL COMMUNICATIONS COMMISSION

The FCC requests an extension without change clearance of Form 301-A, Application for Authority to Operate a Broadcast Station by Remote Control or to Make Changes in a Remote Control Authorization. Form 301-A is required to be filed by Section 1.548 of the FCC Rules by licensees or permittees of Standard, FM (commercial and noncommercial) and Television (commercial and noncommercial) Broadcast Stations when applying for authority to operate a broadcast station by remote control or make changes in a remote control authorization. The FCC estimates that approximately 100 applications will be filed annually and that reporting time will average 15 hours per response.

The FCC requests an extension without change clearance of Form 302, Application for New Broadcast Station License: Form 302 is required to be filed by § 1.511, 1.536(b)(1), and 1.537 of the FCC Rules in all cases by applicants seeking a broadcast station license in the Radio Broadcast Services and the Experimental, Auxiliary, and Special Broadcast, and Other Program Distributional Services. The FCC estimates that approximately 725 applications will be filed annually and that reporting time will vary from one day to one year per response, depending upon the nature of the application.

The FCC requests clearance of revisions to Form 313, Application for Authorization in the Auxiliary Radio Broadcast Services. Form 313 is required to be filed by section 1.511, § 1.533(a)(3) and 1.539(d)(4) of the FCC Rules by applicants applying for a radio station license in the auxiliary radio broadcast services and for renewing a station license if there has been a change in the information previously filed with the FCC in the initial application for a station license. The revisions to the form consist of a new Block 7 which asks: "Has the FAA been notified of proposed construction? Yes, no. If yes give date and office where notice is filed." This question was added so that Broadcast licensees would no longer have to complete Form 714. A new Block 8 asks: "Would a Commission grant of this application be a major action as defined by § 1.1305 of the Commission's rules. Yes, no. If yes submit as Exhibit No. — the required statement in accordance with section 1.1311 of the rules. If no explain briefly in Exhibit No.—." This question was added to comply with the Environmental Policy Act of 1969. The FCC estimates that it will receive approximately 4,000 applications annually and that reporting time will average 520 hours per response.

The FCC requests an extension without change clearance of Form 313-R, Application for Renewal of Auxiliary Radio Broadcast License (Short Form). Form 313-R is required to be filed by section 1.539 of the FCC Rules by licensees to renew a station license in the auxiliary radio broadcast services if there has been no change in the information previously filed with the FCC in the initial application for a station license. The FCC estimates that approximately 3,500 applications will be filed annually and that reporting time will average 15 minutes per application.

The FCC requests an extension without change clearance of Form 314, Application for Consent to Assignment of Broadcast Station Construction Permit or License. Form 314 is required to be filed by §§ 1.540, 1.571, 1.572, 1.573, and 1.578 of the FCC Rules by applicants in all cases when applying for authority for assignment of a broadcast construction permit or license. The FCC estimates that approximately 359 applications will be filed annually and that reporting time will average 290 hours per application.

The FCC requests an extension without change clearance of Form 315, Application for Consent to Transfer of Control of Corporation Holding Radio Broadcast Station Construction Permit or License. Form 315 is required to be filed by §§ 1.540, 1.571, 1.572, 1.573, and 1.578 of the FCC Rules by applicants in all cases when applying for consent to transfer of control of corporation holding radio broadcast station construction permit or license. The FCC estimates that approximately 359 applications will be filed annually and that reporting time will average 290 hours per application.

JOHN M. LOVELADY,
Assistant Director,
Regulatory Reports Review.

[FR Doc. 78-9272 Filed 4-6-78; 8:45 am]

[4110-88]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Alcohol, Drug Abuse, and Mental Health Administration

ADVISORY COMMITTEES

Meeting

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 body scheduled to assemble during the month of April 1978:

MINORITY ADVISORY COMMITTEE, ADAMHA

April 26, 27, and 28—Open Meeting.

April 26; 1 p.m. and April 28, 9 a.m.—Conference Room 17-09B, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857.

April 27; 9 a.m.—Conference Suite 800, 1500 Wilson Boulevard, Rosslyn, Va.

Contact: Mr. Ernest Hurst, Room 13C-15, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3838.

Purpose: The Minority Advisory Committee, ADAMHA, advises the Secretary, Department of Health, Education, and Welfare, and the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, on needs, programs, and activities regarding minority alcohol, drug abuse, and mental health matters, and makes recommendations for possible solutions which meet the needs and concerns of minority groups throughout the United States. The Committee functions in an advisory capacity to the Administrator, ADAMHA, on

these matters which relate to the National Institute on Alcohol Abuse and Alcoholism, the National Institute on Drug Abuse, and the National Institute of Mental Health.

Agenda: This meeting will be open to the public. The Agenda includes an orientation session for new members, a session with the Administrator and progress reports by staff and by committee members. A major portion of the meeting will be devoted to a planning session for the 1978-79 Work Plan. Issues for discussion during this session may include research and human experimentation, national health insurance, manpower needs, and credentialing.

Mr. James C. Helsing, Acting Director, Office of Public Affairs, ADAMHA, will furnish, on request, summaries of the meeting and a roster of the Committee members. Mr. Helsing is located in Room 6C-15, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3783.

Dated: March 31, 1978.

CAROLYN T. EVANS,
Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 78-9044 Filed 4-6-78; 8:45 am]

[4110-86]

Center for Disease Control

COAL MINE HEALTH RESEARCH ADVISORY COMMITTEE

Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), the Center for Disease Control announces the following National Institute for Occupational Safety and Health Committee meeting:

Name: Coal Mine Health Research Advisory Committee.

Date: May 12, 1978.

Place: Conference Room G, Parklawn Building, 5600 Fishers Lane, Rockville, Md. 20857.

Time: 9 a.m.

Type of Meeting: Open: 9 a.m. to 3 p.m. on May 12. Closed: Remainder of meeting.

Contact Person: Marilyn K. Hutchison, M.D., Executive Secretary, 5600 Fishers Lane, Room 8-41, Rockville, Md. 20857, phone: 301-443-3136.

Purpose: The Committee is charged with advising the Secretary, Department of Health, Education, and Welfare, on matters involving or relating to coal mine health research, including grants and contracts for such research.

Agenda: Agenda items for the open portion of the meeting will include announcements, consideration of minutes of previous meeting, administrative and staff reports, review of the National Institute for Occupational Safety and Health (NIOSH) studies in coal and diesel research, and the status of the implementation of the Mine Safety and Health Amendments Act of 1977. Beginning at 3:00, the Committee will be performing the final review of coal research grant applications for Federal assistance, and this portion of the meeting will not be open to the public, in accordance with the provisions set forth in Section 552b(c)(6), Title 5 U.S. Code, and the Determination by the Director, Center for Disease Control, pursuant to Public Law 92-463.

Agenda items are subject to change as priorities dictate.

The portion of the meeting so indicated is open to the public for observation and participation. Anyone wishing to make an oral presentation should notify the contact person listed above as soon as possible before the meeting. The request should state the amount of time desired, the capacity in which the person will appear, and a brief outline of the presentation. Oral presentations will be scheduled at the discretion of the Chairperson and as time permits. Anyone wishing to have a question answered during the meeting by a scheduled speaker should submit the question in writing, along with his or her name and affiliation, through the Executive Secretary to the Chairperson. At the discretion of the Chairperson and as time permits, appropriate questions will be asked of the speakers.

A roster of members and other relevant information regarding the meeting may be obtained from the contact person listed above.

Dated: March 30, 1978.

WILLIAM C. WATSON, Jr.,
Acting Director, Center for Disease Control.

[FR Doc. 78-9427 Filed 4-6-78; 8:45 am]

[4110-03]

Food and Drug Administration

[Docket No. 78D-0046]

ACTION LEVEL FOR MIREX IN FISH

Availability of Guidelines

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Commissioner of Food and Drugs announces the availability of an administrative guideline setting forth a 0.1 part per million (ppm) action level for residues of the pesticide chemical mirex in fish.

FOR FURTHER INFORMATION CONTACT:

Howard N. Pippin, Bureau of Foods (HFF-312), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C Street SW., Washington, D.C. 20204, 202-245-3092.

SUPPLEMENTARY INFORMATION: No tolerances are established under section 408 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a) for the pesticide chemical, mirex, in fish. However, mirex residues have been found in fish taken from certain lake waters contaminated with mirex.

Therefore, in the absence of tolerances, the Food and Drug Administration (FDA) has established a 0.1 ppm action level, based on recommendations from the Environmental Protection Agency (EPA). Fish that contain in excess of 0.1 ppm mirex are subject to regulatory action by FDA. Copies of the administrative guideline setting forth the 0.1 ppm action level, EPA recommendations, and other pertinent information are available for public examination in the office of the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857. Requests for single copies of the guideline may be made in writing to that office.

Interested persons may submit to the Hearing Clerk, Food and Drug Administration, written comments (preferably four copies and identified with the Hearing Clerk docket number found in brackets in the heading of this document) regarding this action level. Received comments may be seen in the above office from 9 a.m. to 4 p.m., Monday through Friday.

Dated: March 27, 1978.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner for Compliance.

[FR Doc. 78-9223 Filed 4-6-78; 8:45 am]

[4110-03]

[Docket No. 78F-0047]

AMERICAN FEED MANUFACTURERS ASSOCIATION, INC.

Filing of Petition for Food Additive Permitted in Feed and Drinking Water of Animals

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The American Feed Manufacturers Association, Inc., has filed a petition proposing that the regulations should be amended to provide for the safe use of selenium in the feed of dairy and beef cattle.

FOR FURTHER INFORMATION CONTACT:

William Price, Bureau of Veterinary Medicine (HFV-123), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3442.

SUPPLEMENTARY INFORMATION: Under provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (MF-3433) has been filed by the American Feed Manufacturers Association, 1701 N. Fort Myer Drive, Arlington, Va. 22209, proposing that § 573.920 Selenium (21 CFR 573.920) be amended to provide for the safe use of selenium in the feed of dairy and beef cattle.

The environmental impact analysis report and other relevant material are being reviewed to determine whether the proposed use of the additive will have a significant environmental impact. In accordance with the provisions of § 25.25 (21 CFR 25.25) of the environmental impact regulations, environmental impact consideration of the final action on this petition will be addressed in a future publication.

Dated: March 29, 1978.

FRED J. KINGMA,
Acting Director, Bureau of Veterinary Medicine.

[FR Doc. 78-9217 Filed 4-6-78; 8:45 am]

[4110-03]

[Docket No. 77C-0347]

COMBE INC.

Filing of Color Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: Combe, Inc., has filed a petition for the permanent listing of bismuth citrate as a color additive for use in cosmetics that are hair colors.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: In accordance with the Federal Food, Drug, and Cosmetic Act (sec. 706(d), 74 Stat. 402-403 (21 U.S.C. 376(d))), notice is given that a petition (CAP 4C0108) has been filed by Combe, Inc., 1101 Westchester Avenue, White Plains, N.Y. 10604, proposing that the color additive regulations be revised in part 73 (21 CFR Part 73) to provide for the safe use of bismuth citrate as a color additive for use in cosmetic hair dyes.

A notice published in the FEDERAL REGISTER of August 7, 1973 (38 FR 21289) stated that a petition (CAP 4C0108) for the "permanent" listing of bismuth citrate as a color additive for use in cosmetics that are hair colors had been filed by Combe, Inc., 240 Westchester Avenue, White Plains, N.Y. 10604. A subsequent notice published in the FEDERAL REGISTER of November 15, 1977 (42 FR 59116) denied the petition because of a failure to comply with a requirement for the submission of final reports of short term studies. The required studies were necessary to provide adequate assurance that the use of bismuth citrate in cosmetic hair dye was safe.

Combe, Inc., has recently submitted the results of the studies considered necessary to establish the safe use of bismuth citrate in hair dyes. Combe, Inc., requested the reinstatement and filing of its color additive petition for bismuth citrate in a letter dated February 21, 1978.

Dated: March 30, 1978.

HOWARD R. ROBERTS,
Acting Director, Bureau of Foods.

[FR Doc. 78-9224 Filed 4-6-78; 8:45 am]

[4110-03]

[Docket No. 78F-0055]

DOW CHEMICAL, U.S.A.

Filing of Food Additive Petition

AGENCY: Food and Drug Administration

ACTION: Notice.

SUMMARY: Dow Chemical, U.S.A., has filed a petition proposing that the food additive regulations be amended to provide for the safe use of ethylene/octene-1 copolymer containing not less than 90 weight percent ethylene as articles or components of articles intended for use in contact with food.

FOR FURTHER INFORMATION CONTACT:

John J. McAuliffe, Bureau of Foods (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C Street SW., Washington, D.C. 20204, 202-4720-5690.

SUPPLEMENTARY INFORMATION: Under provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 8B3359) has been filed by Dow Chemical, U.S.A., P.O. Box 1706, Midland, Mich. 48640, proposing that § 177.1520 Olefin polymers (21 CFR 177.2520) be amended to provide for the safe use of ethylene/octene-1 copolymer containg not less than 90 weight percent ethylene. The proposed copolymer resin will be used to produce blown and cast film for food-packaging applications.

The environmental impact analysis report and other relevant material have been reviewed, and it has been determined that the proposed use of the additive will not have a significant environmental impact. Copies of the environmental impact analysis report may be seen in the office of the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: March 30, 1978.

HOWARD R. ROBERTS
Acting Director, Bureau of Foods.

[FR Doc. 78-9219 Filed 4-6-78; 8:45 am]

[4110-03]

[Docket No. 78F-0060]

DRG FLEXIBLE PACKAGING, LTD.

Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: DRG Flexible Packaging, Ltd., has filed a petition (FAP 6B3195) proposing that the food additive regulations be amended to provide for the safe use of components of a flexible laminated pouch intended to contact food under retort conditions.

FOR FURTHER INFORMATION CONTACT:

John J. McAuliffe, Bureau of Foods (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C Street SW., Washington, D.C. 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Under provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 6B3195) has been filed by DRG Flexible Packaging, Ltd., Filwood Road, Fishponds, Bristol BS16 3RY England, proposing that the food additive regulations be amended to provide for the safe use of components of a flexible laminated pouch intended to contact food under retort conditions. The petitioned food-contact surface is a propylene/ethylene copolymer film. The adhesive component of the system is a polyurethane adhesive manufactured from polyethylene phthalate polymers complying with § 177.1630 (21 CFR 177.1630), 4,4'-isopropylidene diphenol-epichlorohydrin resins and polyurethane resins produced by reacting toluene diisocyanate with butylene glycol and trimethylolpropane or its chloroformate.

The environmental impact analysis report and other relevant material have been reviewed, and it has been determined that the proposed use of the additive will not have a significant environmental impact. Copies of the environmental impact analysis report may be seen in the office of the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, between 9 a.m. and 4 p.m., Monday through Friday.

Dated: March 30, 1978.

HOWARD R. ROBERTS,
Acting Director,
Bureau of Foods.

[FR Doc. 78-9218 Filed 4-6-78; 8:45 am]

[4110-03]

[Docket No. 78F-0019]

E. I. du PONT de NEMOURS & CO., INC.

Amended Notice of Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: E. I. du Pont de Nemours & Co., Inc., has filed a petition (FAP 4B2989) which, as amended, proposes that § 177.1550 Perfluorocarbon resins (21 CFR 177.1550) be amended to provided for the use of lithium pol- ysilicate and naphthalene sulfonic acid formaldehyde condensate, sodium salt as components of perfluorocarbon resins.

FOR FURTHER INFORMATION CONTACT:

John J. McAuliffe, Bureau of Foods (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C Street SW., Washington, D.C. 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Under provisions of the Federal Food Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that an amendment to a petition (FAP 4B2989) has been filed by E. I. du Pont de Nemours & Co., Inc. Wilmington, Del. 19898. The original petition, notice of which was published in the FEDERAL REGISTER of February 26, 1975 (40 FR 8242), proposed that § 177.1550 of the food additive regulations be amended to provide for safe use of lithium polysilicate as a compnent of perfluorocarbon resins intended to contact food. This notice advises that the petition has been amended to include naphthalene sulfonic acid formaldehyde condensate, sodium salt as a minor constituent.

The environmental impact analysis report and other relevant material have been reviewed, and it has been determined that the proposed use of the additive will not have a significant environmental impact. Copies of the environmental impact analysis report may be seen in the office of the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: March 30, 1978.

HOWARD R. ROBERTS,
Acting Director,
Bureau of Foods.

[FR Doc. 78-9222 Filed 4-6-78; 8:45 am]

[4110-03]

[NADA No. 34-572V]

JOHN D. COPANOS, INC.

Iron Hexanehexol Injection; Withdrawal of Approval of New Animal Drug Application

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This document withdraws approval of a new animal drug application (NADA) providing for use of iron hexanehexol by intramuscular injection for prevention and treatment of iron deficiency anemia in baby pigs. The applicant requested this action.

EFFECTIVE DATE: April 7, 1978.

FOR FURTHER INFORMATION CONTACT:

Andrew J. Beaulieu, Bureau of Veterinary Medicine (HFV-214), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3183.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 512(e), 82 Stat. 345-347 (21 U.S.C. 360b(e))) and under authority redelegated to the Director of the Bureau of Veterinary Medicine (21 CFR 5.84), the following notice is issued:

NADA 34-572V held by John D. Copanos, Inc., 6110 Robinwood Road, Baltimore, Md. 21225, provides for intramuscular injection of iron hexanehexol containing ferric hydroxide with sorbitol for prevention and treatment of iron deficiency anemia in baby pigs.

John D. Copanos, Inc., requested, by letter dated August 30, 1977, that approval of the NADA be withdrawn and the company waived an opportunity for hearing because the product is no longer being marketed.

Therefore, in accordance with § 514.115 (21 CFR 514.115), notice is given that approval of NADA 34-572V and all supplements thereto are hereby withdrawn, effective April 7, 1978.

Dated: March 29, 1978.

FRED J. KINGMA,
Acting Director, Bureau of
Veterinary Medicine.

[FR Doc. 78-9221 Filed 4-6-78; 8:45 am]

[4110-03]

[Docket No. 78G-0061]

PRO-STAR MILLS LTD.

Filing of Petition for Affirmation of GRAS Status

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: Pro-Star Mills Ltd. has filed a petition (GRASP 7G0089) proposing affirmation that pea protein concentrate, pea fiber, and pea starch used in food are generally recognized as safe (GRAS).

FOR FURTHER INFORMATION CONTACT:

Corbin I. Miles, Bureau of Foods (HFF-335), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C Street SW., Washington, D.C. 20204, 202-472-4750.

SUPPLEMENTARY INFORMATION: Under provisions of the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784-1788 (21 U.S.C. 321(s), 348, 371(a))) and the regulations for affirmation of GRAS status in § 170.35 (21 CFR 170.35), notice is given that a petition (GRASP 7G0089) has been filed by Pro-Star Mills Ltd., 817-48th Street East, Saskatoon, Saskatchewan, Canada S7KOX5, and placed on public display at the office of the Hearing Clerk, Food and Drug Administration (FDA), proposing affirmation that pea protein concentrate, pea fiber, and pea starch used in food are GRAS.

Any petition which meets the format requirements outlined in § 170.35 is filed by FDA. There is no prefiling review of the adequacy of data to support a GRAS conclusion. Thus, the filing of a petition for GRAS affirmation should not be interpreted as a preliminary indication of suitability for affirmation.

Interested persons may, on or before June 6, 1978, review the petition and/or file comments (four copies, identified with the Hearing Clerk docket number found in brackets in the heading of this document) with the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857. Comments should include any available information that would be helpful in determining whether these substances are, or are not, generally recognized as safe. A copy of the petition and received comments may be seen in the office of the Hearing Clerk, between 9 a.m. and 4 p.m., Monday through Friday.

Dated: March 30, 1978.

HOWARD R. ROBERTS,
Acting Director,
Bureau of Foods.

[FR Doc. 78-9220 Filed 4-6-78; 8:45 am]

[4110-03]

DOBOY FEEDS

Doboy Tylan/Sulfa 10 Premix; Withdrawal of Approval of New Animal Drug Application

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This document approval of a new animal drug application (NADA) for use of Doboy Tylan/Sulfa 10 Premix which contains tylosin and sulfamethazine for the treatment of swine. The manufacturer has requested this action.

FOR FURTHER INFORMATION CONTACT:

David N. Scarr, Bureau of Veterinary Medicine (HFV-210), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3183.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 512, 82 Stat. 343-351 (21 U.S.C. 360b(2))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), the following notice is issued:

Doboy Feeds, 215 N. Knowles Avenue, New Richmond, Wis. 54017, has requested that its NADA 98-432V be withdrawn in accordance with § 514.115(d) (21 CFR 514.115(d)) on the grounds that the premix has not been marketed.

Notice is given that approval of NADA for Doboy Tylan/Sulfa 10 Premix which contains tylosin and sulfamethazine for the treatment of swine is hereby withdrawn, effective April 6, 1978. Elsewhere in this issue of the FEDERAL REGISTER the corresponding regulation under § 558.630(b)(3) (21 CFR 558.630(b)) upon which the approval relies is amended to reflect this withdrawal.

Dated: March 30, 1978.

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

[FR Doc. 78-9046 Filed 4-6-78; 8:45 am]

[4110-03]

Food and Drug Administration

[Docket No. 76N-0447]

CIS RADIOPHARMACEUTICALS, INC.

Radiopharmaceutical Drug Product; Withdrawal of Notice of Opportunity for Hearing.

AGENCY: Food and Drug Administration (FDA).

ACTION: Notice.

SUMMARY: The Director of the Bureau of Drugs withdraws the notice of opportunity for hearing for L-Selenomethionine Se 75 Injection (NDA 17-322) because the new drug application (NDA) was approved on August 11, 1977. The drug is safe and effective for pancreas imaging as an aid in the diagnosis of suspected pancreatic disease.

EFFECTIVE DATE: April 7, 1978.

FOR FURTHER INFORMATION CONTACT:

Nathan J. Treinish, Bureau of Drugs (HFD-32), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3650.

SUPPLEMENTARY INFORMATION: On March 15, 1972, the Food and Drug Administration received a new drug application (NDA) for a radiopharmaceutical drug product from CIS Radiopharmaceuticals, Inc., 5 DeAngelo Dr., Bedford, MA 01730. On July 30, 1976, the applicant was informed that the NDA was not approvable. Subsequently the NDA was filed over protest. In a notice published in the FEDERAL REGISTER of November 5, 1976 (41 FR 48792), FDA offered an opportunity for hearing on a proposal to refuse to approve the NDA.

In response to this notice, the firm filed a hearing request on November 30, 1976. The firm also filed additional data. Subsequently, on the basis of the additional data, the NDA was approved by letter dated August 11, 1977. This action effectively moots the request for hearing.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052-1053, as amended (21 U.S.C. 355)), and under the authority delegated to the Director of the Bureau of Drugs (21 CFR 5.82), the notice of opportunity for hearing published at 41 FR 48792 (November 5, 1976) is hereby withdrawn.

Dated March 24, 1978.

J. RICHARD CROUT,
Director, Bureau of Drugs.

[FR Doc. 78-8893 Filed 4-6-78; 8:45 am]

[4110-03]

[Docket No. 77N-0266; DESI 10996]

LABELING FOR PROPOXYPHENE-CONTAINING PREPARATIONS

Drugs for Human Use; Drug Efficacy Study Implementation; Amended Follow-Up Notice

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: In recognition of information reported in the medical literature, this notice amends the labeling for propoxyphene-containing preparations to include a warning against their use in pregnancy and a warning about their additive depressant effect when used with certain other products that are central nervous system depressants. These drug products are used for relief of pain.

DATES: Supplements to approved NDA's due on or before June 6, 1978. Revised labeling to be used on or before August 7, 1978.

ADDRESSES: Communications forwarded in response to this notice should be identified with the reference number DESI 10996, directed to the attention of the appropriate office name below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857. Supplements (identify with NDA number): Division of Neuro- pharmacological Drug Products (HFD-120), Room 10B-34, Bureau of Drugs. Original abbreviated new drug applications and supplements thereto (identify as such): Division of Generic Drug Monographs (HFD-530), Bureau of Drugs. Requests for opinion of the applicability of this notice to a specific product: Division of Drug Labeling Compliance (HFD-310), Bureau of Drugs.

FOR FURTHER INFORMATION CONTACT:

John H. Hazard, Jr., Bureau of Drugs (HFD-32), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, (301-443-3650).

SUPPLEMENTARY INFORMATION: As part of the Drug Efficacy Study Implementation (DESI) project, a notice was published in the FEDERAL REGISTER of April 8, 1969 (34 FR 6264) (DESI 10996), as amended on December 13, 1972 (37 FR 26538) and December 27, 1972 (37 FR 28526) concerning, among other things, the labeling conditions for propoxyphene hydrochloride, propoxyphene hydrochloride with aspirin, and propoxyphene hydrochloride with aspirin, phenacetin, and caffeine.

The Director of the Bureau of Drugs is now amending these notices by requiring that labeling for these prod-

ucts contain additional warnings and additional information on adverse reactions, drug interaction, and management of overdosage. The following reports in the medical literature cite instances of withdrawal symptoms in the neonate following the mother's use of propoxyphene-containing products during pregnancy:

1. Tyson, H. K., "Neonatal Withdrawal Symptons Associated with Maternal Use of Propoxyphene Hydochloride (Darvon)," *Journal of Pediatrics*, 85:684-685, 1974.

2. Klein, R. B., S. Blatman, and G. A. Little, Probable Neonatal Propoxyphene Withdrawal: A Case Report," *Pediatrics*, 55:882-884, 1975.

3. Quillian, W. W. II, and C. A. Dunn, "Neonatal Drug Withdrawal from Propoxyphene," *Journal of the American Medical Association*, 235:2128, 1976.

Propoxyphene-containing products are now recognized for their additive depressant effect when used in conjunction with alcohol, tranquilizers, sedative hypnotics, and other central nervous system depressants. Citations in the medical literature are as follows:

1. Chambers, C. D., and W. Taylor, Jr., "Patterns of Propoxyphene Abuse," *International Journal of Clinical Pharmacology, Therapy and Toxicology*, 4:240, 1971.

2. Crowley, T. J., et al., "Drug and Alcohol Abuse Among Psychiatric Admissions," *Archives of General Psychiarty*, 30:13-20, 1974.

3. Fier, M., "Addiction to a Massive Dosage of Darvon: A Case Report," *Journal of the Medical Society of New Jersey*, 70:393, 1973.

4. Lindell, T. D., et al., "Intra-Arterial Injections of Oral Medications; A Complication of Drug Addiction," *New England Journal of Medicine*, 287(22):1132-1133, 1972.

5. "Propoxyphene-Alcohol," *Evaluation of Drug Interactions*, American Pharmaceutical Association, 2nd Ed., pp. 210-212, 1976.

6. "Propoxyphene-Amphetamine," *Evaluation of Drug Interactions*, American Pharmaceutical Association, 2nd Ed., pp. 212-213, 1976.

7. Sturner, W. Q. and J. C. Garriott, "Deaths Involving Propoxyphene: A Study of 41 Cases Over Two-Year Period," *Journal of the American Medical Association*, 223(10):1125-1130, 1973.

8. Tennant, F. S., Jr., "Complications of Propoxyphene Abuse," *Archives of Internal Medicine, 132:191, 1973.*

9. Worm, K., "Determination of Dextropropoxyphene in Organs from Fatal Poisoning," *Acta Pharmacologica et Toxicologica*, 30(5-6):330-338, 1971.

Copies of these references are available for public examination in the office of the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, MD 20857, and may be seen between 9 a.m. and 4 p.m., Monday through Friday.

In consideration of these findings, the Director concludes that the labeling for propoxyphene-containing products should warn physicians against their use both during pregnancy and in combination with alcohol, tranquilizers, sedative-hypnotics, and other central nervous system depressants.

This notice applies not only to the particular propoxyphene-containing products subject to the Drug Efficacy Study, but to all such products that are the subject of new drug applications approved either before or after the Drug Amendments of 1962 and to any identical, related, or similar drug product (21 CFR 310.6), whether or not it is the subject of an approved new drug application. The following drugs are examples of propoxyphene-containing products which are covered by this notice, although this is not intended to be an exhaustive listing: propoxyphene hydrochloride; propoxyphene hydrochloride with aspirin; phenacetin, and caffeine; propoxyphene napsylate; propoxyphene napsylate with acetaminophen; and propoxyphene napsylate with aspirin. It is the responsibility of every drug manufacturer or distributor to review this notice to determine whether it covers any drug product that the person manufactures or distributes (21 CFR 310.6). Such person may request an opinion of the applicability of this notice to a specific drug product by writing to the Division of Drug Labeling Compliance (address given above).

Accordingly, it is now required that the labeling for propoxyphene-containing preparations be revised to read as follows:

DESCRIPTION AND CLINICAL PHARMACOLOGY

To be supplied by firms.

INDICATION

(Product name) is indicated for the relief of mild to moderate pain.

CONTRAINDICATIONS

Hypersensitivity to propoxyphene (or the product's other ingredient(s)).

WARNINGS

CNS Additive Effects and Overdosage. Propoxyphene in combination with alcohol, tranquilizers, sedative-hypnotics, or other central nervous system depressants has an additive depressant effect. Patients taking this drug should be advised of the additive effect and warned not to exceed the dosage recommended by their physician. Toxic effects and fatalities have occurred following overdoses of propoxyphene alone or in combination with other central nervous system depressants. The majority of these patients have had histories of emotional disturbances or suicidal ideation or attempts, as well as histories of misuse of tranquilizers, alcohol, or other CNS-active drugs. Caution should be exercised in prescribing unnecessarily large amounts of propoxyphene for such patients (see Management of Overdosage).

Drug Dependence. Propoxyphene can produce drug dependence characterized by psychic dependence and, less frequently, physical dependence and tolerance. Propoxyphene will only partially suppress the withdrawal syndrome in individuals physically dependent on morphine or other narcotics. The abuse liability of propoxyphene is qualitatively similar to that of codeine although quantitatively less, and propoxyphene should be prescribed with the same degree of caution appropriate to the use of codeine.

Usage in Ambulatory Patients. Propoxyphene may impair the mental and/or physical abilities required for the performance of potentially hazardous tasks such as driving a car or operating machinery. The patient should be cautioned accordingly.

Usage in Pregnancy. Safe use in pregnancy has not been established relative to possible adverse effects on fetal development. Instances of withdrawal symptoms in the neonate have been reported following usage during pregnancy. Therefore, propoxyphene should not be used in pregnant women unless, in the judgement of the physician, the potential benefits outweigh the possible hazards.

Usage in Children. Propoxyphene is not recommended for use in children, because documented clinical experience has been insufficient to establish safety and a suitable dosage regimen in the pediatric age group.

PRECAUTIONS

Confusion, anxiety, and tremors have been reported in a few patients receiving propoxyphene concomitantly with orphenadrine. The central nervous system depressant effect of propoxyphene may be additive with that of other CNS depressants, including alcohol.

ADVERSE REACTIONS

The most frequent adverse reactions are dizziness, sedation, nausea, and vomiting. These effects seem to be more prominent in ambulatory than in nonambulatory patients, and some of these adverse reactions may be alleviated if the patient lies down.

Other adverse reactions include constipation, abdominal pain, skin rashes, lightheadedness, headache, weakness, euphoria, dysphoria, and minor visual disturbances.

The chronic ingestion of propoxyphene in doses exceeding 800 milligrams per day has caused toxic psychoses and convulsions.

Cases of liver dysfunction have been reported.

DOSAGE AND ADMINISTRATION

A narcotic prescription is not required.

(Product name) is given orally. (Manufacturer to supply the appropriate information applicable to the specific product.)

DRUG INTERACTIONS

Propoxyphene in combination with alcohol, transquilizers, sedative-hypnotics, and other central nervous system depressants has an additive depressant effect. Patients taking this drug should be advised of the additive effect and warned not to exceed the dosage recommended by their physician (see warnings).

Confusion, anxiety, and tremors have been reported in a few patients receiving

propoxyphene concomitantly with orphenadrine.

MANAGEMENT OF OVERDOSAGE

Symptoms. From propoxyphene overdosage—The manifestations of serious overdosage with propoxyphene are similar to those of narcotic overdosage and include respiratory depression (a decrease in respiratory rate and/or tidal volume, Cheyne-Stokes respiration, cyanosis), extreme somnolence progressing to stupor or coma, pupillary constriction, and circulatory collapse. In addition to these characteristics, which are reversed by treatment with narcotic antagonists such as naloxone, there may be other effects. Overdoses of propoxyphene can cause delay of cardiac conduction as well as focal or generalized convulsions, which constitute a prominent feature in most cases of severe poisoning. Cardiac arrhythmias and pulmonary edema have occasionally been reported, and apnea, cardiac arrest, and death have occurred.

The appropriate information applicable to symptoms from overdosage of other ingredients is to be supplied by the manufacturer.

Treatment. For propoxyphene overdosage—Primary attention should be given to the reestablishment of adequate respiratory exchange through provision of a patent airway and institution of assisted or controlled ventilation. The narcotic antagonists, naloxone, nalorphine, and levallorphan are specific antidotes against the respiratory depression produced by propoxyphene. An appropriate dose of one of these antagonists should be administered, preferably by the intravenous route, simultaneously with efforts at respiratory resuscitation, and the antagonist should be repeated as necessary until the patient's condition remains satisfactory. In addition to the use of a narcotic antagonist, the patient may require careful titration with an anticonvulsant to control convulsions. Analeptic drugs (for example, caffeine or amphetamine) should not be used because of their tendency to precipitate convulsions.

Oxygen, intravenous fluids, vasopressors, and other supportive measures should be employed as indicated.

Gastric lavage may be helpful. Activated charcoal can absorb a significant amount of ingested propoxyphene. Dialysis is of little value in poisoning by propoxyphene alone.

The appropriate information applicable to treatment from overdosage of other ingredients is to be supplied by the manufacturer.

Supplements containing appropriate revision of the labeling of the drug products should be submitted on or before June 6, 1978. The revised labeling may be put into use before approval of the supplemental new drug application, as provided for in 21 CFR 314.8(d) and (e), but it shall be put into use on or before August 7, 1978.

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 5.70).

Dated: March 24, 1978.

J. RICHARD CROUT,
Director, Bureau of Drugs.

[FR Doc. 78-8891 Filed 4-6-78; 8:45 am]

[4110-03]

[Docket No. 77N-0408; Desi 3044]

FLORANTYRONE

Opportunity for Hearing on Proposal To Withdraw Approval of New Drug Application

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice proposes to withdraw approval of the new drug application for florantyrone tablets, for which the sponsor has not provided substantial evidence of effectiveness. The drug has been used in treatment of certain diseases of the gallbladder.

DATES: Any request for a hearing must be submitted on or before May 8, 1978. In support of a request, all data and information relied upon to justify a hearing must be submitted on or before June 6, 1978.

ADDRESSES: Communications forwarded in response to this notice should be identified with the reference number DESI 3044, directed to the attention of the appropriate office named below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20857.

Request for hearing (identify with Docket number appearing in the heading of this notice): Hearing Clerk, Food and Drug Administration (HFC-20), Room 4-65.

Request for opinion of the applicability of this notice to a specific product: Division of Drug Labeling Compliance (HFD-310), Bureau of Drugs.

FOR FURTHER INFORMATION CONTACT:

John H. Hazard, Jr., Bureau of Drugs (HFD-32), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3650.

SUPPLEMENTARY INFORMATION: In a notice published in the FEDERAL REGISTER of July 9, 1966 (31 FR 9426), each holder of a new drug application that became effective before October 10, 1962, was requested to submit to the Food and Drug Administration (FDA) reports containing the best data available to support the effectiveness of each such product for the claimed indications. That information was needed to facilitate a determination by FDA, with the assistance of the National Academy of Sciences-National Research Council (NAS-NRC), whether each claim in the labeling is supported by substantial evidence of effectiveness, as required by the Drug Amendments of 1962. The firm sponsoring the drug product described below did not respond to the July 9, 1966 notice.

NDA 10-854; Zanchol, containing florantyrone 250 mg/tablet; Searle Laboratories, Division G. D. Searle & Co., P.O. Box 5110, Chicago, Ill. 60680.

The firm submitted efficacy data on May 6, 1971, too late for inclusion in the NAS-NRC efficacy review. The Food and Drug Administration reviewed the data and, on April 26, 1972, informed the firm that the data were inadequate to confirm the efficacy of the drug for its claimed indications and that Zanchol would be subject to a future notice in the FEDERAL REGISTER concerning those hydrocholeretic products reviewed by NAS-NRC. That notice, DESI 3044, published August 3, 1972 (37 FR 15530), stated that certain preparations intended to stimulate bile flow are: (1) possibly effective for hydrocholeresis following cholecystectomy and for other situations in which hydrocholeresis is desirable; and (2) lacking substantial evidence of effectiveness for their other labeled indications.

In a letter of August 16, 1972, the firm stated that it did not agree with FDA that Zanchol was properly considered in the same manner as the products reviewed by the NAS-NRC. The firm further stated that it was doing to design a protocol to establish the efficacy of Zanchol as a choleretic agent and to observe its effect upon the occurrence of T-tube incrustation. The protocol was submitted October 14, 1972.

Subsequently, FDA published a notice pertaining to certain drugs that had not been reviewed by the NAS-NRC (40 FR 53609; November 19, 1975). It invited the sponsors to submit data for review by the agency in determining whether the drugs are effective. Zanchol was among the drugs listed.

On January 9, 1976, the firm reponded that, while it was unable to submit efficacy data, it would agree to perform well-controlled clinical studies, change the labeling to refect the "possibly effective" status of the indication regarding prevention of T-tube encrustation in postoperative cholecystectomy patients, delete other indications, and accelerate the studies designed to evaluate Zanchol for another proposed indication.

In responding to a request from FDA on October 27, 1976 to clarify whether the studies proposed by the firm were still being conducted, the firm replied on January 31, 1977, that studies for the present "possibly effective" indication has been discontinued. On July 8, 1977, the firm further notified FDA that data from bacterial mu-

tagenicity tests (Ames Test) showed Zanchol to be a weak bacterial mutagen. The firm made a commitment to conduct additional mutagenicity studies and to submit the data to the FDA. Finally, on August 9, 1977, the firm informed FDA of their decision to discontinue both distribution of Zanchol and studies on a proposed indication.

On the basis of all the data and information available to him, the Director of the Bureau of Drugs is unaware of any adequate and well-controlled clinical investigation, conducted by experts qualified by scientific training and experience, meeting the requirements of section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) and 21 CFR 314.111(a)(5) demonstrating the effectiveness of the drug.

Therefore, notice is given to the holder of the new drug application and to all other interested persons that the Director of the Bureau of Drugs proposes to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)), withdrawing approval of the new drug application and all amendments and supplements thereto on the ground that new information before him with respect to the drug product, evaluated together with the evidence available to him at the time the application was approved, shows there is a lack of substantial evidence that the drug product will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling.

This notice applies not only to the holder of the new drug application named above, but to all persons who manufacture or distribute a drug product that is identical, related, or similar to the drug product named above, as defined in 21 CFR 310.6, for which the requirements for continued marketing provided for in the August 3, 1972 notice were not met. It is the responsibility of every drug manufacturer or distributor to review this notice to determine whether it covers any drug product that the person manufactures or distributes. Such person may request an opinion of the applicability of this notice to a specific drug product by writing to the Division of Drug Labeling Compliance (address given above).

In addition to the ground for the proposed withdrawal of approval stated above, this notice of opportunity for hearing encompasses all issues relating to the legal status of the drug products subject to it e.g., any contention that any such product is not a new drug because it is generally recognized as safe and effective within the meaning of section 201(p) of the act or because it is exempt from part or all of the new drug provisions of the act pursuant to the exemption for products marketed prior to June 25, 1938, contained in section 201(p) of the act, or pursuant to section 107(c) of the Drug Amendments of 1962, or for any other reason.

In accordance with the provisions of section 505 of the act (21 U.S.C. 355) and the regulations promulgated thereunder (21 CFR Parts 310, 314), the applicant and all other persons subject to this notice pursuant to 21 CFR 310.6 are hereby given an opportunity for a hearing to show why approval of the new drug application should not be withdrawn and an opportunity to raise, for administrative determination, all issues relating to the legal status of the drug product named above and of all identical, related, or similar drug products.

An applicant or any other person subject to this notice pursuant to 21 CFR 310.6 who decides to seek a hearing, shall file (1) on or before May 8, 1978, a written notice of appearance and request for hearing, and (2) on or before June 6, 1978, the data, information, and analyses on which the person relies to justify a hearing, as specified in 21 CFR 314.200. Any other interested person may also submit comments on this notice. The procedures and requirements governing this notice of opportunity for hearing, a notice of appearance and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and a grant or denial of hearing, are contained in 21 CFR 314.200.

The failure of the applicant or any other person subject to this notice pursuant to 21 CFR 310.6 to file timely written appearance and request for hearing as required by 21 CFR 314.200 constitutes an election by the person not to make use of the opportunity for a hearing concerning the action proposed with respect to the product and constitutes a waiver of any contentions concerning the legal status of any such drug product. Any such drug product may not thereafter lawfully be marketed, and the Food and Drug Administration will initiate appropriate regulatory action to remove such drug products from the market. Any new drug product marketed without an approved NDA is subject to regulatory action at any time.

A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for the hearing that there is no genuine and substantial issue of fact which precludes the withdrawal of approval of the application, or when a request for hearing is not made in the required format or with the required analyses, the Commissioner will enter summary judgment against the person(s) who requests the hearing, making findings and conclusions, denying a hearing.

All submissions pursuant to this notice shall be filed in quintuplicate. Such submissions except for data and information prohibited from public disclosure pursuant to 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the office of the Hearing Clerk between the hours of 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052-1053, as amended (21 U.S.C. 355)), and under authority delegated to the Director of the Bureau of Drugs (21 CFR 5.82).

Dated: March 24, 1978.

J. RICHARD CROUT,
Director, Bureau of Drugs.

[FR Doc. 78-8892 Filed 4-6-78; 8:45 am]

[4110-03]

[Docket No. 77N-0258; Desi 9149 and 11127]

PROCHLORPERAZINE

Drugs For Human Use; Drug Efficacy Study Implementation; Followup Notice

AGENCY: Food and Drug Administration (FDA).

ACTION: Notice.

SUMMARY: This notice sets forth the conditions for marketing prochlorperazine for the indications for which it is now regarded as effective. The drug is used in the management of anxiety and tension and for the control of severe nausea and vomiting.

DATE: Supplements to approved new drug applications due on or before June 6, 1978.

ADDRESSES: Communications forwarded in response to this notice should be identified with the reference numbers DESI 9149 and 11127, directed to the attention of the appropriate office named below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20857. Supplements (identify with NDA number): Division of Neuropharma- cological Drug Products (HFD-120), room 10B-34, Bureau of Drugs. Original abbreviated new drug applications and supplements thereto (identify as such): Division of Generic Drug Monographs (HFD-530), Bureau of Drugs. Requests for the report of the National Academy of Sciences-National Research Council: Public Records and Document Center (HFC-18), room 4-62. Requests for opinion of the applicability of this notice to a specific product: Division of Drug Labeling Compliance (HFD-310), Bureau of

Drugs. Other communications regarding this notice: Drug Efficacy Study Implementation project Manager (HFD-501), Bureau of Drugs.

FOR FURTHER INFORMATION CONTACT:

Herbert Gerstenzang, Bureau of Drugs (HFD-32), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3650.

SUPPLEMENTARY INFORMATION: The Food and Drug Administration announced its conclusions concerning the effectiveness of prochlorperazine drug products in the following notices:

DESI 11127, Docket No. FDC-D-499 (now Docket No. 77N-0258), published in the FEDERAL REGISTER of July 27, 1972 (37 FR 15038); and DESI 9149, Docket No. FDC-D-334 (also now Docket No. 77N-0258), published in the FEDERAL REGISTER of April 3, 1971 (36 FR 6447); as amended on November 2, 1971 (36 FR 20997).

The agency's conclusions were that the drug products described below are: (1) effective in the management of the manifestations of psychotic disorders and for the control of severe nausea and vomiting; (2) lacking substantial evidence of effectiveness for the control of behavior disorders in children, and for chronic alcoholism; and (3) possibly effective for its other labeled indication, which was for the control of excessive anxiety, tension, and agitation as seen in neuroses or associated with somatic conditions. Data submitted in response to the notices did support effectiveness of the drug products for the possibly effective indication. But in order to clarify that indication and more closely reflect the patient population that prochlorperazine was tested on in the three studies submitted, the indication is reworded to read as follows: "For the management of psychoneurotic patients displaying primarily symptoms of moderate to severe anxiety and tension."

The April 3, 1971, and July 27, 1972 notices also offered an opportunity for a hearing concerning the indications concluded at that time to lack substantial evidence of effectiveness. The notice that follows does not pertain to those indications. No person requested a hearing concerning them, and they are no longer allowable in labeling. Any such product labeled for those indications is subject to regulatory action. Other drugs included in the April 3, 1971, and July 27, 1972, notices but not named below are not affected by this notice.

1. NDA 10-571; Compazine Tablets;
2. NDA 10-742; Compazine Injection;
3. NDA 11-000; Compazine Spansules;
4. NDA 11-188; Compazine Syrup;
5. NDA 11-276; Compazine Concentrate; and
6. NDA 11-127; Compazine Suppositories; all containing prochlorperazine; marketed by Smith Kline & French Laboratories, 1500 Spring Garden St., Philadelphia, Pa. 19101.

Such drugs are regarded as new drugs (21 U.S.C. 321(p)). Supplemental new drug applications are required to revise the labeling in and to update previously approved applications providing for such drugs. An approved new drug application is a requirement for marketing such drug products.

In addition to the product(s) specifically named above, this notice applies to any drug product that is not the subject of an approved new drug application and is identical to a product named above. It may also be applicable, under 21 CFR 310.6, to a similar or related drug product that is not the subject of an approved new drug application. It is the responsibility of every drug manufacturer or distributor to review this notice to determine whether it covers any drug product that the person manufacturers or distributes. Such person may request an opinion of the applicability of this notice to a specific drug product by writing to the Division of Drug Labeling Compliance (address given above).

A. *Effectiveness classification.* The Food and Drug Administration has reviewed all available evidence and concludes that the drug is effective for the indications in the labeling conditions below.

B. *Conditions for approval and marketing.* The Food and Drug Administration is prepared to approve new drug applications and supplements to previously approved new drug applications under conditions described herein.

1. *Form of drug.* The drug product is in tablet, syrup, concentrate, or controlled release capsule form suitable for oral administration; in sterile solution form suitable for parenteral administration; or in suppository form suitable for rectal administration.

2. *Labeling conditions.* (a) The label bears the statement, "Caution: Federal law prohibits dispensing without prescription."

(b) The drug is labeled to comply with all requirements of the act and regulations, and the labeling bears adequate information for safe and effective use of the drug. The Indications are as follows:

For the management of the manifestations of psychotic disorders; for the control of severe nausea and vomiting; and for the management of psychoneurotic patients displaying primarily symptoms of moderate to severe anxiety and tension.

3. *Marketing status of approved products.* Marketing of such drug products that are now the subject of an approved or effective new drug application may be continued provided that the holder of the application submits the following, if he has not previously done so, on or before June 6, 1978: (a) a supplement for revised labeling as needed to be in accord with the labeling conditions described in this notice, and complete container labeling if current container labeling has not been submitted, and (b) a supplement to provide full updating information with respect to items 6 (components), 7 (composition), and 8 (methods, facilities, and controls) of new drug application form FD-356H (21 CFR 314.1(c)).

4. *Marketing status of all other products.* (a) For all dosage forms of prochlorperazine, except for rectal suppository forms, approval of an abbreviated new drug application (21 CFR 314.1(f)) containing full information with respect to items 6 (components), 7 (composition) and 8 (methods, facilities, and controls) of new drug application form FD-356H (21 CFR 314.1(c)), must be obtained prior to marketing such product.

(b) For the rectal suppository form, approval of a full new drug application must be obtained prior to marketing such product. The application shall contain the information specified in 21 CFR 314.1(c).

(c) Marketing prior to approval of a new drug application will subject such products, and those persons who caused the products to be marketed, to regulatory action.

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 5.70).

Dated: March 24, 1978.

J. RICHARD CROUT,
Director, Bureau of Drugs.

[FR Doc. 78-8890 Filed 4-6-78; 8:45 am]

[4110-03]

[Docket No. 77N-0343; DESI 5554]

POVIDONE INJECTION AND GELATIN INJECTION

Withdrawal of Approval of New Drug Applications

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice withdraws approval of the new drug applications for povidone injection and gelatin injection on the basis that the drugs are not shown to be safe for use as plasma expanders in the emergency treatment of shock. The products are not being marketed.

EFFECTIVE DATE: April 19, 1978.

ADDRESS: Requests for opinion of the applicability of this notice to a

specific product should be identified with the reference number DESI 5554 and directed to: Division of Drug Labeling Compliance (HFD-310), Bureau of Drugs, Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Mary E. Catchings, Bureau of Drugs (HFD-32), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, 301-443-3650.

SUPPLEMENTARY INFORMATION: In a notice of opportunity for hearing (DESI 5554, Docket No. 77N-0343) published in the FEDERAL REGISTER of December 2, 1977 (42 FR 61308), the Director of the Bureau of Drugs proposed to issue an order withdrawing approval of the following drug products on the ground that they are not shown to be safe for use under the conditions of use on the basis of which the applications were approved.

NDA 9-564; Polyvinylpyrrolidone in Normal Saline containing 3.5 percent povidone in sodium chloride injection; McGaw Laboratories, 1015 Grandview Ave., Glendale, Calif. 91201.

NDA 5-554; Knox Special Gelatine Solution Intravenous-6 percent containing 6 percent in sodium chloride injection; Knox Gelatine, Inc., 13 Knox Avenue, Johnstown, N.Y. 12095.

Any drug product intended for intravenous administration that is identical, related, or similar to the drug products named above, continuing povidone or gelatine as an active ingredient, and is not the subject of an approved new drug application is covered by the new drug applications reviewed and is subject to this notice (21 CFR 310.6). Any person who wishes to determine whether a specific product is covered by this notice should write the Division of Drug Labeling Compliance (address given above).

Neither the holders of the new drug applications nor any other person filed a written appearance of election as provided by the December 2, 1977, notice. The failure to file an appearance constitutes election by such persons not to avail themselves of the opportunity for a hearing.

The Director of the Bureau of Drugs, under the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052-1053, as amended (21 U.S.C. 355)), and under authority delegated to him (21 CFR 5.82), finds that on the basis of new information before him with respect to the drug products, evaluated together with the evidence available to him when the applications were approved, such drugs are not shown to be safe for use under the conditions of use on the basis of which the applications were approved.

Therefore, pursuant to the foregoing finding, approval of new drug applications 9-564 and 5-554, and all amendments and supplements applying thereto, is withdrawn, effective April 19, 1978.

Shipment in interstate commerce of the above products or of any identical, related, or similar product that is not the subject of an approved new drug application will then be unlawful.

Dated: March 28, 1978.

J. RICHARD CROUT,
Director, Bureau of Drugs.

[FR Doc. 78-8894 Filed 4-6-78; 8:45 am]

[4110-83]

Health Resources Administration

GRANTS FOR RESIDENCY TRAINING IN GENERAL INTERNAL MEDICINE OR GENERAL PEDIATRICS

Application Announcement

The Bureau of Health Manpower, Health Resources Administration, announces that applications for fiscal year 1978 Grants for Residency Training in General Internal Medicine or General Pediatrics are now being accepted under the authority of section 784 of the Public Health Service Act, as amended by the Health Professions Educational Assistance Act of 1976 (Pub. L. 94-484).

Section 784 authorizes the award of grants to meet the costs of planning, developing and operating approved residency training programs in internal medicine or pediatrics which emphasize training for the practice of general internal medicine or general pediatrics and to assist participating residents who plan to practice general internal medicine or general pediatrics.

To receive support, programs must meet the requirements of the Interim-Final regulations, published in the FEDERAL REGISTER on November 18, 1977 (42 FR 59500). Eligible applicants are schools of medicine and osteopathy.

Requests for application materials and questions regarding grants policy should be directed to: Grants Management Officer, Bureau of Health Manpower, Health Resources Administration, Center Building, Room 4-22, 3700 East West Highway, Hyattsville, Maryland 20782, phone 301-436-6564.

To be considered for fiscal year 1978 funding, applications must be received by the Grants Management Officer, Bureau of Health Manpower, Health Resources Administration, at the above address no later than May 8, 1978.

Should additional programmatic information be requested, please contact: Professional Education and Development Branch, Division of Medicine, Bureau of Health Manpower, Health Resources Administration, Center Building, Room 4-50, 3700 East West Highway, Hyattsville, Maryland 20782, phone 301-436-7350.

Dated: March 30, 1978.

HENRY A. FOLEY,
Administrator.

[FR Doc. 78-9061 Filed 4-6-78; 8:45 am]

[4110-24]

Institute of Museum Services

MUSEUM SERVICES PROGRAM

Notice of Closing Date for Receipt of Applications for Fiscal Year 1978

Notice is given that, under the authority contained in section 206 of the Museum Services act, Pub. L. 94-462, title II (20 U.S.C. 965), applications from museums are being accepted under the Museum Services Program. The Museum Services Program provides Federal financial assistance to ease the financial burdens borne by museums as a result of their increased use by the public and to help them carry out their educational and conservaton roles as well as other functions. Under this program grants are made to museums to maintain, increase, or improve museum services.

Closing date. June 2, 1978.

(a) *Application forms and information.* Application forms are being prepared but are not yet available. It is anticipated that application forms and program information packages will be ready for mailing to prospective applicants on or about April 18, 1978. The institute plans to mail forms and program information packages to all museums which are members of the American Association of Museums and to all other institutions which request this material.

Applications must be prepared and submitted in accordance with the proposed regulation, instructions, and forms included in the program information packages.

(b) *Applications sent by mail.* An application sent by mail should be addressed to: U.S. Office of Education, Application Control Center, Attention: 13.923, Washington, D.C. 20202. (While the Institute is not part of the U.S. Office of Education, that Office is making available its facilities to receive applications invited under this notice.) Applications must be received by the Aplication Control Center on or before the closing date. An application sent by mail will be considered to be received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail not later than May 29, 1978 as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The application is received on or before the closing date by either the department of Health, Education, and Welfare or the U.S. Office of Education mail rooms in Washington, D.C. In establishing the date of receipt, the Director of the Institute of Museum Services will rely on the time-date stamp of these mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare or the U.S. Office of Education.

(c) *Hand-delivered applications.* An application to be hand-delivered must be taken to the U.S. Office of education, Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets SW., Washington, D.C. Hand-delivered applications will be accepted daily between the hours of 8 a.m. and 4 p.m. Washington, D.C. time except Saturdays, Sundays, or Federal holidays. Applications will not be accepted after 4 p.m. on the closing date.

Strict compliance with the closing date and these procedures is required. Late applications will be returned to the applicants.

(d) *Program information.* A notice of Proposed Rulemaking for the Museum Services Program was published in the FEDERAL REGISTER on March 28, 1978 on pages 13012-13017. That notice sets forth a proposed regulation containing rules for the award of grants to museums from funds appropriated under the Museum Services Act, including rules governing the eligibility of applicant institutions, the types of assistance which may be provided, the information which must be included in applications, and the criteria to be used in judging applications. As finally adopted, the regulation will constitute a new part 64 of title 45 CFR.

Applications will be accepted from institutions which qalify as museums under the definition set forth in the proposed regulation. Museums providing services for more than 2 years will receive priority. The program apropriation for fiscal year 1978 is $3,700,000. Not less than 75 percent of this amount is reserved for grants for general operational support. The balance is for project support to assist such activities as staff training programs, technical assistance, demonstration of conservation methods, programs for specific segments of the public, exemplary educational programs, and inter-museum co-operation. A museum may apply for both operational and project support. A museum which applies under both categories should submit separate applications.

In view of limited funds for fiscal year 1978, a museum can expect to receive not more than $25,000 under the program. Most museums which are funded can expect a smaller amount.

(e) *For further information and forms contact:* Peggy A. Loar, Institute of Museum Services, Room 326H, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, D.C. 20201, telephone 202-245-6753.

(f) *Applicable regulations.* Applicants should base applications on the proposed regulation in the Notice of Proposed Rulemaking published on March 28, 1978. As finally adopted, that regulaton will govern awards and performance of grants under the Museum Services Program. The proposed regulation identifies other regulations of the Department of Health, Education, and Welfare applicable to the program.

If material changes are subsequently made in the final regulation which relate to the preparation of applications for the current total fiscal year, applicants will be permitted to amend their applications.

(Catalog of Federal Domestic Assistance No. 13.923; Institute of Museum Services.)

Dated: April 3, 1978.

LEE KIMCHE,
Director, Institute of Museum Services.

[FR Doc. 78-9237 Filed 4-6-78; 8:45 am]

[4310-84]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA 4982]

CALIFORNIA

Notice of Proposed Withdrawal and Reservation of Lands

The Department of Defense submitted a withdrawal application for filing on February 27, 1978, serial number CA 4982, for the following described lands from settlement, sale, location, or entry under all the general land laws, including the mining laws subject to valid existing rights:

MOUNT DIABLO MERIDIAN

T. 28 S., R. 43 E.,
Sec.9, E½.
T. 25 S., R. 44 E.,
Secs. 1 to 4, inclusive;
Secs. 9 to 16, inclusive;
Secs. 21 to 28, inclusive;
Secs. 33 to 36, inclusive.
T. 26 S., R. 44 E.,
Secs. 1 to 4, inclusive;
Secs. 9 to 16, inclusive;
Secs. 21 to 28, inclusive;
Secs. 33 to 36, inclusive.
T. 27 S., R. 44 E.,
Secs. 1 to 4, inclusive;
Secs. 9 to 12, inclusive.
T. 29 S., R. 44 E.,
Secs. 1 to 3, inclusive;
Secs. 10 to 15, inclusive;
Secs. 22 to 27, inclusive;
Secs. 34 to 36, inclusive.
T. 30 S., R. 44 E.,
Secs. 1 to 3, inclusive;
Secs. 10 to 15, inclusive;
Secs. 22 to 27, inclusive;
Secs. 34 to 36, inclusive.
T. 25 S., R. 45 E.,
Secs. 1 to 36, inclusive.
T. 26 S., R. 45 E.,
Secs. 1 to 36, inclusive.
T. 27 S., R. 45 E.,
Secs. 1 to 6, inclusive.
T. 28 S., R. 45 E.,
Secs. 31 to 36, inclusive.
T. 29 S., R. 45 E.,
Secs. 1 to 36, inclusive.
T. 30 S., R. 45 E.,
Secs. 1 to 34, inclusive;
Sec. 35, All except S½SW¼;
Sec. 36, All.
T. 25 S., R. 46 E.,
Secs. 1 to 35, inclusive;
Sec. 36, All except E½E½NE¼.
T. 26 S., R. 46 E.,
Secs. 1 to 36, inclusive.
T. 27 S., R. 46 E.,
Secs. 1 to 6, inclusive.
T. 28 S., R. 46 E.,
Secs. 25 to 36, inclusive.
T. 29 S., R. 46 E.,
Secs. 1 to 36, inclusive.
T. 30 S., R. 46 E.,
Secs. 1 to 36, inclusive.
T. 25 S., R. 47 E.,
Secs. 5 to 8, inclusive;
Secs. 17 to 20, inclusive;
Sec. 29, N½;
Sec. 30, N½;
Sec. 31, S½;
Sec. 32, SW¼.
T. 26 S., R. 47 E.,
Secs. 4 to 9, inclusive;
Secs. 16 to 21, inclusive;
Secs. 28 to 33, inclusive.
T. 28 S., R. 47 E.,
Secs. 19 to 21, inclusive;
Secs. 28 to 33, inclusive.
T. 29 S., R. 47 E.,
Secs. 3 to 10, inclusive;
Secs. 15 to 22, inclusive;
Secs. 27 to 34, inclusive.
T. 30 S., R. 47 E.,
Secs. 3 to 10, inclusive;
Secs. 15 to 22, inclusive;
Secs. 27 to 34, inclusive.

The area described aggregates approximately 314,809 acres, more or less, within the Mojave "B" Range, San Bernardino County, Calif.

The Department of the Navy desires the continued use of the land to provide the space necessary for aerial gunnery range facilities for the training of fleet aircraft units.

On or before May 8, 1978, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned authorized officer of the Bureau of Land Management.

Pursuant to section 204(h) of the Federal Land Policy and Management Act of 1976, notice is hereby given that an opportunity for a public hearing is afforded in connection with the proposed withdrawals. All interested persons who desire to be heard on the proposed withdrawal must submit a written request for a hearing to the undersigned. Notice of the public hearing will be published in the FEDER-

AL REGISTER giving the time and place of such hearing. The public hearing will be scheduled and conducted in accordance with BLM Manual, section 2351.16.B.

The Department of the Interior's regulations provide that the authorized officer of the BLM will undertake such investigations as are necessary to determine the existing and potential demands for the lands and their resources. He will also undertake negotiations with the applicant agency with the view of assuring that the area sought is the minimum essential to meet the applicant's needs, providing for the maximum concurrent utilization of the lands for purposes other than the applicant's, and reaching agreement on the concurrent management of the lands and their resources.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior, who will determine whether or not the lands will be withdrawn and reserved as requested by the applicant agency. The determination of the Secretary on the application will be published in the FEDERAL REGISTER. The Secretary's determination shall, in a proper case, be subject to the provisions of section 204(c) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2752.

For a period of two years from the date of publication of this notice in the FEDERAL REGISTER, the lands will be segregated from entry as specified above unless the application is rejected or the withdrawal is approved prior to that date. If the withdrawal is approved by the Secretary, it will be for an indefinite period, and the lands will remain segregated.

All communications in connection with this proposed withdrawal should be addressed to the undersigned, Bureau of Land Management, Department of the Interior, Room E-2841 Federal Office Building, 2800 Cottage Way, Sacramento, Calif. 95825.

VIOLA ANDRADE,
Acting Chief, Lands Section, Branch of Lands and Minerals Operations.

[FR Doc. 78-9238 Filed 4-6-78; 8:45 am]

[4310-84]

CANON CITY GRAZING ADVISORY BOARD, COLORADO

Public Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of a meeting of the Canon City District Grazing Advisory Board to be held at 1 p.m., June 2, 1978, at the Ramada Inn, Highway 50 at Dozier Avenue, Canon City, Colo.

The purpose of the Advisory Board is to offer advice and make recommendations to the District Manager concerning the development of allotment management plans (AMP's) and the use of range betterment funds.

The purpose of the meeting of the Advisory Board will be to elect a chairperson and vice-chairperson from among its five members, discuss the status of AMP's in the District and future proposals, and discuss the use of range-betterment funds for range improvements within the Canon City District.

The meeting will be open to the public. However, facilities and space to accommodate members of the public are limited and persons will be accommodated on a first-come, first-served basis. Any members of the public may file with the Board a written statement concerning the matters to be discussed.

Persons wishing further information concerning the meeting may contact Melvin D. Clausen, District Manager, Bureau of Land Management, 3080 E. Main Street, Canon City, Colo. at 303-275-7494.

Minutes of the meeting will be available at the Canon City District Office for public inspection 30 days after the meeting.

Dated: March 28, 1978.

MELVIN D. CLAUSEN,
District Manager.

[FR Doc. 78-9210 Filed 4-6-78; 8:45 am]

[4310-84]

[Colorado 23734-L & 25122-R, T-V]

NORTHWEST PIPELINE CORP.

Notice of R/W Application for Pipeline

MARCH 30, 1978.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (41 Stat. 449), as amended (30 USC 185), Northwest Pipeline Corp., 315 East 200 South, Salt Lake City, Utah 84111, has applied for a right-of-way for a 4½" and 6⅝" o.d. natural gas pipelines for the Foundation Creek and the North Douglas Creek Gathering Systems approximately 9.5 miles long, across the following Public Lands:

SIXTH PRINCIPAL MERIDIAN, RIO BLANCO COUNTY, COLORADO

T. 2 S., R. 103 W.
Sec. 1: SW¼NE¼
T. 4 S., R. 101 W.
Sec. 7: SE¼
Sec. 8: NW¼SW¼
T. 3 S., R. 102 W.
Sec. 19: SE¼NE¼,NE¼ SE¼,W½ SE¼
Sec. 20: NW¼,E½SW¼,NW¼SE¼,S½ SE¼
Sec. 28: W½ SW¼
Sec. 29: E½E½, NE¼NW¼
Sec. 30: NW¼NE¼, E½NW¼
Sec. 32: NE¼NE¼
Sec. 33: W½W½
T. 4 S., R. 102 W.
Sec. 4: Lot 8
Sec. 5: Lot 5, S½NE¼, W½SE¼
Sec. 8: NW¼NE¼, S½NE¼
Sec. 9: SE¼NE¼, NW¼
Sec. 20: SE¼
Sec. 21: S½NW¼, NW¼SW¼
T. 4 S., R. 103 W.
Sec. 23: NW¼NW¼

The above-named gathering systems will enable the applicant to collect natural gas in areas through which the pipeline will pass and to convey it to the applicants' customers.

The purposes for this notice are: (1) to inform the public that the Bureau of Land Management is proceeding with the preparation of environmental and other analytic reports, necessary for determining whether or not the application should be approved and if approved, under what terms and conditions. (2) to give all interested parties the opportunity to comment on the application. (3) to allow any party asserting a claim to the lands involved or having bona fide objections to the proposed natural gas gathering system to file its claim or objections in the Colorado State Office. Any party so filing must include evidence that a copy thereof has been served on Northwest Pipeline Corp.

Any comment, claim, or objections must be filed with the Chief, Branch of Adjudication, Bureau of Land Management, Colorado State Office, Room 700, Colorado State Bank Building, 1600 Broadway, Denver, Colo. 80202, as promptly as possible after publication of this notice.

JOHN R. BERNICK,
Acting Leader, Craig Team, Branch of Adjudication.

[FR Doc. 78-9209 Filed 4-6-78; 8:45 am]

[4310-84]

[INT DES 78-9]

WYOMING

Notice of Availability of Draft Regional Environmental Statement and Holding of Public Hearings for Proposed Development of Coal Resources in Southwest Wyoming

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of Interior has prepared a Draft Environmental Statement for Development of Coal Resources in Southwestern Wyoming. A limited number of copies of the draft statement are available upon request to:

(1) Rock Springs District Office, Bureau of Land Management, on Highway 197 North of Rock Springs, Wyo.; (2) Wyoming State Office, Bureau of Land Management, 2515 Warren Avenue, Cheyenne, Wyo.

The proposal involves a regional overview of potential coal development through 1990 and an assessment of five (5) mining plans in the Southwestern Region of Wyoming.

The Department of Interior invites written comments on the draft statement. Comments should be mailed to the Team Leader, Coal ES Team, Bureau of Land Management, P.O. Box 1869, 205 Broadway, Lea Building, Rock Springs, Wyo. 82901 and they must be received prior to close of business, May 31, 1978, in order to be made part of the official record.

Public reading copies will be available at the following locations:

Office of Public Affairs, Bureau of Land Management, Interior Building, 18th and C Streets NW., Washington, D.C. 20240. Telephone 202-343-5717.
Wyoming State Office, Bureau of Land Management, 2515 Warren Avenue, Cheyenne, Wyo. Telephone 307-778-2220, ext. 2334.
Rock Springs District Office, P.O. Box 1869, Highway 18N North, Rock Springs, Wyo. 82901. Telephone 307-362-6613.
Kemmerer Resource Area Office, Rock Springs District, P.O. Box 632, Diamondville, Wyo. 82116. Telephone 307-877-3555.
Albany County Library, 405 Grand Avenue, Laramie, Wyo. 82070.
Carbon County Library, Courthouse, Rawlins, Wyo. 82301.
Laramie County Library, 2800 Central Avenue, Cheyenne, Wyo. 82001.
Lincoln County Library, Courthouse, Kemmerer, Wyo. 83101.
Rock Springs Public Library, 400 "C" Street, Rock Springs, Wyo. 82901.
Sweetwater County Library, 177 North Center, Green River, Wyo. 82935.
Uinta County Library, 36 Tenth Street, Evanston, Wyo. 82930.
Western Wyoming Community College Library, Rock Springs, Wyo. 82901.
University of Wyoming Library, University Station, P.O. Box 3334, Laramie, Wyo. 82070.

Notice is also given that oral and/or written comments will be received at public hearings held at the following locations:

District Education Building, 316 B Street, Rock Springs, Wyo., on May 16, 1978, at 1:30 p.m. and 7:30 p.m.
Kemmerer High School, 3d West and Antelope Streets, Kemmerer, Wyo., on May 17, 1978, at 1:30 p.m. and 7:30 p.m.

Written requests orally should be submitted to the Team Leader, Coal ES Team, Bureau of Land Management, P.O. Box 1869, 205 Broadway, Lea Building, Rock Springs, Wyo. 82901 prior to close of business May 15, 1978. Persons wishing to give oral comments are requested to limit their testimony to ten (10) minutes. Copies of complete oral statements or other written comments are encouraged and will be accepted at the hearings and made part of the official record.

GEORGE L. TURCOTT,
Associate Director,
Bureau of Land Management.

LARRY E. MEIEROTTO
Deputy Assistant
Secretary of the Interior.

MARCH 31, 1978.

[FR Doc. 78-9215 Filed 4-5-78; 8:45 am]

[4310-84]

SALMON DISTRICT GRAZING ADVISORY BOARD

Meeting

Pursuant to the requirements of the Federal Advisory Committee Act, Pub. L. 92-463, notice is hereby given that the Salmon District Grazing Advisory Board will hold a meeting beginning at 10 a.m., May 19, 1978; at the Salmon District Office, Salmon, Idaho. The agenda for the meeting will be a discussion of the use of the 12½ percent of the earned grazing fees collected from public domain.

The meeting will be open to the general public and news media. Those who wish to appear before the Board in person, should inform the District Manager prior to the meeting.

HARRY R. FINLAYSON,
District Manager.

[FR Doc. 78-9270 Filed 4-6-78; 8:45 am]

[4310-55]

Fish and Wildlife Service

CANAAN VALLEY NATIONAL WILDLIFE REFUGE, TUCKER COUNTY, W. VA.

Public Hearings

On Friday, March 31, 1978, the Department announced in the FEDERAL REGISTER, Vol. 43, No. 63, the availability of a draft environmental statement for the proposed Canaan Valley National Wildlife Refuge, Tucker County, W. Va. The proposal recommends that approximately 28,000 acres of mixed wetlands, upland and farmland be acquired for the protection and preservation of a unique boreal ecosystem and to provide opportunities for wildlife oriented recreation and environmental education within the open space so provided. The proposed area would become a unit of the National Wildlife Refuge System and be operated in conformance with legislation, policies, regulations and established management practices of that organization.

Notice is hereby given that the Service will hold public hearings on the proposal at locations and dates as follows:

May 8, 1978: Monongalia County Courthouse, Room 1, High St., Morgantown, W. Va.
May 9, 1978: Capitol Complex, Conference Rooms A, B, C, and D, Corner of Washington and California Sts., Charleston, W. Va.
May 10, 1978: Tucker County Courthouse, Parsons, W. Va,

All hearings shall commence promptly at 7 p.m., and will be presided over by a Hearing Officer.

Oral presentations at the hearings must be directed to the specifics of the refuge proposal, as summarized above and more throughly discussed in the draft environmental statement. Such presentations should be limited to 10 minutes each, but the Hearing Officer may establish other time limits as circumstances may warrant. It is requested that oral testimony be based upon a written submission for inclusion in the record.

Those individuals or organizations unable to attend the hearings or not wishing to make an oral presentation may submit written comments either to the Hearing Officer or to the Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Mass. 02158, by May 10, 1978.

The Service has prepared a brochure highlighting the various aspects and considerations of the proposal. A copy of this brochure may be obtained by writing the Regional Director at the above address.

LYNN A. GREENWALT,
Director.

APRIL 6, 1978.

[FR Doc. 78-9514 Filed 4-6-78; 10:23 am]

[4310-70]

National Park Service

CAPE LOOKOUT NATIONAL SEASHORE, N.C.

Notice of Availability of Environmental Assessment on Alternatives of General Management Plan and Wilderness Study

An Environmental Assessment considering alternatives formulated for preservation and management of Cape Lookout National Seashore is available for inspection at the Southeast Regional Office of the National Park Service, 1895 Phoenix Boulevard, Atlanta, Ga. 30349, or the Office of the Superintendent, Cape Lookout National Seashore, P.O. Box 690, Beaufort, N.C. 28516.

In addition to the alternatives, the assessment considers the nature of the resource, impacts of the various alternatives, mitigating measures to soften the effects of an alternative on the human environment and adverse effects that cannot be avoided should an alternative be implemented.

Public comments on the assessment and its alternatives are solicited. Written comments will be received at the offices listed above for a period of 45 days.

Dated: March 14, 1978.

JOE BROWN,
Regional Director,
Southeast Region.

[FR Doc. 78-9278 Filed 4-6-78; 8:45 am]

[4310-70]

NOTICE OF INTENTION TO EXTEND CONCESSION CONTRACT

Pursuant to the provisions of section 5 of the Act of October 9, 1965 (79 Stat. 969 16 U.S.C. 20), public notice is hereby given that thirty (30) days after the date of publication of this notice, the Department of the Interior, through the Director of the National Park Service, proposes to extend the concession contract with Everglades Park Catering, Inc., authorizing it to continue to provide concession facilities and services for the public at Everglades National Park for a period of one (1) year from June 1, 1978, through May 31, 1979.

It has been determined that the proposed extension of this contract does not have potential for causing significant environmental impact and therefore preparation of an environmental assessment is not required.

The foregoing concessioner has performed its obligations to the satisfaction of the Secretary under an existing contract which expires by limitation of time on May 31, 1978. An administrative decision to extend this contract for one (1) year was made to provide the Service with sufficient time to prepare a prospectus to secure a concessioner. The Secretary is also required to consider and evaluate all proposals received as a result of this notice. Any proposal to be considered and evaluated must be submitted on or before May 8, 1978.

Interested parties should contact the Assistant Director, Special Services, National Park Service, Washington, D.C. 20240, for information as to the requirements of the proposed contract.

Dated: March 30, 1978.

DANIEL J. TOBIN, Jr.,
Associate Director,
National Park Service.

[FR Doc. 78-9279 Filed 4-6-78; 8:45 am]

[7020-02]

INTERNATIONAL TRADE COMMISSION

[TA-201-32]

UNALLOYED UNWROUGHT COPPER

Time and Place of Public Hearing

Notice is hereby given that the public hearing in this matter scheduled to begin in Tucson, Ariz., on Monday, May 22, 1978, will commence at 9:30 a.m., M.S.T., in the meeting room, Tucson Community Center, 260 South Church Street, Tucson, Ariz. Requests for appearances should be filed with the Secretary of the U.S. International Trade Commission, in writing, at his office in Washington, D.C., not later than noon, Monday, May 15, 1978.

Notice of the investigation and hearings was published in the FEDERAL REGISTER of March 23, 1978 (43 FR 12130).

Issued: April 4, 1978.

By order of the Commission.

KENNETH R. MASON,
Secretary.

[FR Doc. 78-9285 Filed 4-6-78; 8:45 am]

[4410-05]

DEPARTMENT OF JUSTICE

Bureau of Prisons

ADVISORY CORRECTIONS COUNCIL

Meeting

Notice is hereby given that the Advisory Corrections Council in accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 86 Stat. 770) will meet on Thursday, April 20 in Kansas City, Mo. The Council will tour and meet at the U.S. Penitentiary at Leavenworth, Kans., on April 20.

This meeting has three major purposes: (1) To discuss the role of the Federal Government in corrections; (2) to discuss uniform standards for prisons and jails throughout the country; and (3) a proposed Bureau of Justice Statistics.

Signed at Washington, D.C., this 3d day of April 1978.

NORMAN A. CARLSON,
Director, Bureau of Prisons.

[FR Doc 78-9240 Filed 4-6-78; 8:45 am]

[4410-09]

Drug Enforcement Administration

ISADORE I. ROSEN, M.D.

Revocation of Registration

On December 14, 1977, the Administrator of the Drug Enforcement Administration [DEA] directed an Order to Show Cause to Isadore I. Rosen, M.D. [Respondent], of Amite, La. The order, pursuant to 21 U.S.C. 824, afforded the Respondent an opportunity to show cause why the DEA should not revoke the Respondent's DEA Certificate of Registration. Citing the imminent danger which he found the Respondent's continued possession, prescribing, dispensing and handling of controlled substances posed to the public health and safety, the Administrator simultaneously suspended the Respondent's registration pending a final decision in this matter. On January 10, 1978, the Respondent, through counsel, filed with the Administrator a waiver of his right to a hearing on the issues raised by the Order to Show Cause. The Respondent's waiver of hearing was accompanied by a denial that he had committed any irregularity, a statement that he had appealed his conviction and a request that any final disposition of this action await the outcome of his appeal.

The Administrator hereby publishes his Final Order in this matter based on findings of fact and conclusions of law as set forth below.

The Administrator finds that on December 14, 1977, in the United States District Court for the Eastern District of Louisiana, before the Honorable Charles Schwartz, United States District Judge, the Respondent was convicted as charged in a twenty-five count indictment of dispensing and distributing controlled substances in violation of 21 U.S.C. 841(a) (1). The Respondent has been convicted of felony offenses relating to controlled substances. There is a lawful or statutory basis for the revocation of the Respondent's DEA registration pursuant to 21 U.S.C. 824(a) (2).

Other than his general denial of having committed any irregularity, the Respondent has provided the Administrator with no evidence as to why the Respondent's registration should not be revoked as proposed in the Order to Show Cause. On the other hand, Judge Schwartz' special findings of fact, which have been made part of the administrative record in this case, provide substantial reasons for revocation. As the trial judge stated in his special findings of fact (at page 14):

> The Court is of the opinion that although Dr. Rosen has a medical degree and may have practiced medicine in the past, his primary business today is dispensing controlled substances. This does not mean that everyone who comes to Dr. Rosen to obtain drugs intends to abuse them; however the Court is of the opinion that Dr. Rosen is not concerned what a person does with the drugs he dispenses or prescribes as long as he can be paid for such. If a patient wants pills for weight control, Dr. Rosen, gives them a prescription and/or the pills. If a person wants controlled substances to satisfy his craving or for other purposes, Dr. Rosen likewise gives or prescribes them to him. Dr. Rosen has a very clever operation. It is designed to give the appearance of legitimacy and to camouflage his activities and real purpose, that is, dispensing of controlled substances for profit. It were as if Dr. Rosen has read the lead cases on the subject to ascertain what procedures and action he should adopt and follow to create the impression of dispensing these drugs for medical purposes in the event law enforcement officers attempt to check or question his activities. His facade includes an initial checking of blood

pressure, but no checking of blood pressure on a subsequent visit, determining the height and weight of a patient, a so-called lecture on weight control and in most cases handing the patient a pamphlet on weight control and sometimes chiding a patient when others are present about not losing weight. But there it ends. A patient gets his pills (although maybe not the particular type) on request and perhaps "uppers" and "downers" at the same time; he gets his pils if he loses weight or if he gains weight, provided he helps the doctor keep his record clear by not attempting to obtain more drugs in less than 30-day intervals. Dr. Rosen has developed a scheme wherein he believes that form will prevail over substance. However, insofar as concerns the charges in the instant indictment, the diligent and painstaking operation of the undercover agents has served to pierce this thin veil by which the defendant sought to shield his illegal activities. The evidence demonstrates beyond a reasonable doubt that the dispensing of the controlled substances to them was not in good faith and for legitimate medical purposes.

21 U.S.C. 824 provides that a registration may be revoked upon a finding that the registrant has been "convicted" of a felony offense relating to controlled substances. There is no requirement that revocation await the outcome of an appeal of the criminal conviction upon which an Order to Show Cause is based. The Respondent has advanced no good reason why such action should be withheld. Therefore, the Respondent's request that any final disposition of these proceedings await the outcome of his appeal is hereby denied.

In consideration of the foregoing, it is the Administrator's decision that the Respondent's registration should be revoked. Accordingly, pursuant to the authority vested in the Attorney General, and redelegated to the Administrator of the Drug Enforcement Administration, the Administrator hereby orders that the DEA Certificate of Registration of Isadore I. Rosen, M.D. (AI3380677) be, and it hereby is, revoked, effective immediately.

Dated: April 3, 1978.

PETER B. BENSINGER,
Administrator, Drug Enforcement Administration.

[FR Doc. 78-9252 Filed 4-6-78; 8:45 am]

[4410-09]

[Docket No. 77-13]

RAPHAEL C. CILENTO, M.D.

Revocation of Registration

On July 12 and 13, 1977, a hearing was held before Administrative Law Judge Francis L. Young on the issues raised by an Order to Show Cause directed to Raphael C. Cilento, M.D. as to why his DEA registration, AC5728146, should not be revoked.

The Order to Show Cause was based on the conviction of Dr. Cilento [hereinafter, "Respondent"] of a felony offense relating to controlled substances. This conviction was entered following the Respondent's plea of nolo contendere to one count of a five-count information filed in the Circuit Court of the Eleventh Judicial District of Florida, in and for Dade County.

The Administrative Law Judge found, as a matter of law, that a conviction entered following a plea of nolo contendere is properly considered a conviction within the meaning of 21 U.S.C. 824(a)(2). This conclusion is consistent with prior decisions under this statute as well as similar statutes which make the fact of "conviction" the basis for imposing regulatory sanctions. See, for example, *Sokoloff* v. *Saxbe*, 501 F.2d 571 (2d Cir. 1974); *In the Matter of John S. Noell, M.D.*, DEA Docket No. 76-23, 42 FR 22950 (May 5, 1977); *Masters* v. *CIR*, 243 F.2d 335 (3d Cir. 1957); *Maryland State Bar Ass'n* v. *Agnew*, 318 A.2d 811 (Md. Ct. App. 1974); and *Qureshi* v. *Immigration and Naturalization Service*, 519 F.2d 1174 (5th Cir. 1975).

The Respondent, in his pleadings, also contended that the Drug Enforcement Administration has no jurisdiction to revoke the Respondent's registration because, he alleged, the Florida court which convicted him had no jurisdiction to do so and because the drug methaqualone (Quaalude) was not properly or validly controlled by the Florida Legislature. Thus, the Respondent sought to have this agency inquire into, not its own jurisdiction, but that of the Florida courts and the validity of that State's legislative acts. The Administrative Law Judge ruled that the judgment of conviction in the Florida Court was a fact, insofar as this agency is concerned, and that this fact can be altered only by appropriate judicial action. Likewise, Judge Young ruled that only the courts of the State of Florida are empowered to review the effectiveness or constitutionality of that State's laws.

As the Administrator has stated on several occasions, neither he nor an Administrative Law Judge is authorized to act as an appellate tribunal. We will not, and indeed cannot, review the criminal conviction upon which an Order to Show Cause is based. See *In the Matter of Armand Lozano, M.D.*, DEA Docket No. 77-4, 43 FR 11618 (March 20, 1978); *In the Matter of Lincoln Eramo, M.D.*, DEA Docket No. 76-45, 42 FR 61336 (December 2, 1977); *In the Matter of Maurice W. Rosenberg, M.D.*, DEA Docket No. 74-8, 40 FR 4024 (January 27, 1975). As set forth above, the Administrator concurs in, and hereby adopts, the conclusions of the Administrative Law Judge.

The Administrative Law Judge also considered the Respondent's claim of entrapment, ultimately finding that the only evidence tending to support this claim was the Respondent's own testimony which Judge Young found not to be credible. The Administrator concurs in this finding. However, in considering the issue of entrapment, the Administrative Law Judge apparently concluded that entrapment could properly be raised in a case such as this one, stating that the difference between "evidence of entrapment" and "extenuating circumstances" is "a mere exercise in semantics."

In support of the consideration of entrapment, Judge Young cited *Patty* v. *Board of Medical Examiners*, 508 P.2d 1121 (Calif. 1973); *Florida Board of Pharmacy* v. *Hall*, 157 So. 2d 824 (Fla. 1963); *Roberts* v. *Illinois Liquor Control Comm'n*, 206 N.E.2d 799 (Ill. 1965); and *Langdon* v. *Board of Liquor Control*, 130 N.E. 2d 430 (Ohio 1954). In each of these cases, the appellate court either considered the defense of entrapment or held that entrapment should be considered. In the Administrator's opinion, these cases do not support consideration of the "defense of entrapment" in a case such as this one. In each of the cases cited by the Administrative Law Judge, the disciplinary action arose directly from the investigative activities of the regulatory board's agents. There was no intervening criminal case; there was no conviction. Thus, there was no earlier opportunity to raise the defense and the issue of entrapment was properly considered. In this case, the Respondent was convicted following his plea of nolo contendere to one count of a five-count information, the remaining counts apparently having been dropped as part of a plea bargaining agreement. If a legitimate claim of entrapment at any time existed in this case, it should have been raised as a defense to the entire information. Entrapment, if found as a matter of law or of fact, would have resulted in the acquittal of the Respondent and this matter would not be here under consideration. By pleading as he did, the Respondent either concluded that he had no defense or, in the alternative, waived any defenses which he might have raised at trial. In either case, he pleaded, was convicted by a duly constituted court of the State of Florida, and will not now be heard to complain that he was entrapped. Considering the Respondent's testimony as advancing mitigatory or extenuating circumstances, the Administrator rejects the premise as did the Administrative Law Judge.

The Administrator finds that during the months of December 1975 and January 1976, the Respondent issued six prescriptions for Schedule II controlled substances to agents of the Florida Department of Criminal Law Enforcement; that he received $60 for

each of these prescriptions; and that these prescriptions were written in bad faith and not in the course of the Respondent's professional practice. The Administrator further finds, as did the Administrative Law Judge, that there is a paucity of evidence to demonstrate the Respondent's good character, his medical and other services to the community, his prior good record and the likelihood that he will not repeat the activity for which he stands convicted.

Judge Young concluded that there is a lawful basis for revoking the Respondent's registration pursuant to 21 U.S.C. 824(a)(2); that there was good reason for doing so; and that there is no showing of adequate cause for not doing so. After a careful review of the entire record of these proceedings, and as set forth above, the Administrator, too, concludes that the Respondent's registration may, and should, be revoked.

Therefore, under the authority vested in the Attorney General and redelegated to the Administrator of the Drug Enforcement Administration, the Administrator hereby orders that the DEA Certificate of Registration (AC5728146), previously issued to Raphael C. Cilento, M.D., be, and it hereby is, revoked. Pursuant to the provisions of 21 CFR § 1316.66, the revocation of Dr. Cilento's registration shall be effective May 10, 1978.

Dated: April 3, 1978.

PETER B. BENSINGER,
Administrator, Drug Enforcement Administration.

[FR Doc. 78-9251 Filed 4-6-78; 8:45 am]

[4510-30]

DEPARTMENT OF LABOR

Employment and Training Administration

EMPLOYMENT TRANSFER AND BUSINESS COMPETITION DETERMINATIONS

Applications

The organizations listed in the attactment have applied to the Secretary of Agriculture for financial assistance in the form of grants, loans, or loan guarantees in order to establish or improve facilities at the locations listed for the purposes given in the attached list. The financial assistance would be authorized by the Consolidated Farm and Rural Development Act, as amended, 7 U.S.C. 1924(b), 1932, or 1942(b).

The Act requires the Secretary of Labor to determine whether such Federal assistance is caculated to or is likely to result in the transfer from one area to another of any employment or business activity provided by operations of the applicant. It is permissible to assist the establishment of a new branch, affiliate or subsidiary, only if this will not result in increased unemployment in the place of present operations and there is no reason to believe the new facility is being established with the intention of closing down an operating facility.

The Act also prohibits such assistance if the Secretary of Labor determines that it is calculated to or is likely to result in an increase in the production of goods, materials, or commodities, or the availability of services or facilities in the area, when there is not sufficient demand for such goods, materials, commodities, services, or facilities to employ the efficient capacity of existing competitive commercial or industrial enterprises, unless such financial or other assistance will not have an adverse effect upon existing competitive enterprises in the area.

The Secretary of Labor's review and certification procedures are set forth at 29 CFR Part 75. In determining whether the applications should be approved or denied, the Secretary will take into consideration the following factors:

1. The overall employment and unemployment situation in the local area in which the proposed facility will be located.

2. Employment trends in the same industry in the local area.

3. The potential effect of the new facility upon the local labor market, with particular emphasis upon its potential impact upon competitive enterprises in the same area.

4. The competitive effect upon other facilities in the same industry located in other areas (where such competition is a factor).

5. In the case of applications involving the establishment of branch plants or facilities, the potential effect of such new facilities on other existing plants or facilities operated by the applicant.

All persons wishing to bring to the attention of the Secretary of Labor any information pertinent to the determinations which must be made regarding these applications are invited to submit such information in writing within two weeks of publication of this notice to: Deputy Assistant Secretary for Employment and Training, 601 D Street NW., Washington, D.C. 20213.

Signed at Washington, D.C. this Third Day of April 1978.

ERNEST G. GREEN,
Assistant Secretary for Employment and Training.

APPLICATIONS RECEIVED DURING THE WEEK ENDING MARCH 31, 1978

Name of applicant and location of enterprise	Principal product or activity
Washington Porcelain Co., Washington, N.J.	Manufacture of ceramic parts for electrical and refractory purposes.
Randy Waters Builders Supply, Inc. Plymouth, N.C.	Supplier of building materials.
Cumberland Mills, Inc. Eton, Ga.	Manufacture of tufted textile carpets.
Old School Manufacturing Co., Inc. (Tenant of Newberry Co. Water and Sewer Authority) Prosperity, S.C.	Manufacture of work shirts, pants and lined jackets.
Owen Brothers Packing Company, Meridan, Miss.	Package and manufacture of beef and beef cuts.
Pecos Cantaloupe Co. Inc., Pecos, Tex.	Package of cantaloupes and bell peppers.
Taylor Feed & Supply Inc., Ft. Morgan, Colo.	Grain, feed and pinto beans country elevator.
Indian River Terminal Co., Ft. Pierce, Fla.	Loading and unloading of ships.

[FR Doc. 78-9171 Filed 4-6-78; 8:45 am]

[4510-30]

MIGRANT AND SEASONAL FARMWORKER MANPOWER PROGRAMS

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: This notice announces the final allocation for fiscal year 1977 and the revised allocation estimates for fiscal year 1978 of funds available under the State allocations for section 303 of the Comprehensive Employment and Training Act (CETA) of 1973. The final fiscal year 1977 allocation is the base for calculating the hold harmless factor for the revised fiscal year 1978 allocation estimates. The revised fiscal year 1978 allocation estimates will be the base for calculating the hold harmless factor for the fiscal year 1979 planning estimates, unless further revisions occur prior to the announcement of fiscal year 1979 planning estimates.

FOR FURTHER INFORMATION CONTACT:

Mr. Paul A. Mayrand, Director, Office of Farmworker Programs, Room 7122, 601 D Street NW., Washington, D.C. 20213.

SUPPLEMENTARY INFORMATION: The allocation of both fiscal year 1977 and 1978 funds for programs in 49 States and Puerto Rico is based on

each State's percentage of the Nation's farmworkers and on each State's hold harmless level of 90 percent of the previous year's allocation. These figures are based upon the same data source utilized for the fiscal year 1977 estimates (a description of this data source and the rationale for using it are set forth in the FEDERAL REGISTER, Volume No. 144, page 31293, July 25, 1975.)

FISCAL YEAR 1977 FINAL ALLOCATIONS

The fiscal year 1977 planning estimates have been revised to include approximately $12 million in fiscal year 1977 funds ("court" funds) pursuant to the decision in *National Association of Farmworker Organizations, et al.* vs. *Ray Marshall, et al.* The fiscal year 1977 State planning estimates were recalculated to include the additional $12 million, using the same formula and the same data used in the calculation of the original fiscal year 1977 planning estimates.

The additional "court" funds are being allocated to States and areas for services to farmworkers in those areas and not to particular organizations which were designated grantees for fiscal year 1977. Therefore, only organizations selected for fiscal year 1978 funding will receive these additional funds. Fiscal year 1978 grantees will receive an additional amount of funds equaling the difference, if any, between the State/area original allocation and the amount recalculated as a consequence of the "court" funds.

Instructions will be provided to the affected grantees as to how to modify the fiscal year 1978 grants to incorporate these additional funds.

The following are the final allocations for fiscal year 1977 and the difference between the original planning estimates and the final allocations, because of the "court" funds:

	New fiscal year 1977 allocation	Difference
Alabama	$972,900	$287,100
Arizona	1,035,000	0
Arkansas	1,017,900	0
California	2,325,100	3,842,100
Colorado	767,700	0
Connecticut	261,900	0
Delaware	90,000	0
Florida	3,459,600	0
Georgia	1,409,500	369,100
Hawaii	360,000	0
Idaho	708,100	179,800
Illinois	1,477,700	460,600
Indiana	1,188,400	370,400
Iowa	1,765,600	550,400
Kansas	810,500	252,700
Kentucky	982,400	69,800
Louisiana	761,400	0
Maine	255,600	0
Maryland	526,700	164,200
Massachusetts	364,300	80,800
Michigan	1,200,700	310,600
Minnesota	1,799,700	561,000
Mississippi	1,017,900	0
Missouri	1,219,800	380,200
Montana	436,300	52,300
Nebraska	807,800	235,400
Nevada	91,400	18,500
New Hampshire	62,800	6,100
New Jersey	469,800	0
New Mexico	729,000	0
New York	1,483,200	462,400
North Carolina	4,311,900	0
North Dakota	294,300	0
Ohio	1,424,500	444,100
Oklahoma	537,600	12,000
Oregon	1,114,800	284,100
Pennsylvania	1,626,400	507,000
Rhode Island	45,000	0
South Carolina	1,256,700	314,400
South Dakota	660,400	205,900
Tennessee	768,200	24,800
Texas	5,514,300	0
Utah	372,600	0
Vermont	278,300	86,700
Virginia	1,132,500	280,200
Washington	1,757,400	243,600
West Virginia	181,500	15,900
Wisconsin	2,198,100	685,200
Wyoming	257,900	69,800
Puerto Rico	2,128,500	172,800
National total	65,719,900	12,000,000

The following are the intrastate allocations of the "court" funds in California:

California Human Development Corp	$798,600
City of Stockton	264,700
Center for Employment Training	493,000
Proteus Adult Training, Inc	1,429,600
Los Angeles County	19,800
Campesinos Unidos, Inc	411,500
Central Coast Counties Development Corp	424,900
Total	3,842,100

FISCAL YEAR 1978 REVISED STATE ALLOCATION ESTIMATES

Due to the increase in fiscal year 1977 allocation, the fiscal year 1978 planning estimates had to be recalculated to incorporate higher hold harmless levels. As a result of the shifting of funds among States, 28 States' allocations decreased. In order to avoid modifications for the small amounts involved, the Department will obligate equivalent amounts from the National Account to programs in those States affected. However, the calculation of the hold harmless levels for the fiscal year 1979 planning estimates will be based on the allocations listed below, unless revised, and will not be based on actual obligations to the State, which would include both the State allocation and the additional National Account funds.

The allocation estimates presented below are termed "estimates" due to the possibility of additional CETA appropriations for fiscal year 1978. If there are no further appropriations prior to the publication of fiscal year 1979 planning estimates, these allocation estimates become final automatically, without further notice in the FEDERAL REGISTER. Presented below are the revised fiscal year 1978 allocation estimates.

	New allocation[1]
Alabama	$962,700
Arizona	931,500
Arkansas	916,100
California	11,855,100
Colorado	690,900
Connecticut	235,700
Delaware	81,000
Florida	3,113,600
Georgia	1,464,600
Hawaii	324,000
Idaho	787,400
Illinois	1,524,900
Indiana	1,202,400
Iowa	1,925,200
Kansas	851,100
Kentucky	1,104,900
Louisiana	685,300
Maine	301,500
Maryland	514,600
Massachusetts	327,900
Michigan	1,234,000
Minnesota	1,760,500
Mississippi	916,100
Missouri	1,168,000
Montana	401,000
Nebraska	824,500
Nevada	103,100
New Hampshire	77,100
New Jersey	450,800
New Mexico	656,100
New York	1,519,300
North Carolina	3,880,700
North Dakota	264,900
Ohio	1,282,100
Oklahoma	733,400
Oregon	1,091,700
Pennsylvania	1,520,000
Rhode Island	40,500
South Carolina	1,131,000
South Dakota	594,400
Tennessee	807,000
Texas	4,962,900
Utah	335,300
Vermont	335,900
Virginia	1,291,400
Washington	1,971,500
West Virginia	497,100
Wisconsin	2,155,900
Wyoming	244,700
Puerto Rico	1,915,700
Total	63,920,000

[1] Fiscal year 1978.

Signed at Washington, D.C., this 7th day of March 1978.

LAMOND GODWIN,
Administrator,
Office of National Programs.

[FR Doc. 78-9314 Filed 4-6-78; 8:45 am]

[4510-26]

Occupational Safety and Health Administration

ADVISORY COMMITTEE ON CONSTRUCTION SAFETY AND HEALTH

Meeting

Notice is hereby given that the Advisory Committee on Construction Safety and Health, established under section 107(e)(1) of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333) and section 7(b) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 656) will meet on Tuesday, April 25 and Wednesday, April 26, 1978, in the Century Room of the Cosmopolitan Hotel, 1780 Broadway,

Denver, Colo. The meeting is open to the public and will begin at 9 a.m.

The purpose of this meeting is to continue review and development of recommendations on Subpart L (Ladders and Scaffolds) on Part 1926—Construction Standards. The Committee will also discuss material related to the 1910/1926 Project.

Written data, views, or arguments may be submitted, preferably with 20 copies, to the Division of Consumer Affairs. Any such submissions received prior to the meeting will be provided to the members of the Committee and will be included in the record of the meeting.

Anyone wishing to make an oral presentation should notify the Division of Consumer Affairs before the meeting. The request should state the amount of time desired, the capacity in which the person will appear, and a brief outline of the content of the presentation.

Oral presentations will be scheduled at the discretion of the Chairman, depending on the extent to which time permits. Communications may be mailed to: Ken Hunt, Office of Information and Consumer Affairs, Occupational Safety and Health Administration, Third Street and Constitution Avenue NW., Room N-3635, Washington, D.C. 20210, phone 202-523-8024.

Materials provided to members of the Committee are available for inspection and copying at the above address.

Signed at Washington, D.C. this 4th day of April 1978.

EULA BINGHAM,
Assistant Secretary,
Occupational Safety and Health.

[FR Doc. 78-9312 Filed 4-6-78; 8:45 am]

[4510-26]

STANDARDS ADVISORY COMMITTEE ON CUTANEOUS HAZARDS

Meeting

Notice is hereby given that the Standards Advisory Committee on Cutaneous Hazards will meet on April 20 and 21 in Room C-2318 of the Department of Labor Building, Third Street and Constitution Avenue NW., Washington, D.C.

The Standards Advisory Committee on Cutaneous Hazards was established under section 7(b) of the Occupational Safety and Health Act of 1970 (Public Law 91-596) to assist the Secretary of Labor in his standards-setting function.

At the meeting the Committee will continue its discussion of strategies to employ for identifying, classifying and controlling cutaneous hazards. On both days, the meeting will begin at 9 a.m. The public is invited to attend.

FOR ADDITIONAL INFORMATION CONTACT:

Stephen Kaffee, Division of Consumer Affairs, Occupational Safety and Health Administration, U.S. Department of Labor, Room N-3635, Washington, D.C. 20210, phone 202-523-8024.

Written data or views concerning these agenda items may be submitted to the Division of Consumer Affairs. Such documents which are received before the scheduled meeting dates, preferably with 20 copies, will be presented to the Committee and included in the official record of the proceedings.

Anyone who wishes to make an oral presentation should notify the Division of Consumer Affairs before the meeting date. The request should include the amount of time desired, the capacity in which the person will appear, and a brief outline of the content of the presentation. Oral presentations will be scheduled at the discretion of the chairman of the Committee, to the extent which time permits.

Official records of the meetings will be available for public inspection at the Division of Consumer Affairs.

Signed at Washington, D.C. this 4th day of April 1978.

EULA BINGHAM,
Assistant Secretary,
Occupational Safety and Health.

[FR Doc. 78-9313 Filed 4-5-78; 9:18 am]

[4510-28]

[TA-W-2333-2335]

AIKEN INDUSTRIES, INC., P. R. HOFFMAN DIVISION, CARLISLE, PA.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2333-2335: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on September 13, 1977 in response to a worker petition received on September 7, 1977, which was filed on behalf of workers and former workers producing quartz crystal blanks at the three Carlisle, Pa. plants of the P. R. Hoffman Division of Aiken Industries, Inc. During the course of the investigation, it was established that the workers also produce synthetic quartz and machinery used in the production of quartz crystal blanks.

The notice of investigation was published in the FEDERAL REGISTER on October 4, 1977 (42 FR 54031). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Aiken Industries, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Imports of quartz crystals increased in value from $9.1 million in 1975 to $14.7 million in 1976, and then declined from $8.6 million in the first half of 1976 to $6.2 million in the first half of 1977. The ratio of imports of quartz crystals to domestic production increased from 4.4 percent in 1975 to 6.7 percent in 1976. The United States is a net exporter of quartz crystals.

Imports of synthetic quartz are negligible. Imports increased in value from $0.6 million in 1975 to $0.8 million in 1976 and from $0.5 million in the first 9 months of 1976 to $0.6 million in the first 9 months of 1977. The ratio of imports of synthetic quartz to domestic production increased from 0.9 percent in 1975 to 1.1 percent in 1976. The United States is a net exporter of synthetic quartz.

Imports of stoneworking machinery are also negligible. Imports increased in value from $4.8 million in 1975 to $6.1 million in 1976 and from $4.7 million in the first 9 months of 1976 to $5.1 million in the first 9 months of 1977. The ratio of imports of stoneworking machinery to domestic production was 0.4 percent in 1975 and 1976. The United States is a net exporter of stoneworking machinery.

Workers producing synthetic quartz at P. R. Hoffman are not separately identifiable. Manhours spent on the production of synthetic quartz are negligible.

None of the customers of P. R. Hoffman that were surveyed increased purchases of imported stoneworking machinery while decreasing purchases from P. R. Hoffman in 1976 or the first 9 months of 1977.

Major customers that reduced purchases of quartz crystals from P. R. Hoffman in 1976 or the first 9 months of 1977 did not increase purchases of imports.

CONCLUSION

After careful review I conclude that all workers at the P. R. Hoffman Divi-

sion of Aiken Industries, Inc., Carlisle, Pa. are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 30th day of March 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-9319 Filed 4-6-78; 8:45 am]

[4510-28]

[TA-W-2496]

ALLIED LEATHER CO., WILMINGTON, DEL. DIVISION

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2496: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on October 25, 1977 in response to a worker petition received on October 17, 1977 which was filed on behalf of former workers producing tanned leather and patent leather at Wilmington, Del. Division of Allied Leather Co.

The Notice of Investigation was published in the FEDERAL REGISTER on November 8, 1977 (42 FR 58209). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Allied Leather Co., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met.

that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Imports of tanned and finished cattlehides declined from 143.6 million square feet in the first nine months of 1976 to 92.2 million square feet in the first nine months of 1977. The ratios of imports to domestic production and consumption declined from 23.5 percent and 22.2 percent, respectively, in the first nine months of 1976 to 16.4 percent and 16.6 percent, respectively, in the first nine months of 1977.

The Wilmington Division of Allied Leather produced on order and sales therefore equalled production. Sales in terms of quantity and value increased in 1976 compared to 1975. From March 1977 until September 1977 when the plant closed, Wilmington processed leather only through the first stage of tanning for shipment to another division of Allied Leather. This division further processed the leather and sold most of it to customers as finished tanned leather. Imports of tanned leather declined absolutely and relatively in the first nine months of 1977 compared to the first nine months of 1976.

CONCLUSION

After careful review of the facts obtained in the investigation, I determine that workers at the Wilmington, Delaware Division of the Allied Leather Co. are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 30th day of March 1978.

HARRY GRUBERT,
Director, Office of Foreign Economic Research.

[FR Doc. 78-9320 Filed 4-6-78; 8:45 am]

[4510-28]

[TA-W-2545]

BAUER CANADIAN SKATE, INC., BANGOR, MAINE

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2545: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on November 1, 1977, in response to a worker petition received on October 27, 1977, which was filed on behalf of workers and former workers producing hockey and figure skates and vulcanized field boots at Bauer Canadian Skate, Inc., Bangor, Maine.

The Notice of Investigation was published in the FEDERAL REGISTER on November 15, 1977 (42 FR 59131). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Bauer Canadian Skate, Inc., Greb Industries, Limited, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. It is concluded that all of the requirements have been met.

United States imports of ice skates declined from 300,530 pairs in 1975 to 186,362 pairs in 1976 and then increased from 138,362 pairs in the first nine months of 1976 to 354,915 pairs in the first nine months of 1977.

The ratio of imports to domestic production for ice skates declined from 17.1 percent in 1975 to 9.7 percent in 1976 and then increased from 10.4 percent in the first nine months of 1976 to 29.9 percent in the first nine months of 1977.

United States imports of work footwear, a category which includes field boots, increased from 2.6 million pairs in 1975 to 4.7 million pairs and then remained constant at 3.8 million pairs in the first nine months of 1976 and in the first nine months of 1977.

The ratio of imports to domestic production for work footwear increased from 10.5 percent in 1975 to 18 percent in 1976 and increased from 18.8 percent in the first nine months of 1976 to 21.3 percent in the first nine months of 1977.

Bauer Canadian Skate, Inc. is a wholly-owned subsidiary of Greb Industries, Ltd., Kitchener, Ontario, Canada. The Bangor, Maine plant of Bauer Canadian Skate, Inc. was shut down in October 1977 and all production of ice skates and field boots was transferred to Greb-owned facilities in Canada.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with ice skates and field boots produced by Bauer Canadian Skate, Inc., Bangor, Maine, contributed importantly to the decline in sales or production and to the total or partial separations of workers at the plant. In accordance with the provisions of the act, I make the following certification:

All workers at Bauer Canadian Skate, Inc., Bangor, Maine, who became totally or partially separated from employment on or after June 1, 1977, and before December 1, 1977, are eligible to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974. All workers who became totally or partially separated from employment on or after December 1, 1977 are denied certification.

Signed at Washington, D.C., this 30th day of March 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-9321 Filed 4-6-78; 8:45 am]

[4510-28]

[TA-W-2577]

BELK MANUFACTURING CO., INC., BELK, ALA.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2577: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on November 9, 1977, in response to a worker petition received on November 2, 1977, which was filed on behalf of workers and former workers producing men's and boys' pants at Belk Manufacturing Co., Inc., Belk, Ala.

The notice of investigation was published in the FEDERAL REGISTER on November 18, 1977 (42 FR 59565). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Belk Manufacturing Co., Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Belk produced under contract for three manufacturers in 1976, all of which discontinued orders from Belk by early 1977. None of the manufacturers contracted with foreign sources, and all indicated reasons other than import competition for reducing orders from Belk. With the acquisition of a new contract in early 1977 sales by the Belk Manufacturing Co. increased in the first 11 months of 1977 compared to the first 11 months of 1976.

CONCLUSION

After careful review of the facts obtained in the investigation, I determine that workers at Belk Manufacturing Co., Inc., Belk, Ala., are denied eligibility to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 30th day of March 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration and Planning.

[FR Doc. 78-9322 Filed 4-6-78; 8:45 am]

[4510-28]

[TA-W-2662]

BERNIE SHOE CO., HAVERHILL, MASS.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2662: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on November 1, 1977, in response to a work petition received on November 1, 1977, which was filed on behalf of workers and former wokers producing women's shoes at Bernie Shoe Co. in Haverhill, Mass.

The notice of investigation was published in the FEDERAL REGISTER on December 16, 1977 (42 FR 63846). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Bernie Shoe Co., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met. It is concluded that all of the requirements have been met.

Imports of women's nonrubber footwear, except athletic, with nonleather uppers increased from 102.6 million pairs in 1975 to 103.8 million pairs in 1976. Imports increased from 82.7 million pairs in the first three-quarters of 1976 to 83.7 million pairs in the first three-quarters of 1977. The ratio of imports to domestic production decreased from 166.6 percent in 1975 to 166.3 percent in 1976. The ratio of imports to domestic production increased from 168.1 percent in the first three-quarters of 1976 to 194.7 percent in the first three-quarters of 1977.

A survey of customers accounting for a substantial proportion of Bernie Shoe's sales in 1976 and 1977 increased purchases of imported women's shoes and boots and decreased purchases from Bernie Shoe.

CONCLUSION

After careful review of the facts obtained in the investigation, it is concluded that increases of imports of articles like or directly competitive with the women's footwear produced by Bernie Shoe Co., Haverhill, Mass., contributed importantly to the decline in sales or production to the total or partial separation of workers at that plant. In accordance with the provisions of the Act, I make the following certification:

All workers at Bernie Shoe Co., Haverhill, Mass., who became totally or partially separated from employment on or after October 27, 1976, are eligible to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 30th day of March 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-9323 Filed 4-6-78; 8:45 am]

[4510-28]

[TA-W-1498]

BETHLEHEM STEEL CORP., VERNON PLANT, LOS ANGELES, CALIF.

Notice of Revised Determinations

Following a Department of Labor investigation under section 223 of the Trade Act of 1974 and in accordance with section 223 of the Act, the Department of Labor issued a notice of determinations on August 19, 1977, in which all workers engaged in employment related to the production of wire and industrial fasteners at the Vernon plant of Bethlehem Steel Corp. who became totally or partially separated from employment on or after November 15, 1975, were certified eligible to apply for adjustment assistance. Workers engaged in employment related to the production of reinforcing bars at the Vernon plant were denied eligibility in the determination. The notice was published in the FEDERAL REGISTER on September 2, 1977 (42 FR 44300).

At the request of the United Steelworkers of America the Department re-opened the investigation to determine whether workers and former workers producing wire rope, carbon bars, alloy bars, wire rods, and structural shapes at the Vernon plant of Bethlehem Steel Corp. are eligible to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The information upon which the determination was made was obtained principally from officials of Bethlehem Steel Corp., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment as-

sistance, each of the group eligibility requirements of section 222 of the Act must be met.

With respect to workers engaged in employment related to the production of carbon steel bars, without regard to whether any of the other criteria have been met, the following criterion has not been met:

That sales or production, or both, of the firm or subdivision have decreased absolutely.

Sales and production of carbon steel bars increased in 1976 compared to 1975 and continued to increase in the first 9 months of 1977 compared to the like period in 1976.

With respect to workers engaged in employment related to the production of one of the following products: wire rope, wire rods, alloy bars, or structural shapes, all of the group eligibility requirements of section 222 of the Act have been met.

Average employment of workers producing wire rope, alloy bars, wire rods, and structural shapes increased in the first 9 months of 1977 compared to the like period in 1976.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with the wire rope, wire rods, alloy bars, and structural shapes produced at the Vernon, Calif., plant of the Bethlehem Steel Corp. contributed importantly to the decline in sales and production and to the separations of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers at the Los Angeles, Vernon, Calif., plant of the Bethlehem Steel Corp. engaged in employment related to the production of one of the following products: wire rope, wire rods, alloy bars, or structural shapes, who became totally or partially separated from employment on or after November 15, 1975, and before January 1, 1977, are eligible to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974. All workers separated on or after January 1, 1977, are denied eligibility to apply for adjustment assistance.

I further conclude that workers engaged in employment related to the production of carbon steel bars at the Los Angeles, Vernon, Calif., plant of the Bethlehem Steel Corp. are denied eligibility to apply for adjustment assistance.

Signed at Washington, D.C., this 30th day of March 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-9324 Filed 4-6-78; 8:45 am]

[4510-28]

[TA-W-2663]

BRASWELL SHIPYARDS, INC., BOSTON, MASS., CHARLESTON, S.C.

Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2663: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on November 29, 1977 in response to a worker petition received on November 17, 1977 which was filed on behalf of workers and former workers engaged in the conversion and repair of U.S. Government ships. The investigation revealed that Braswell Shipyards also repairs ships owned by a variety of other non-government customers.

The Notice of Investigation was published in the FEDERAL REGISTER on December 16, 1977 (42 FR 63486). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Braswell Shipyards, Inc. and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the act must be met. The Department has determined that services are not "articles" within the meaning of section 222 of the act, and that independent firms for which the subject firm provides services cannot be considered to be the "workers' firm."

The Department's investigation revealed that Braswell Shipyards, Inc. repairs ships, and operates a shipyard in Charleston, S.C. and one in Boston, Mass. Incorporated in South Carolina in 1972, Braswell Shipyards has no parent company and no subsidiaries, nor is the firm financially, corporately, or otherwise involved in the business of any of its customers.

Workers at Braswell Shipyards are engaged in repair operations and perform no production operations.

Workers at Braswell Shipyards, Inc. do not produce an article within the meaning of section 222(3) of the act. This Department has already determined that the performance of services is not covered by the adjustment assistance program. See Notice of Determination in *Pan American World Airways, Incorporated* (TA-W-153, 40 FR 54639). The question in this case is whether any customers of Braswell Shipyards, Inc., i.e., firms which produce an article (namely ships) and for whom the serv- ice is provided, can be considered the "workers' firm". See Notice of Determination in *Nu Car Driveaway, Incorporated* (TA-W—393, 41 FR 12749).

Braswell Shipyards, Inc. is not financially, corporately, or otherwise involved in the business of any of its customers. The workers on whose behalf this petition was filed were hired and are paid by and subject to the control of Braswell Shipyards personnel only. All employment benefits are provided and maintained by Braswell Shipyards, Inc. Thus, Braswell Shipyards must be considered the workers' firms.

CONCLUSION

After careful review I determine that workers at Braswell Shipyards, Inc., Boston, Mass. and Charleston, S.C. are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 31st day of March 1978.

HARRY GRUBERT,
Director, Office of Foreign Economic Research.

[FR Doc. 78-9326 Filed 4-6-78; 8:45 am]

[4510-28]

[TA-W-2290]

BORT CARLTON CO., BOSTON, MASS.

Notice of Revised Certification of Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, on February 28, 1978, the Department of Labor issued a certification of eligibility to apply for adjustment assistance to all workers at the Bort Carlton Co. The Notice of Certification was published in the FEDERAL REGISTER on March 10, 1978 (43 FR 9874).

Subsequent to the certification, the Office of Trade Adjustment Assistance was notified that two individuals were retained by the company after closing in order to provide wage and separation information to the State agency. These workers were separated the first week in November 1977. The termination date in the certification, therefore, is revised to cover these workers.

The revised certification applicable to TA-W-2290 is hereby issued as follows:

All workers at the Boston, Mass., plant of the Bort Carlton Co. who became totally or partially separated from employment on or after August 1, 1977, and before November 15, 1977, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974. All workers separated on or after November 15, 1977, are denied eligibility.

Signed at Washington, D.C., this 30th day of March 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-9325 Filed 4-6-78; 8:45 am]

[4510-28]

[TA-W-2631]

BROWN SHOE CO. POCAHONTAS, ARK.

Certification Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2631: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on November 21, 1977 in response to a worker petition received on November 10, 1977 which was filed by the United Shoe Workers of America on behalf of workers and former workers producing women's dress shoes at the Pocahontas, Arkansas plant of the Brown Shoe Co.

The Notice Of Investigation was published in the FEDERAL REGISTER on December 6, 1977 (42 FR 61696). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Brown Shoe Co., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. It is concluded that all of the requirements have been met.

Imports of women's nonrubber footwear, except athletic, increase 0.2 percent from 1975 to 1976, and declined 8.9 percent in the first nine months of 1977 compared to the same period of 1976. The ratios of imports to domestic production and consumption declined from 119.1 percent and 54.4 percent, respectively, in 1975, to 117.9 percent and 54.1 percent, respectively, in 1976. The same ratios increased from 119.9 percent and 54.5 percent respectively, in the first nine months of 1976 to 124.9 percent and 55.5 percent, respectively, in the first nine months of 1977.

The International Trade Commission recently found that certain footwear articles, including women's nonrubber footwear, are being imported into the United States in such increased quantities as to be a substantial cause of serious injury to the domestic industry producing such articles. In the case of women's nonrubber footwear, the ratio of imports to domestic production has been greater than 99 percent in each of the past five years, reaching a peak level of 124.9 percent in the first nine months of 1977.

The Brown Shoe Co. began importing women's footwear in November, 1975. The company increased its imports 10 percent from fiscal year 1976 to fiscal 1977, where the fiscal year extends from November through October.

A survey of retail customers of the Brown Shoe Co. indicated that some customers increased their purchases of imported women's shoes in the first nine months of 1977 compared to the same period of 1976, while reducing purchases from Brown.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles lie or directly competitve with women's shoes produced at the Pocahontas, Ark. plant of the Brown Shoe Co. contributed importantly to the decline in production and to the total or partial separation of workers at the plant. In accordance with the provisions of the Act, I make the following certifications:

"All workers at the Pocahontas, Arkansas plant of the Brown Shoe Company who became totally or partially separated from employment on or after November 2, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974."

Signed at Washington, D.C. this 29th day of March 1978.

HARRY GRUBER,
Director, Office of Foreign Economic Research.

[FR Doc. 78-9327 Filed 4-6-78; 8:45 am]

[4510-28]

[TA-W-2791]

CASCADE STEEL ROLLING MILLS, INC. McMINNVILLE, ORE.

Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2791: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on December 21, 1977 in response to a worker petition received on December 9, 1977 which was filed by the United Steelworkers of America on behalf of workers and former workers producing reinforcing bars, rounds and fence posts at the McMinnville, Oreg. plant of Cascade Steel Rolling Mills, Inc.

The Notice of Investigation was published in the FEDERAL REGISTER on January 10, 1978 (43 FR 1556). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Cascade Steel Rolling Mills, Inc., its customers, the U.S. Department of Commerce, the International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

that sales or production or both of the firm or subdivision have decreased absolutely

Sales and production of reinforcing bar and rounds increased in quantity in 1976 compared to 1975. This trend continued throughout 1977 when sales increased every quarter of 1977 compared to the same quarter of 1976. Sales of rebar account for almost all of total plant sales.

CONCLUSION

After careful review, I conclude that all workers at the McMinnville, Oreg. plant of Cascade Steel Rolling Mills, Inc. are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 29th day of March 1978.

HARRY GRUBER,
Director, Office of Foreign Economic Research.

[FR Doc. 78-9328 Filed 4-6-78; 8:45 am]

[4510-28]

[TA-W-2997]

CENTRE FOUNDRY & MACHINE CO. WHEELING WORKS: WHEELING, W. VA.

Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on January 31, 1978 in response to a worker petition received on January 10, 1978 which was filed by the United Steelworkers of America on January 5, 1978 on behalf of workers and former workers producing grey iron castings at the Wheeling, W. Va. plant of Centre Foundry and Machine Co.

Notice of investigation was published in the FEDERAL REGISTER on February 17, 1978 (43 FR 7076). No

public hearing was requested and none was held.

Centre Foundry and Machine Co. has one plant at Warwood, W. Va. designated The Wheeling Works. Both company and local union officials confirmed that fact of only one plant known as The Wheeling Works located in Warwood, W. Va.

Since the Warwood plant is the subject of worker petition investigation TA-W-2996 and since there is not a second plant at Wheeling, continuation of this investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C. this 28th day of March 1978.

HAROLD A. BRATT,
Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 78-9329 Filed 4-6-78; 8:45 am]

[4510-28]

[TA-W-2491]

CHARLES LYONS CORP. LOS ANGELES, CALIF.

Certification Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2491: investigation regarding certification of eligibility to apply for adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on October 20, 1977 in response to a worker petition received on October 12, 1977 which was filed on behalf of workers and former workers producing men's suits, sportcoats, and trousers at the Charles Lyons Corp., Los Angeles, Calif.

The notice of investigation was published in the FEDERAL REGISTER on November 1, 1977 (42 FR 57174). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Charles Lyons Corp., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, the National Cotton Council, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. It is concluded that all of the requirements have been met.

Imports of men's and boys' tailored dress coats and sportcoats increased from 5,465 thousand units in 1975 to 6,965 thousand units in 1976. For the first three quarters of 1977, imports were 4,656 thousand units, down from 5,694 thousand units in the first three quarters of 1976. The imports to domestic production ratio increased from 28.2 percent in 1975 to 32.4 percent in 1976.

Imports of men's and boys' tailored suits increased from 3,106 thousand units in 1975 to 3,562 thousand units in 1976. Imports increased from 2,518 thousand units in the first three quarters of 1976 to 3,134 thousand units in the first three quarters of 1977. The imports to domestic production ratio increased from 18.3 percent in 1975 to 20.0 percent in 1976.

Imports of men's and boys' dress and sport trousers and shorts increased from 55,508 thousand units in 1975 to 73,209 thousand units in 1976. Imports increased from 50,927 thousand units in the first three quarters of 1976 to 54,375 thousand units in the first three quarters of 1977. The imports to domestic production ratio increased from 34.1 percent in 1975 to 41.9 percent in 1976.

A survey of customers of the Charles Lyons Corp. indicated that some had increased purchases of imported men's suits, sportcoats, or trousers while reducing purchases from Charles Lyons in 1976 or the first 9 months of 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with men's suits, sportcoats, and trousers produced by the Charles Lyons Corp., Los Angeles, Calif. contributed importantly to the decrease in sales and production and to the total or partial separation of workers at the firm. In accordance with the provisions of the Act, I make the following certification:

"All workers of the Charles Lyons Corp., Los Angeles, Calif. who became totally or partially separated from employment on or after October 3, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974".

Signed at Washington, D.C. this 29th day of March 1978.

HARRY GRUBERT,
Director, Office of Foreign Economic Research.

[FR Doc. 78-9330 Filed 4-6-78; 8:45 am]

[4510-28]

[TA-W-2309]

COLT INDUSTRIES, INC., PRATT & WHITNEY MACHINE TOOL DIVISION, WEST HARTFORD, CONN.

Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2309: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on August 31, 1977, in response to a work petition received on August 26, 1977, which was filed by the United Auto Workers on behalf of workers and former workers producing metal cutting tools and gages at the Pratts & Whitney Machine Tool Division of Colt Industries, Inc., Cutting Tool and Gage Operation, West Hartford, Conn.

The Notice Of Investigation was publishes in the FEDERAL REGISTER on September 20, 1977 (42 FR 47271). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Pratt & Whitney, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, the Metal Cutting Tools Institute, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met.

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The impact of imports in the domestic market for metal cutting tools has been small and did not change appreciably from 1975 to 1976 or in the first 8 months of 1977 compared to the same period of 1976. The ratio of imports to domestic production of metal cutting tools has remained at 3 percent in 1975, 1976, and the first 8 months of 1977. The ratio of imports to domestic production of precision measuring tools has remained at less than 10 percent in 1975, 1976, and the first 8 months of 1977.

A survey of customers of Pratt & Whitney's Cutting Tool and Gage Operation revealed than most respondants which decreased purchases of metal cutting tools and precision measuring tools from Pratt & Whitney increased purchases from other domestic sources and did not purchase imports.

CONCLUSION

After careful review, I conclude that all workers at the Colt Industries, Inc., Pratt & Whitney Machine Tool Division, Cutting Tool and and Gage Operation, West Hartford, Conn., are denied eligibility to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 30th day of March 1978.

HARRY GRUBERT,
Director, Office of Foreign Economic Research.

[FR Doc. 78-9331 Filed 4-6-78; 8:45 am]

[4510-28]

[TA-W-2400]

D&H SPORTSWEAR, BOSTON, MASS.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2400: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on September 29, 1977, in response to a worker petition received on September 28, 1977, which was filed on behalf of workers and former workers producing ladies' sportswear. During the course of the investigation it was revealed that both girls' and ladies' sportswear is produced.

The notice of investigation was published in the FEDERAL REGISTER on October 14, 1977 (42 FR 5534). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of D&H Sportswear, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, the National Cotton Council of America, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the act must be met. The investigation has revealed that all of the requirements have been met.

U.S. imports of women's, misses', and children's blouses and shirts increased from 26,113 thousand dozen in 1975 to 30,273 thousand dozen in 1976 and increased to 24,036 thousand dozen in the first 9 months of 1977 compared to 24,016 thousand dozen for the same period of 1976.

U.S. imports of women's, misses', and children's skirts increased from 517 thousand dozen in 1975 to 791 thousand dozen in 1976 and decreased in the first 9 months of 1977 to 442 thousand dozen compared to 690 thousand dozen for the same period in 1976.

The ratio of imports to domestic production for women's, misses', and children skirts increased from 10.8 percent in 1975 to 11.2 percent in 1976.

U.S. imports of women's, misses', and children's slacks and shorts increased from 10,067 thousand dozen in 1975 to 11,040 thousand dozen in 1976 and increased to 9,080 thousand dozen during the first 9 months of 1977 compared to 8,549 thousand dozen for the same period in 1976.

A survey of D&H Sportswear's major manufacturer revealed that the manufacturer increased its imports of girls' and ladies' sportswear in 1976 and 1977, while at the same time decreaked its utilization of D&H Sportswear.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with girls' and ladies' sportswear produced by D&H Sportswear, Boston, Mass., contributed importantly to the separations of workers of that firm. In accordance with the provisions of the act, I make the following certification:

All workers of D&H Sportswear, Boston, Mass., who became totally or partially separated from employment on or after September 24, 1976, are eligible to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 30th day of March 1978.

HARRY GRUBERT,
Director, Office of Foreign Economic Research.

[FR Doc. 78-9333 Filed 4-6-78; 8:45 am]

[4510-28]

[TA-W-2899]

DANA-MARIE FASHIONS, INC., PATERSON, N.J.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2899: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on January 11, 1978 in response to a worker petition received on December 22, 1977, which was filed on behalf of workers and former workers producing women's coats and jackets and men's jackets at Dana-Marie Fashions, Inc., Paterson, N.J.

The notice of investigation was published in the FEDERAL REGISTER on January 22, 1978 (43 FR 3776). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Dana-Marie Fashions, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, the National Cotton Council of America, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each group eligibility requirements of section 222 of the act must be met. It is concluded that all of the requirements have been met.

U.S. imports of women's, misses', and children's coats and jackets increased in 1975 to 1,517 thousand dozens and increased in 1976 to 2,252 thousand dozens. Imports increased to 2,081 thousand dozens in the first three quarters of 1977 compared to 1,680 thousand dozens in the same period of 1976.

The ratio of imports to domestic production increased from 38.9 percent in 1975 to 57.5 percent in 1976.

U.S. imports of men's and boys' outer coats and jackets decreased in 1975 to 20,034 thousand units. In 1976 imports rose to 222,060 thousand units and increased to 20,344 thousand units in the first three quarters of 1977 compared to 16,055 thousand units in the same period of 1976.

The ratio of imports to domestic production increased from 28.1 percent in 1975 to 31.3 percent in 1976.

The Department of Commerce surveyed manufacturers and jobbers which contracted orders with Dana-Marie Fashions, Inc. The survey revealed that the manufacturer which contracted the majority of orders with Dana-Marie Fashions, Inc. increased its purchases of imported coats and jackets.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with women's coats and jackets and men's jackets produced by Dana-Marie Fashions, Inc., Paterson, N.J. contributed importantly to the total or partial separation of workers at the firm. In accordance with the provisions of the act, I make the following certification:

All workers at Dana-Marie Fashions, Inc., Paterson, N.J. who became totally or partially separated from employment on or after December 19, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 30th day of March 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-9332 Filed 4-6-78; 8:45 am]

[4510-28]

[TA-W-2043]

DOLE PINEAPPLE CO., HONOLULU, HAWAII

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2043: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on May 3, 1977 in response to a worker petition received on May 2, 1977 which was filed by the International Longshoreman Workers' Union on behalf of workers and former workers canning pineapple at the Oahu Cannery of Dole Pineapple Co., Honolulu, Hawaii, a division of Castle and Cooke, Inc.

The Notice of Investigation was published in the FEDERAL REGISTER on May 20, 1977 (42 FR 25941). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from Dole Pineapple Co., the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated.

Total employment at the Oahu Cannery increased three percent in 1976 from 1975 and increased in the first half of 1977 compared to the first half of 1976. Non-seasonal employment increased in the first half of 1977 compared to the first half of 1976. Employment increased in three consecutive quarters from the fourth quarter of 1976 to the second quarter of 1977. Involuntary separations of workers have not occurred at the Oahu Cannery since prior to 1975.

CONCLUSION

After careful review of the facts obtained in the investigation, I determine that workers at the Oahu Cannery of Dole Pineapple Co., Honolulu, Hawaii are denied eligibility to apply for adjustment assistance.

Signed at Washington, D.C. this 30th day of March 1978.

HARRY GRUBERT,
Director, Office of Foreign Economic Research.

[FR Doc. 78-9334 Filed 4-6-78; 8:45 am]

[4510-28]

[TA-W-1947]

EARTH SHOE CORP., MIDDLEBORO, MASS.

Revised Certification of Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, on June 29, 1977, the Department of Labor issued a certification of eligibility to apply for adjustment assistance to all workers at the Middleboro plant and the Somerset warehouse of Earth Shoe Corp. and the New York, N.Y., offices of Kalso Systemet, Inc. The Notice of Certification was published in the FEDERAL REGISTER on July 12, 1977 (42 FR 35911).

Subsequent to the certification, the Office of Trade Adjustment Assistance was contacted by a former employee of Earth Shoe Stores, Inc., the sales subsidiary of Kalso Systemet, concerning his status and that of fellow workers relative to the certification. It was discovered in the course of further investigation that for the typical retail sales store of Earth Shoe Stores, Inc., a majority of its sales consisted of earth shoes produced by its affiliate, Earth Shoe Corp. of Middleboro, Mass., while the rest largely consisted of earth shoes (sandals) produced in Scandinavia. The certification, therefore, is revised to cover workers of Earth Shoe Stores, Inc., including all its retail outlets.

The revised certification applicable to TA-W-1947 is hereby issued as follows:

All workers at the Middleboro, Mass., plant and the Somerset, Mass., warehouse of Earth Shoe Corp., the New Yok, N.Y., offices of Kalso Systemet, Inc., and Earth Shoe Stores, Inc., including all retail outlets listed below, who became totally or partially separated from employment on or after April 24, 1976, are eligible to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

117 East 17th Street, New York, N.Y. 10003
933 Franklin Avenue, Garden City, N.Y. 11530
793 Lexington Avenue, New York, N.Y. 10021
108 Mamaroneck Avenue, White Plains, N.Y. 10601
91-31 Queens Boulevard, Elmhurst, N.Y. 11373
1201 Kings Highway, Brooklyn, N.Y. 11229
264 North Pleasant Street, Amherst, Mass. 01002
Burlington Mall, Box 15, Burlington, Mass. 01803
14 Story Street, Cambridge, Mass. 02138
122 Stanford Shopping Center, Palo Alto, Calif. 94304
3393 Peachtree Road, NE., Atlanta, Ga. 30326
7832 Eastpoint Mall, Baltimore, Md. 21224
5826 Westview Mall, Baltimore, Md. 21228
534 Sharpstown Center, Houston, Tex. 77036
406 East Liberty Street, Ann Arbor, Mich.
1695 South Woodward Avenue, Birmingham, Mich. 48011
300 Route 17, Paramus, N.J. 07652

Signed at Washington, D.C., this 30th day of March 1978.

HARRY GRUBERT,
Director, Office of Foreign Economic Research.

[FR Doc. 78-9335 Filed 4-6-78; 8:45 am]

[4510-28]

[TA-W-3230]

EAST RANGE CLINIC, ERIE MINING DISPENSARY, VIRGINIA, MINN.

Negative Determination Regarding Eligibility To Apply for Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-3230: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 223 of the Act.

The investigation was initiated on February 23, 1978, filed by workers of the East Range Clinic, Erie Mining Dispensary Department, providing medical services to the workers of the Erie Mining. Co.

A notice of investigation was published in the FEDERAL REGISTER on March 14, 1978 (43 FR 10650-51). No public hearing was requested and none was held.

The information upon which the determination was made was obtained from officials of East Range Clinics, Ltd.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met.

Evidence developed during the Department's investigation, revealed that the petitioners primary duty was to provide various medical services to workers of the Erie Mining Company. The petitioners are employees of East Range Clinics Ltd. The cost of their services is reimbursed to the clinic by the Erie Mining Company.

The petitioners did not produce any articles, and the Department of Labor has previously determined that the performance of services is not included in the term "articles" as used in section 222(3) of the Act. See notice of negative determination from Pan American Airways, Inc. TA-W-153; (40 FR 54639).

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that the services performed for the workers of the Erie Mining Company by the petitioners are not articles within the meaning of section 222(3) of the Trade Act of 1974, and consequently, that the petitioners are not eligible to apply for adjustment assistance benefits.

Signed at Washington, D.C. this 30th day of March 1978.

HARRY GRUBERT,
Director, Office of Foreign Economic Research.

[FR Doc. 78-9336 Filed 4-6-78; 8:45 am]

[4510-28]

[TA-W-2619]

FAIRHAVEN CORP. NEW BEDFORD, MASS.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2619: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on November 17, 1977 in response to a worker petition received on November 7, 1977 which was filed on behalf of workers and former workers producing handbags at the Fairhaven Corp., New Bedford, Mass.

The Notice Of Investigation was published in the FEDERAL REGISTER on December 13, 1977 (42 FR 62556). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Fairhaven Corp., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. It is concluded that all of the requirements have been met.

Imports of handbags increased 56 percent from 1975 to 1976 and decreased 2 percent in the first three quarters of 1977 compared to the first three quarters of 1976.

The ratios of imports to domestic production and consumption increased from 75.9 percent and 43.5 percent, respectively, in 1975, to 124.8 percent and 56 percent, respectively, in 1976. The ratios of imports to domestic production and consumption increased from 126.2 percent and 56.3 percent respectively in the first three quarters of 1976 to 177.3 percent and 64.4 percent, respectively in the first three quarters of 1977.

Customers of Fairhaven Corp. representling 100 percent of sales decreased purchases of handbags from Fairhaven Corp. and increased their purchases of imported handbags in 1977 compared to 1976.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with handbags produced at Fairhaven Corp., New Bedford, Mass. contributed importantly to the decline in sales or production and the total or partial separation of the workers of that firm.

In accordance with the provisions of the Act, I make the following certifications:

All workers engaged in employment related to the production of handbags at Fairhaven Corp., New Bedford, Mass. who became totally or partially separated from employment on or after November 3, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 31st day of March 1978.

HARRY GRUBERT,
Director, Office of Foreign Economic Research.

[FR Doc. 78-9337 Filed 4-6-78; 8:45 am]

[4510-28]

[TA-W-2566]

FILPER CORP., SAN RAMON, CALIF.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2566: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on November 7, 1977 in response to a worker petition received on October 19, 1977, which was filed on behalf of workers and former workers servicing food processing machines at the San Ramon, Calif. plant of the Filper Corp. The investigation revealed that peach pitting machines, produce bagging machines and carrot bagging machines were produced as well as serviced at the San Ramon plant.

The notice of investigation was published in the FEDERAL REGISTER on November 18, 1977 (42 FR 59584). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Filper Corp. and the International Association of Machinists and Aerospace Workers.

In order to make an affirmative determination and issue a certificaton of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met. Without regard to whether any of the the other criteria have been met the following criterion has not been met:

that increases of imports of articles like or directly competitive with articles produced by the firm or subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production

The Department's investigation revealed that the Filper Corp. shifted its production and overhauling activities from its San Ramon, Calif. plant to a newly constructed facility in Reno, Nev., resulting in separations of workers at the San Ramon, Calif. plant. By January 1978 employment at the Reno facility had increased to a level approximately equal to employment at the San Ramon facility in January 1977.

The Department's investigation further revealed that imports of articles like or directly competitive with those produced by the Filper Corp. have not adversely affected Filper's operations, as evidenced by the fact that the number of leased peach pitters in service from Filper increased in 1976 compared to 1975 and increased in 1977 compared to 1976 and sales and production of produce baggers, carrot baggers and accessories increased in 1976 compared to 1975 and increased in 1977 compared to 1976.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that all workers at the San Ramon, California plant of Filper Corp. are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 31st day of March 1978.

HARRY GRUBERT,
Director, Office of Foreign Economic Research.

[FR Doc. 78-9338 Filed 4-6-78; 8:45 am]

[4510-28]

[TA-W-2482]

FROLIC FOOTWEAR, WALNUT RIDGE, ARK.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2482: Investigation regarding certification of eligibility to apply for

worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on October 19, 1977 in response to a worker petition received on October 7, 1977, which was filed by the Retail Clerks International Union, Local 822 on behalf of workers and former workers producing women's shoes and boots at Frolic Footwear, Walnut Ridge, Ark., a division of Wolverine Worldwide, Inc.

The Notice of Investigation was published in the FEDERAL REGISTER on November 4, 1977 (42 FR 57775). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Frolic Footwear, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. It is concluded that all of the requirements have been met.

U.S. imports of women's nonrubber footwear increased absolutely and relative to domestic production from 1972 to 1973. Imports declined absolutely and relatively between 1973 and 1974. Imports were 183.5 million pairs in 1975, increasing to 183.8 million pairs in 1976.

Imports for the first 9 months of 1977 declined absolutely to 134.4 million pairs compared to 147.6 million pairs for the first 9 months of 1976. Imports for the first 9 months of 1977 increased relative to domestic production to 124.9 percent compared to 119.1 percent in 1976.

A survey of the customers of Frolic Footwear revealed that their purchases of imported women's shoes and boots increased 1975 and 1976 and in the first 9 months of 1977 compared to the first 9 months of 1976, while purchases from Frolic Footwear declined.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with women's shoes and boots produced by the Walnut Ridge, Ark. plant of Frolic Footwear contributed importantly to the decline in sales and production and the separation of workers at that plant. In accordance with the provisions of the Act, I make the following certification:

All workers at Frolic Footwear, Walnut Ridge, Ark. who became totally or partially separated from employment on or after October 4, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 30th day of March 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-9339 Filed 4-6-78; 8:45 am]

[4510-28]

[TA-W-2473]

GAF CORP., PROGRESS, OREG.

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2473: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on October 17, 1977, in response to a worker petition received on October 7, 1977 which was filed on behalf of workers and former workers producing slide projectors and movie projectors at the Progress, Oregon plant of the GAF Corp.

The notice of investigation was published in the FEDERAL REGISTER on November 8, 1977 (42 FR 58210). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of GAF Corp. its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met.

Without regard to whether any of the other criteria have been met, the following criterion has not been met with respect to workers engaged in employment related to the production of slide projectors.

That increase of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threats thereof, and to the absolute decline in sales or production.

The Department conducted a survey of some of the customers of the Progress plant that purchased slide projectors in 1976 and 1977. The survey revealed that none of the customers that responded purchased any imported slide projectors.

It is further concluded that all of the requirements of section 222 of the act have been met with respect to workers engaged in employment related to the production of movie projectors.

U.S. imports of 8 mm movie projectors increased in 1976 to 135,135 units from 66,155 units in 1975. Imports in the first 9 months of 1977 increased to 138,991 units from 88,089 units imported in the same period in 1976. The ratio of imports to domestic production of movie projectors increased to 34.7 percent in 1976 from 15.4 percent in 1975.

The Department conducted a survey of some of the customers of the Progress plant that purchased movie projectors in 1976 and 1977. The survey revealed that some important customers decreased their purchases of movie projectors from GAF and increased their purchases of imports in 1977 compared to 1976.

GAF imported sound movie projectors. The Progress plant produced only silent movie projectors. While sales of silent projectors declined at GAF, imports and subsequent sales of sound movie projectors increaased. GAF imports of sound movie projectors increased in 1976 compared to 1975 and further increased in the first 9 months of 1977 compared to the like period in 1976.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increased imports of articles like or directly competitive with the 8 mm movie projectors produced at the Progress, Oregon plant of the GAF Corp. contributed importantly to the decline in sales and production and to the total or partial separations of the workers of that plant producing movie projectors. In accordance with the provisions of the act, I make the following certification:

All workers at the Progress, Oregon plant of the GAF Corp. engaged in employment related to the production of 8 mm movie projectors who became totally or partially separated from employment on or after September 23, 1976, are eligible to apply for adjustment assistance under title II, chapter 2 of the Trade Act of 1974.

I further conclude that workers engaged in employment related to the production of slide projectors at the Progress, Oregon plant of the GAF Corp. are denied eilgibility to apply for adjustment assistance.

Signed at Washington, D.C. this 31st day of March 1978.

HARRY GRUBERT,
Director, Office of Foreign Econmic Research.

[FR Doc. 78-9340 Filed 4-6-78; 8:45 am]

[4510-28]

[TA-W-2530]

GENERAL INSTRUMENT CORP., F. W. SICKLES DIVISION, CHICOPEE, MASS.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2530: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on October 31, 1977 in response to a worker petition received on October 26, 1977 which was filed on behalf of former workers engaged in administrative and quality control functions at the F. W. Sickles Division of the General Instrument Corp., Chicopee, Mass.

The Notice of Investigation was published in the FEDERAL REGISTER on November 15, 1977 (42 FR 59131). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the F. W. Sickles Division of the General Instrument Corp., and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the act must be met. Without regard to whether any of the other criteria have been met, criterion three has not been met.

that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threats thereof, and to the absolute decline in sales or production.

The F. W. Sickles Division of General Instrument Corp. produces components for the television industry. All production facilities for these components are located in foreign plants. All administrative and service personnel at the Sickles Division office in Chicopee, Mass. perform support functions for products produced exclusively overseas.

CONCLUSION

After careful review of the issues and facts involved, I determine that workers at the F. W. Sickles Division of General Instrument Corp., Chicopee, Mass. are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 31st day of March 1978.

HARRY GRUBERT,
Director, Office of Foreign Economic Research.

[FR Doc. 78-9341 Filed 4-6-78; 8:45 am]

[4510-28]

[TA-W-2255]

GLENEAGLES DIVISION OF HART SCHAFFNER & MARX, CHISHOLM, MINN.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2255: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the act.

The investigation was initiated on August 15, 1977 in response to a worker petition received on August 15, 1977 which was filed by the Amalgamated Clothing and Textile Workers Union on behalf of workers and former workers producing men's jackets at the Chisholm, Minn. plant of the Gleneagles Division of Hart Schaffner & Marx.

The notice of investigation was published in the FEDERAL REGISTER on September 2, 1977 (42 FR 44298). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Gleneagles Division, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threats thereof, and to the absolute decline in sales or production.

The Department's investigation revealed that the Chisholm, Minn. plant of the Gleneagles Division of Hart Schaffner & Marx ceased production on March 5, 1977.

Evidence developed during the course of the investigation revealed that most customers of Gleneagles do not purchase imported golf jackets. Of those that did, one customer indicated it was done primarily for promotional purposes while the only other customer who increased purchases offshore stated that imports did not affect their purchases from Gleneagles and the greatest competition comes from the domestic market. The consensus among the respondents was there was little import influence in the market for golf jackets.

CONCLUSION

After careful review I conclude that all workers at the Chisholm, Minn. plant of the Gleneagles Division of Hart Schaffner & Marx are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 30th day of March 1978.

HARRY GRUBERT,
Director, Office of Foreign Economic Research.

[FR Doc. 78-9342 Filed 4-6-78; 8:45 am]

[4510-28]

[TA-W-2096]

HELENE DEE, PLAINFIELD, N.J.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2096: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on May 24, 1977, in response to a worker petition received on May 23, 1977, which was filed by the International Ladies Garment Workers Union on behalf of workers and former workers producing dresses at Helene Dee, Plainfield, N.J.

The notice of investigation was published in the FEDERAL REGISTER on June 3, 1977 (42 FR 28633). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Helene Dee, its customers, the National Cotton Council of America, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met, the following criterion has not been met:

That increases of imports of articles like or directly competitive with those produced by the firm or subdivision have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production.

Evidence developed during the course of the investigation revealed

that the impact of imports in the domestic market for women's and misses' dresses has been small and did not change appreciably from 1975 to 1976 or in the first half of 1977 compared to the first half of 1976. From 1975 to 1976 the ratio of imports to domestic production remained constant at 4.5 percent while imports increased by only 2.2 percent in absolute terms. Imports fell by 12.4 percent in the first half of 1977 compared to the first half of 1976.

The manufacturer which contracted the majority of orders with Helene Dee experienced a sales decrease from 1975 to 1976 and went out of business in 1977. A sample survey of the customers of this manufacturer reflects the relatively minor influence of imports of women's dresses in the market served by the manufacturer. Customers responding to the survey indicated that during the period from 1975 to 1976 purchases of imported dresses either decreased or represented a relatively small percentage of the respective customers' total purchases of women's dresses. The consensus among the respondents was that there was little import influence in the market for women's dresses.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with ladies' dresses produced at the Plainfield, N.J., plant of Helene Dee did not contribute importantly to the decrease in sales or to the total or partial separation of the workers at that plant.

Signed at Washington, D.C., this 29th day of March 1978.

HARRY GRUBER,
Director, Office of
Foreign Economic Research.

[FR Doc. 78-9343 Filed 4-6-78; 8:45 am]

[4510-28]

[TA-W-3081]

HERCULES TROUSER CO., FORDYCE, ARK.

Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on February 7, 1978 in response to a worker petition received on January 31, 1978 which was filed by the Amalgamated Clothing and Textile Workers Union on January 10, 1978 on behalf of workers and former workers producing men's dress and sport slacks at the Fordyce Apparel Co., a division of Hercules Trouser Co.

Notice of investigation was published in the FEDERAL REGISTER on February 24, 1978 (43 FR 7744). No public hearing was requested and none was held.

On June 24, 1976 the Department certified as eligible to apply for adjustment assistance all workers at the Fordyce Apparel Co., a division of Hercules Trouser Co. (TA-W-729). Since workers newly separated, totally or partially, from employment at such plant on or before March 9, 1975 (impact date) and before June 24, 1978 (expiration date of the certification) are covered by an existing certification, continuation of this investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C. this 29th day of March 1978.

MARVIN M. FOOKS,
Director, Office of
Trade Adjustment Assistance.

[FR Doc. 78-9347 Filed 4-6-78; 8:45 am]

[4510-28]

[TA-W-3079]

HERCULES TROUSER CO., MANCHESTER, OHIO

Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on February 7, 1978 in response to a worker petition received on January 31, 1978 which was filed by the Amalgamated Clothing and Textile Workers Union on January 10, 1978 on behalf of workers and former workers producing men's dress slacks at the Manchester, Ohio plant of Hercules Trouser Co.

Notice of investigation was published in the FEDERAL REGISTER on February 24, 1978 (43 FR 7744). No public hearing was requested and none was held.

On June 24, 1976 the Department certified as eligible to apply for adjustment assistance all workers at the Manchester, Ohio plant of Hercules Trouser Company (TA-W-727). Since workers newly separated, totally or partially, from employment at such plant on or before March 9, 1975 (impact date) and before June 24, 1978 (expiration date of the certification) are covered by an existing certification, continuation of this investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C. this 29th day of March 1978.

MARVIN M. FOOKS,
Director, Office of
Trade Adjustment Assistance.

[FR Doc. 78-9345 Filed 4-6-78; 8:45 am]

[4510-28]

[TA-W-3080]

HERCULES TROUSER CO., HILLSBORO, OHIO

Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on February 7, 1978 in response to a worker petition received on January 31, 1978 which was filed by the Amalgamated Clothing and Textile Workers Union on January 10, 1978 on behalf of workers and former workers producing men's dress slacks at the Hillsboro, Ohio plant of Hercules Trouser Co.

Notice of investigation was published in the FEDERAL REGISTER on February 24, 1978 (43 FR 7744). No public hearing was requested and none was held.

On June 24, 1976 the Department certified as eligible to apply for adjustment assistance all workers at the Hillsboro, Ohio plant of Hercules Trouser Co. (TA-W-728). Since workers newly separated, totally or partially, from employment at such plant on or before March 9, 1975 (impact date) and before June 24, 1978 (expiration date of the certification) are covered by an existing certification, continuation of this investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C. this 29th day of March 1978.

MARVIN M. FOOKS,
Director, Office of
Trade Adjustment Assistance.

[FR Doc. 78-9346 Filed 4-6-78; 8:45 am]

[4510-28]

[TA-W-3078]

HERCULES TROUSER CO., WELLSTON, OHIO

Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on February 7, 1978 in response to a worker petition received on January 31, 1978 which was filed by the Amalgamated Clothing and Textile Workers union on January 10, 1978 on behalf of workers and former workers producing men's dress slacks at the Wellston, Ohio plant of Hercules Trouser Co.

Notice of investigation was published in the FEDERAL REGISTER on February 24, 1978 (43 FR 7744). No public hearing was requested and none was held.

On June 24, 1976 the Department certified as eligible to apply for adjustment assistance all workers at the Wellston, Ohio plant of Hercules Trouser Co. (TA-W-726). Since workers newly separated, totally or partially, from employment at such plant on or before March 9, 1975 (impact date) and before June 24, 1978 (expiration date of the certification) are covered by an existing certification, continuation of this investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C. this 29th day of March 1978.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc. 78-9344 Filed 4-6-78; 8:45 am]

[4510-28]

[TA-W-3148]

HUBBARD & CO., EMERYVILLE, CALIF.

Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on February 16, 1978 in response to a worker petition received on January 19, 1978 which was filed by the International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers Lodge No. 10 on behalf of workers and former workers producing various kinds of metal including pole attachments at Hubbard & Co., Emeryville, Calif.

Notice of investigation was published in the FEDERAL REGISTER on March 3, 1978 (43 FR 8862). No public hearing was requested and none was held.

During the course of the investigation, it was established that all workers were separated from employment at Hubbard & Co. on June 30, 1976. Section 223(b)(1) of the Trade Act of 1974 states that a certification under this section shall not apply to any worker whose last total or partial separation from the firm or appropriate subdivision of the firm occurred more than twelve months before the date of filing under Title II, Chapter 2 of the Trade Act of 1974.

The filing date of the petition in this case is January 16, 1978. Since workers separated from employment at Hubbard & Co. prior to January 16, 1977 are not eligible for program benefits under Title II, Chapter 2, Subchapter B of the Trade Act of 1974, continuation of this investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C. this 30th day of March 1978.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc. 78-9348 Filed 4-6-78; 8:45 am]

[4510-28]

[TA-W-2633]

HYDRO WEAVE, INC., NEW BEDFORD, MASS.

KALCO WEAVING CORP., NEW BEDFORD, MASS.

KALCO TEXTILES CO., INC., ROCKVILLE CENTRE, N.Y.

Notice of Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2633: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on November 21, 1977 in response to a worker petition received on November 10, 1977 which was filed on behalf of workers and former workers producing greige goods at Hydro Weave, Inc., New Bedford, Mass. The investigation was expanded to include Kalco Weaving Corp., New Bedford, Mass., a predecessor firm of Hydro Weave, and Kalco Textiles Co., Inc., Rockville Centre, N.Y., Hydro Weave's sales company.

The Notice of Investigation was published in the FEDERAL REGISTER on December 6, 1977 (42 FR 61696). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Hydro Weave, Inc., Kalco Textiles Co., Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, the National Cotton Council of America, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. Without regard to whether any of the the other criteria have been met, the following criterion has not been met:

that increases of imports of articles like or directly competitive with articles produced by the firm or subdivision have contributed importantly to the separations or threat thereof, and to the absolute decline in sales or production.

Imported wearing apparel cannot be considered to be like or directly competitive with finished or unfinished fabric. Imports of fabric or greige cloth must be considered in determining import injury to workers producing greige cloth.

Acetate fabric woven at Hydro Weave, Inc. was sold to converters through Kalco Textiles Company, Inc. Converters, who were customers of Hydro Weave and who responded to a survey indicated that none of the converters reported any purchases of imported greige goods in 1975, 1976, or in the first three quarters of 1977.

CONCLUSION

After careful review, I conclude that all workers at Hydro Weave, Inc., New Bedford, Mass.; Kalco Weaving Corp., New Bedford, Mass.; and Kalco Textiles Co., Inc., Rockville Centre, N.Y. are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 30th day of March 1978.

HARRY GRUBERT,
Director, Office of Foreign Economic Research.

[FR Doc. 78-9349 Filed 4-6-78; 8:45 am]

[4510-28]

[TA-W-2507]

ISAACSON STEEL CO., SEATTLE, WASH.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2507: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on October 26, 1977 in response to a worker petition received on October 17, 1977 which was filed by the International Association of Bridge, Structural and Ornamental Iron Workers on behalf of workers and former workers producing fabricated structural steel at Isaacson Steel Co., Seattle, Wash.

The notice of investigation was published in the FEDERAL REGISTER on November 15, 1977 (42 FR 59133). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Isaacson Steel Co., the American Iron and Steel Institute, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met. It is concluded that all of the requirements have been met.

Imports of fabricated structural steel increased in 1975 to 99.3 thousand tons, decreased in 1976 to 94.4 thousand tons and increased to 117.9 thousand tons in the first 9 months of 1977 compared to 77.5 thousand tons

for the same period of 1976. The ratios of imports to domestic shipments and consumption increased from 2.3 percent and 2.3 percent, respectively, in 1975 to 2.5 percent and 2.6 percent, respectively, in 1976, and from 2.7 percent and 2.8 percent, respectively, in the first nine months of 1976 to 4.5 percent and 4.4 percent, respectively, in the first 9 months of 1977.

Imports of fabricated structural steel have traditionally been confined to Alaska, Hawaii, the West Coast and areas bordering Canada. This includes Isaacson's entire market area.

In 1976 and 1977 Isaacson lost bids involving an increasing amount of production to foreign fabricators. The tonnage involved in contracts lost to foreign fabricators increased 376 percent in 1976 from 1975 and increased 51 percent in 1977 from 1976. The tonnage involved in contracts lost in 1976 and 1977 was substantially greater than Isaacson's total output in the same year.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with fabricated structural steel produced by Isaacson Steel Co., Seattle, Wash., contributed importantly to the total or partial separation of workers at that firm. In accordance with the provisions of the Act, I make the following certification:

All workers engaged in employment related to the production of fabricated structural steel at Isaacson Steel Co., Seattle, Wash. who became totally or partially separated from employment on or after October 13, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 30th day of March 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-9350 Filed 4-6-78; 8:45 am]

[4510-28]

[TA-W-2170]

JULIUS GOLDSTEIN SHOE MANUFACTURING, INC., LYNN, MASS.

Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2170: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on June 23, 1977 in response to a worker petition received on June 22, 1977, which was filed on behalf of workers and former workers producing men's slippers at Julius Goldstein Shoe Manufacturing, Inc., Lynn, Mass.

The notice of investigation was published in the FEDERAL REGISTER on July 12, 1977 (42 FR 35903). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Julius Goldstein Shoe Manufacturing, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met.

that a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated.

Evidence developed during the Department's investigation revealed that the average number of hourly production and piecework workers employed remained unchanged in 1976 compared to 1975 and in the first 6 months of 1977 compared to the same period of 1976. The layoffs that occurred were seasonal cutbacks that normally occur in the first quarter of each year.

A survey of Julius Goldstein's customers revealed most respondents did not purchase imported house slippers. The survey revealed that there has been a shift in consumer preferences from low price to better quality, higher priced slippers.

CONCLUSION

After careful review I conclude that all workers at Julius Goldstein Shoe Manufacturing, Inc., Lynn, Mass., are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 30th day of March 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-9351 Filed 4-6-78; 8:45 am]

[4510-28]

[TA-W-3182]

KAISER STEEL CORP., NAPA, CALIF.

Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on February 21, 1978 in response to a worker petition received on February 6, 1978 which was filed by the General Laborers' Union Local No. 371 on January 26, 1978 on behalf of workers and former workers producing fabricated steel and steel pipe at the Napa, Calif, plant of Kaiser Steel Corp.

Notice of investigation was published in the FEDERAL REGISTER on March 3, 1978 (43 FR 8864). No public hearing was requested and none was held.

The petitioning group of workers are identical to the group of workers included in the ongoing worker petition investigation TA-W-2955. Therefore continuation of investigation TA-W-3182 would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C. this 28th day of March 1978.

HAROLD A. BRATT,
Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 78-9352 Filed 4-6-78; 8:45 am]

[4510-28]

[TA-W-2373]

KALA MANUFACTURING CO. FALL RIVER, MASS.

Notice of Negative Determination Regarding Eligibility To Apply For Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2373: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on September 20, 1977 in response to a worker petition received on September 20, 1977 which was filed on behalf of former workers producing ladies dresses at the Kala Manufacturing Co., Fall River, Mass. During the course of the investigation, the Department determined that women's sportswear including: slacks; vests; blouses; skirts; pant suits; and women's jackets and long skirts was produced at the Kala Manufacturing Co.

The notice of investigation was published in the FEDERAL REGISTER on October 4, 1977 (42 FR 54032). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Kala Manufacturing Co., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of

eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met.

that increases of imports of articles like or directly competitive with articles produced by the firm or subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Evidence developed during the course of the investigation revealed that Kala performed contract sewing operations on women's sportswear for apparel manufacturers. Sales of women's sportswear by these manufacturers representing 100 percent of Kala's business in 1976 increased in 1976 compared to 1975. The manufacturers did not import sportswear or utilize foreign contractor. The value of the contract work performed by Kala increased in 1976 compared to 1975. Kala ceased production in December 1976.

CONCLUSION

After careful review, I conclude that all workers at Kala Manufacturing Co., Fall River, Mass. are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 31st day of March 1978.

HARRY GRUBERT,
Director, Office of Foreign Economic Research.

[FR Doc. 78-9353 Filed 4-6-78; 8:45 am]

[4510-28]

[TA-W-2885]

KENSCO COMMUNICATIONS, INC., QUINCY, MASS.

Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2885: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on January 9, 1978, in response to a worker petition received on December 19, 1977, which was filed on behalf of workers and former workers engaged in the sale and service of citizens band radios and related communications equipment at Kensco Communications, Inc., Quincy, Mass.

The Notice of Investigation was published in the FEDERAL REGISTER on January 27, 1978 (43 FR 3778). No public hearing was requested and none was held.

The information upon which the determination was made was obtained pricipally from officials of Kensco Communications, Inc., and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. The Department has determined that services are not "articles" within the meaning of section 222 of the Act, and that independent firms for which the subject firm provides services cannot be considered to be the "workers' firm".

The Department's investigation has revealed that Kensco Communications, Inc., was an independent corporation engaged in the sale and service of crystals; citizens band radios; police/fire monitors; and amateur, marine and business band communications equipment. Workers employed by Kensco were engaged solely in sales and service functions and performed no production operations.

Workers at Kensco Communications, Inc., do not produce an article within the meaning of section 222(3) of the Act. This Department has already determined that the performance of services is not covered by the adjustment assistance program. See Notice of Determination in *Pan American World Airways, Inc.* (TA-W-153, 40 FR 12749). The question in this case is whether any suppliers of Kensco Communications, Inc., i.e., firms which produce an article and for whom the service is provided, can be considered the "workers' firm". See Notice of Determination in *Nu Car Driveway, Inc.* (TA-W-393, 41 FR 12749).

Kensco Communications, Inc., is not financially, corporately, or otherwise involved in the business of any of its customers. The workers on whose behalf this petition was filed were hired and are paid by and subject to the control of Kensco Communications personnel only. All employment benefits are provided and maintained by Kensco Communications. Thus, Kensco Communications must be considered the workers' firms.

CONCLUSION

After careful review I determine that workers at Kensco Communications, Inc., Quincy, Mass. are denied eligibility to apply for adjustment assistance under Title II, chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 31st day of March 1978.

HARRY GRUBERT,
Director, Office of Foreign Economic Research.

[FR Doc. 78-9354 Filed 4-6-78; 8:45 am]

[4510-28]

[TA-W-1740]

MAGAW ELECTRIC CO., STURTEVANT, WIS.

Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1740: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on March 3, 1977, in response to a worker petition received on February 23, 1977, which was filed on behalf of workers and former workers installing electrical wiring while employed by Magaw Electric Co.

The notice of investigation was published in the FEDERAL REGISTER on March 22, 1977 (42 FR 15477). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Magaw Electric Co., and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance; each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met.

None of the group eligibility requirements are applicable to workers or firms that do not produce an article within the meaning of the Act.

Magaw Electric Co. is an independent electrical contractor. Its principal customers are manufacturing businesses located in the Kenosha, Wis. area. The firm obtains business through competitive bidding. Magaw supplies labor, wire and wiring accessories to do the electrical wiring at the customer's premises. The wire and accessories are purchased by Magaw from various manufacturers.

None of Magaw's customers have any ownership or financial control in Magaw Electric Co.

The Department of Labor has previously determined that the performance of services is not included within the term "articles" as used in section 222(3) of the Act. See Notice of Negative Determination in *Pan American World Airways, Inc.* (TA-W-153; 40 FR 54639).

Magaw Electric Co. provides the service of installing and repairing electrical wiring. Magaw Electric Co. is not involved in the production of an article within the meaning of section 222(3) of the Act.

CONCLUSION

After careful review of the issues, I have determined that the services pro-

vided by Magaw Electric Co. are not articles within the meaning of Section 222(3) of the Trade Act of 1974 and that the workers should therefore be denied eligibility to apply for adjustment assistance.

Signed at Washington, D.C. this 30th day of March 1978.

HARRY GRUBERT,
Director, Office of Foreign Economic Research.

[FR Doc. 78-9355 Filed 4-6-78; 8:45 am]

[4510-28]

[TA-W-2675]

MERIT CLOTHING COMPANY, INC., MAYFIELD, KY.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2675: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on November 21, 1977 in response to a worker petition received on November 21, 1977, which was filed on behalf of workers and former workers producing men's suits, vests, sportcoats, slacks and overcoats at Merit Clothing Co., Inc., Mayfield, Ky. The investigation revealed that slacks, sportcoats and suits were produced.

The notice of investigation was published in the FEDERAL REGISTER on December 16, 1977 (42 FR 63486). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Merit Clothing Co., Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. It is concluded that all of the requirements have been met.

Imports of men's and boys' tailored suits increased from 3,106 thousand suits in 1975 to 3,562 thousand suits in 1976. Imports of suits increased from 2,518 thousand suits in the first 9 months of 1976 to 3,134 thousand suits in the first 9 months of 1977. The ratio of imports to domestic production increased from 18.3 percent in 1975 to 20 percent in 1976.

Imports of men's and boys' dress and sport trousers and shorts increased from 55,508 thousand pairs in 1975 to 73,209 thousand pairs in 1976. Imports increased from 50,927 thousand pairs in the first 9 months of 1976 to 54,375 thousand pairs in the first 9 months of 1977. The ratio of imports to domestic production increased from 34.1 percent in 1975 to 41.9 percent in 1976.

A survey of customers of Merit Clothing Co. conducted by the Department of Commerce revealed that customers had decreased purchases from Merit Clothing and increased purchases of imports.

CONCLUSION

After careful review of the facts obtained in the investigation, it is concluded that increases of imports like or directly competitive with the men's suits manufactured by Merit Clothing Co., Inc., of Mayfield, Ky. contributed importantly to the decline in sales of production and to the total or partial separation of workers at that firm. In accordance with the provisions of the Act, I make the following certification:

All workers at Merit Clothing Co., Inc. in Mayfield, Kentucky who became totally or partially separated from employment on or after November 16, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 29th day of March 1978.

HARRY GRUBERT,
Director, Office of Foreign Economic Research.

[FR Doc. 78-9356 Filed 4-6-78; 8:45 am]

[4510-28]

[TA-W-2416]

MICKEY MADANN HANDBAGS, INC., NEW BEDFORD, MASS.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2416: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on October 4, 1977 in response to a worker petition received on September 29, 1977 which was filed on behalf of workers and former workers producing handbags at Mickey Madann Handbags, Inc., New Bedford, Mass.

The Notice of Investigation was published in the FEDERAL REGISTER on October 14, 1977 (42 FR 55317). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Mickey Madann Handbags, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. It is concluded that all the requirements have been met.

Imports of handbags increased 56 percent from 57.9 million units in 1975 to 90.2 million units in 1976 and declined slightly from 68.4 million units during January-September 1976 to 67.2 million units during January-September 1977. The ratio of imports to domestic production increased from 75.9 percent in 1975 to 124.8 percent in 1976 and from 126.2 percent during January-September 1976 to 177.3 percent during January-September 1977.

Customers surveyed who decreased purchases from Mickey Madann in 1976 and 1977 increased purchases of imported handbags during the same period.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with handbags produced at Mickey Madann Handbags, Inc., New Bedford, Mass. contributed importantly to declines in production and to total or partial separations of workers at that firm. In accordance with the provisions of the Trade Act of 1974, I make the following certification:

All workers at Mickey Madann Handbags, Inc., New Bedford, Mass. who became totally or partially separated from employment on or after February 19, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 31st day of March 1978.

HARRY GRUBERT,
Director, Office of Foreign Economic Research.

[FR Doc. 78-9357 Filed 4-6-78; 8:45 am]

[4510-28]

[TA-W-2613]

MILLER SHOE CO., DOVER, N.H., PLANT

Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2613: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on November 15, 1977 in response to a worker petition received on October 31, 1977, which was filed on behalf of workers and former workers producing women's shoes at the Dover, New

Hampshire plant of the Miller Shoe Co.

The notice of investigation was published in the FEDERAL REGISTER on January 10, 1978 (43 FR 1557). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Miller Shoe Co., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. Without regard to whether any of the other criteria have been met the following criterion has not been met:

that increases of imports of articles like or directly competitive with articles produced by the firm or subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The Department's investigation revealed that imports of women's nonrubber footwear increased from 183.5 million pairs in 1975 to 183.8 million pairs in 1976. Imports declined from 147.6 million pairs in the first nine months of 1976 to 134.4 million pairs in the first nine months of 1977.

A survey of Miller Shoe's customers indicated that a major customer increased purchases from Miller in 1976 compared to 1975 and in 1977 compared to 1976.

Sales for the three manufacturing plants of Miller Shoe Division increased from 1975 to 1976 and from 1976 to 1977. Average number of workers at the Miller Shoe Division's three manufacturing plants increased from 1975 to 1976 and from 1976 to 1977.

CONCLUSION

After careful review, I conclude that all workers at Dover, N.H. plant of the Miller Shoe Co. be denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 31st day of March 1978.

HARRY GRUBERT,
Director, Office of Foreign Economic Research.

[FR Doc. 78-9358 Filed 4-6-78; 8:45 am]

[4510-28]

[TA-W-2614]

MILLER SHOE CO., SOMERSWORTH, N.H. NORWAY, MAINE, BRUNSWICK, MAINE

Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2614: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on November 15, 1977, in response to a worker petition received on October 31, 1977, which was filed on behalf of workers and former workers producing women's shoes at the Somersworth, N.H. plant of Miller Shoe Co. The investigation was expanded to include the Norway and Brunswick, Maine plants of Miller Shoe Co. All three are plants in the Miller Shoe Division of Melville Corp.

The notice of investigation was published in the FEDERAL REGISTER on January 10, 1978 (42 FR 1557). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Miller Shoe Co., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met the following criterion has not been met:

that increases of imports of articles like or directly competitive with articles produced by the firm or subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

The Department's investigation revealed that imports of women's nonrubber footwear increased from 183.5 million pairs in 1975 to 183.8 million pairs in 1976. Imports declined from 147.6 million pairs in the first 9 months of 1976 to 134.4 million pairs in the first 9 months of 1977.

A survey of Miller Shoe's customers indicated that a major customer increased purchases from Miller in 1976 compared to 1975 and in 1977 compared to 1976.

Sales for the three manufacturing plants of Miller Shoe Division increased from 1975 to 1976 and from 1976 to 1977. Average number of workers at the Miller Shoe Division's three manufacturing plants increased from 1975 to 1976 and from 1976 to 1977.

CONCLUSION

After careful review, I conclude that all workers at Somersworth, New Hampshire and Norway and Brunswick, Maine plants of the Miller Shoe Co. be denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 31st day of March 1978.

HARRY GRUBERT,
Director, Office of Foreign Economic Research.

[FR Doc. 78-9359 Filed 4-6-78; 8:45 am]

[4510-28]

[TA-W-2980]

NATIONAL STEEL PRODUCTS CO., HOUSTON, TEX.

Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2980: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on January 30, 1978 in response to a worker petition received on January 10, 1978 which was filed by the United Steelworkers of America on behalf of workers and former workers producing pre-engineered metal buildings at the Houston, Tex. plant of National Steel Products Co.

The Notice of Investigation was published in the FEDERAL REGISTER on February 17, 1978 (43 FR 7069). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the National Steel Products Co. and the United Steelworkers of America.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met. Without regard to whether any of the other criteria have been met the following criterion has not been met.

that a significant number or proportion of the workers in such firm or appropriate subdivision have become totally or partially separated, or are threatened to become totally or partially separated.

Both company and union officials stated that there have been no involuntary separations at the Houston, Tex. plant of National Steel Products

Co. since January 5, 1977, one year prior to the date of the petition. There exists no threat of total or partial separations at the plant at this time.

CONCLUSION

After careful review, I conclude that all workers at the Houston, Tex. plant of National Steel Products Co. are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 30th day of March 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-9360 Filed 4-6-78; 8:45 am]

[4510-28]

[TA-W-2859]

PENN-DIXIE STEEL CORP., CENTERVILLE, IOWA

Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on January 5, 1978 in response to a worker petition received on that date which was filed by the Penn-Dixie Steel Corp. on December 19, 1977 on behalf of workers and former workers producing carbon wire and wire products at the Centerville, Iowa plant of Penn-Dixie Steel Corp.

Notice of investigation was published in the FEDERAL REGISTER on February 17, 1978 (FR 43 17066). No public hearing was requested and none was held.

The company official responsible for filing the petition requested that the petition be withdrawn. Since the company official requested withdrawal continuing the investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C. this 28th day of March 1978.

HAROLD A. BRATT,
Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 78-9361 Filed 4-6-78; 8:45 am]

[4510-28]

[TA-W-2803]

QUANEX CORP., FABRICATING DIVISION, SHELBY, OHIO

Notice of Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2803: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on December 21, 1977 in response to a worker petition received on December 9, 1977, which was filed by the United Steelworkers of America, AFL-CIO on behalf of workers and former workers producing tubular automotive exhaust systems and related parts for new cars at Quanex Corp., Fabrication Division, Shelby, Ohio.

During the course of the investigation, it was revealed that the Shelby, Ohio facility of Quanex Corp. produces seamless steel tube for the exhaust and tail pipe components of new automobile exhaust systems and for new auto gas tank necks.

The notice of investigation was published in the FEDERAL REGISTER on January 10, 1978 (43 FR 1556). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Quanex Corp., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, United Steelworkers of America, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. Without regard to whether any of the the other criteria have been met, the following criteria has not been met:

that a significant number or proportion of the workers in such worker's firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

The Department's investigation revealed that both company and union officials stated that there have been no involuntary separations at the Shelby, Ohio facility of the Quanex Corp.'s Fabricating Division since April 1975, more than one year prior to the date of the petition. There exists no threat of total or partial separations at the plant. Employment has steadily increased since April 1975.

CONCLUSION

After careful review, I conclude that all workers at the Shelby, Ohio plant of the Quanex Corp.'s Fabricating Division are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 30th day of March 1978.

HARRY GRUBERT,
Director, Office of Foreign Economic Research.

[FR Doc. 78-9362 Filed 4-6-78; 8:45 am]

[4510-28]

[TA-W-2715]

REPUBLIC STEEL CORP., GARY, IND.

Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2715: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on December 5, 1977, in response to a worker petition received on November 23, 1977, which was filed by the United Steelworkers of America on behalf of workers and former workers producing various steel products at the Gary, Ind., plant of Republic Steel Corp. (Union Drawn Division). The Union Drawn Division produces cold drawn bars and bar-size light shapes.

The Notice of Investigation was published in the FEDERAL REGISTER on December 16, 1977 (42 FR 63487). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Republic Steel Corp. and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. Without regard to whether any of the other criteria have been met the following criterion has not been met:

that as significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated.

Pursuant to the requirements of 29 CFR 90.2, total or partial separation must be the equivalent to a total unemployment of 5 percent or 50 workers, whichever is less. Evidence developed in the Department's investigation revealed that the total or partial separations which occurred during the period of possible coverage amounted to less than 5 percent of the workforce employed at the Gary plant. The total number of workers experiencing involuntary separations during the period November 1, 1976, 1 year prior to the signature date of the petition, to the present was less than 50 workers.

There is no immediate threat to employment for the workers at the Gary plant.

CONCLUSION

After careful review, I conclude that all workers at the Gary, Ind., plant are

denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 30th day of March 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-9363 Filed 4-6-78; 8:45 am]

[4510-28]

[TA-W-2936]

REPUBLIC STEEL CORP., YOUNGSTOWN, OHIO

Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2936: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on January 17, 1978, in response to a worker petition received on December 19, 1977, which was filed by United Steelworkers of America on behalf of workers and former workers producing various steel products at the Youngstown, Ohio, plant of Republic Steel Corp. (Mahoning Valley District).

In a determination signed on June 17, 1977 (TA-W-1491), workers at the Youngstown plant producing carbon pipe and tubing were certified as eligible to apply for adjustment assistance. An impact date of November 15, 1975, was approved. Workers producing carbon steel bars were denied in the same determination. The current petition covers workers producing carbon steel bars.

The Notice of Investigation was published in the FEDERAL REGISTER on February 3, 1978 (43 FR 4696). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Republic Steel Corp. and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

that a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated.

Pursuant to the requirements of 29 CFR 90.2, total or partial separations must be the equivalent to a total unemployment of five percent or 50 workers, whichever is less. Evidence developed in the Department's investigation revealed that the total or partial separations which occurred during the period of possible coverage amounted to less than five percent of the workforce employed at the Youngstown plant. The total number of workers experiencing involuntary separations during the period December 15, 1976, one year prior to the signature date of the petition, to the present was less than 50 workers.

There is no immediate threat to employment for the workers at the Youngstown plant.

CONCLUSION

After careful review, I conclude that all workers engaged in employment related to the production of carbon bars at the Youngstown, Ohio, plant of Republic Steel Corp., are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 30th day of March 1978.

HARRY GRUBERT,
Director, Office of Foreign Economic Research.

[FR Doc. 78-9364 Filed 4-6-78; 8:45 am]

[4510-28]

[TA-W-2439]

SEMICONDUCTOR CIRCUITS, INC., HAVERHILL, MASS.

Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2439: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on October 11, 1977 in response to a worker petition received on October 4, 1977, which was filed on behalf of workers and former workers producing electric power supplies and DC-DC converters at Semiconductor Circuits, Inc., Haverhill, Mass.

The notice of investigation was published in the FEDERAL REGISTER on October 25, 1977 (42 FR 56375). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Semiconductor Circuit, Inc., the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. Without regard to whether any of the other criteria has been met the following criterion has not been met.

that sales or production, or both, of such firm or subdivision have decreased absolutely.

The Department's investigation revealed that sales and production increased from 1975 to 1976 and in the first nine months of 1977 compared to the same period of 1976.

CONCLUSION

After careful review I conclude that all workers at Semiconductor Circuits, Inc., Haverhill, Mass., be denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 30th day of March, 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-9365 Filed 4-6-78; 8:45 am]

[4510-28]

[TA-W-3242]

SENTAR GLASS CO., WESTMONT, N.J.

Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on February 23, 1978, in response to a worker petition received on February 10, 1978, which was filed by workers on February 6, 1978, on behalf of workers and former workers producing hand blown glass articles at Sentar Glass Co., Westmont, N.J.

Notice of investigation was published in the FEDERAL REGISTER on March 14, 1978 (43 FR 10650). No public hearing was requested and none was held.

During the course of the investigation, it was established that all workers were separated from employment at Sentar Glass Co. in the second week of January 1977. Section 223(b)(1) of the Trade Act of 1974 states that a certification under this section shall not apply to any worker whose last total or partial separation from the firm or appropriate subdivision of the firm occurred more than twelve months before the date of filing under Title II, Chapter 2 of the Trade Act of 1974.

The filing date of the petition in this case is February 6, 1978. Since workers separated from employment at Sentar Glass prior to February 6, 1977 are not eligible for program benefits under Title II, Chapter 2, Subchapter B of the Trade Act of 1974, continuation of

this investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C. this 30th day of March 1978.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc. 78-9366 Filed 4-6-78; 8:45 am]

[4510-28]

[TA-W-2678]

SOUTHERN ELECTRIC STEEL CO., BIRMINGHAM, ALA.

Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2678: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on November 29, 1977, in response to a worker petition received on November 21, 1977, which was filed by the United Steelworkers of America on behalf of workers and former workers producing concrete reinforcing bar at Southern Electric Steel Co., Birmingham, Ala.

The Notice of Investigation was published in the FEDERAL REGISTER on December 16, 1977 (42 FR 63486). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Southern Electric Steel Co., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

that increases of imports of articles like or directly competitive with articles produced by such workers' firm or an appropriate subdivision thereof contributed importantly to such total or partial separation, or threat thereof, and to such decline in sales or production.

Imports of concrete reinforcing bars declined from 192,000 tons in 1976, to 93,000 tons in 1977. The import to production ratio declined from 5 percent in 1976 to 2.2 percent in 1977.

A survey of customers of Southern Electric Steel Co. indicated that customers that pruchased imported steel products reduced such purchases in 1976 and 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that all workers at Southern Electric Steel Company, Birmingham, Alabama are denied eligibility to apply for adjustment assistance under Section 222 of the Trade Act of 1974.

Signed at Washington, D.C. this 30th day of March 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-9367 Filed 4-6-78; 8:45 am]

[4510-28]

[TA-W-2247]

SPRINGFIELD SPECIALTY MOTORS, SPRINGFIELD, MASS.

Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2247: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on August 8, 1977, in response to a worker petition received on that date which was filed by the International Union of Electrical, Radio, and Machine Workers on behalf of workers and former workers producing direct current electric motors at Springfield Specialty Motors, Springfield, Mass.

The Notice of Investigation was published in the FEDERAL REGISTER on August 23, 1977 (42 FR 42397). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Springfield Specialty Motors, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Springfield Specialty Motors produced fractional horsepower direct current (D.C.) motors for use in elevator doors; and integral D.C. motors (2 horsepower) for use in golf carts.

The Department's investigation revealed that the motors designed to power automobile accessories account for over 95 percent of the domestic production of fractional horsepower D.C. motors. These fractional motors range from 1/10 to 1/8 horsepower. The remaining five percent of domestic production in this category ranges from 1/8 to 1 horsepower and include the fractional motors used to power elevator doors. Industry analysts indicate that the imports of motors with horsepower range from 1/8 to 1, which include elevator door motors such as those produced by Springfield, are negligible.

The import to production ratio of integral D.C. motors ranging from 1 to 20 horsepower has been less than one percent each year since 1972. Industry analysts indicate that imports of integral D.C. motors between 1 to 5 horsepower, which include motors for electric-powered golf carts such as those produced by Springfield, are negligible.

A survey of customers of Springfield Specialty Motors revealed that customers did not purchase motors from foreign sources from 1975 to 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I determine that workers at Springfield Specialty Motors, Springfield, Mass. are denied eligibility to apply for trade adjustment assistance.

Signed at Washington, D.C. this 30th day of March 1978.

HARRY GRUBERT,
Director, Office of Foreign Economic Research.

[FR Doc. 78-9368 Filed 4-6-78; 8:45 am]

[4510-28]

[TA-W-2864 TA-W-2865]

UNION ELECTRIC STEEL CORP., CARNEGIE, PA., BURGETTSTOWN, PA.

Notice of Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2864 and 2865: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on January 5, 1978 in response to worker petition received on December 19, 1977 which was filed by the United Steelworkers of America on behalf of workers and former workers producing forged steel rolls at the Carnegie, Pa.

(TA-W-2864) and Burgettstown, Pa. (TA-W-2865) plants of Union Electric Steel Corp.

The Notice of Investigation was published in the FEDERAL REGISTER on January 20, 1978 (43 FR 2952). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Union Electric Steel Corp., the United Steelworkers of America and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. Without regard to whether any of the other criteria have been met, the following criterion has not been met:

That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated.

The Department's investigation revealed that since January 1976, more than one year prior to the date of the petition, December 15, 1977, there have been no involuntary separations of workers at the Carnegie and Burgettstown, Pa. plants of Union Electric Steel Corp., except for workers who had been temporarily laid off in early 1977 due to general energy shortages.

CONCLUSION

After careful review of the facts obtained in the investigation, I determine that workers at the Carnegie and Burgettstown, Pa. plants of Union Electric Steel Corp. are denied eligibility to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 30th day of March 1978.

HARRY GRUBERT,
Director, Office of Foreign Economic Research.

[FR Doc. 78-9370 Filed 4-6-78; 8:45 am]

[4510-28]

[TA-W-2441]

VICTOR UNITED, INC., CHICAGO, ILL.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2441: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on October 11, 1977 in response to a worker petition received on October 5, 1977 which was filed on behalf of workers and former workers producing hand held, desk top and programmable calculators and cash registers at Victor United, Inc., Chicago, Ill., a wholly-owned subsidiary of Walter Kidde & Co.

The notice of investigation was published in the FEDERAL REGISTER on October 25, 1977 (42 FR 56376). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Victor United, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met. It is concluded that all of the requirements have been met.

Imports of calculators increased steadily from 1.6 million units in 1972 to 20.1 million units in 1976. Imports then decreased from 15.4 million units in the first nine months of 1976 to 10.6 million units during the same period in 1977. The ratio of imports to domestic production increased steadily from 95.8 percent in 1973 to 167.5 percent in 1976. The ratio then decreased from 194.9 percent during the first nine months of 1976 to 101.0 percent during the same period in 1977.

Imports of cash registers increased steadily from 54.9 thousand units in 1973 to 96.5 thousand units in 1976. Imports continued to increase from 59.8 thousand units in the first nine months of 1976 to 131.5 thousand units during the same period in 1977. The ratio of imports to domestic production increased steadily from 30.0 percent in 1973 to 64.6 percent in 1976. The ratio then increased from 55.6 percent during the first nine months of 1976 to 122.6 percent during the same period in 1977.

Imports of calculators by Victor increased 330 percent in quantity from 1975 to 1976 and increased 25 percent in the period January-November 1977 compared to the same period in 1976. Imports of cash registers by Victor decreased 82 percent in quantity from 1975 to 1976 and increased 137 percent in the period January-November 1977 compared to the same period in 1976.

Imports of calculators and cash registers by Victor have been increasing their share of total products available for distribution by Victor. Imports of calculators as a percentage of total calculator sales increased from 1976 to the period January-November 1977. Imports of cash registers as a percentage of total cash register sales also increased during the same period.

Customers surveyed indicated that increasing quantities of calculators and cash registers supplied by Victor are purchased by Victor from foreign sources. Customers did not import calculators and cash registers directly although purchases from other domestic sources as well as from Victor are supplied increasingly from foreign sources.

Increased imports by Victor followed a company decision that the firm could remain profitable only by supplementing its domestic product line with imported calculators and cash registers. Production and employment at Victor have been decreasing steadily since 1974 when Victor began increasing the numbers of imported calculators and cash registers to fill their product lines.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with calculators and cash registers produced by the Business products Group of Victor United, Inc., Chicago, Ill. contributed importantly to the decline in production and to the separation of workers at that firm. In accordance with the provision of the Trade Act of 1974, I make the following certification:

All workers at the Business Products Group of Victor United, Inc., Chicago, Ill. who became totally or partially separated from employment on or after September 30, 1976 are certified as eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 30th day of March 1978.

JAMES F. TAYLOR,
Director, Office of Management, Administration, and Planning.

[FR Doc. 78-9369 Filed 4-6-78; 8:45 am]

[4510-28]

[TA-W-2660, 2947]

WELLS BENRUS CORP. RIDGEFIELD, CONN., NEW YORK, N.Y.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2660, 2947: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on November 23, 1977 in response to a worker petition received on November 16, 1977, which was filed on behalf of workers and former workers producing watches and watch cases in the Solid State Electronic Watch and Watch

Case Division of the Wells Benrus Corp., in Ridgefield, Conn. The investigation was subsequently expanded to include workers at the Division's warehouse and service center in New York, N.Y.

The notice of investigation was published in the FEDERAL REGISTER on December 6, 1977 (42 FR 61695). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from the Wells Benrus Corp., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Act must be met. It is concluded that all of the requirements have been met.

Imports of conventional watches increased from 12.7 million units in 1975 to 14.0 million units in 1976. Imports increased from 9.4 million units in the first 9 months of 1976 to 11.3 million in the first 9 months of 1977. The ratio of imports to domestic production increased from 56.7 percent in 1975 to 66.7 percent in 1976, and increased from 62.3 percent in the first 9 months of 1976 to 75.8 percent in the first 9 months of 1977.

Imports of nonconventional watches increased from 1.6 million units in 1975 to 5.2 million units in 1976. Imports increased from 3.5 million units in the first 9 months of 1976 to 7.2 million units in the first 9 months of 1977. The ratio of imports to domestic production declined from 61.5 percent in 1975 to 55.9 percent in 1976, and increased from 51.5 percent in the first 9 months of 1976 to 141.2 percent in the first 9 months of 1977.

Imports of watch cases for nonconventional watches increased from 1.5 million units in 1975 to 5.7 million units in 1976, and then declined from 4.4 million units in the first 9 months of 1976 to 3.1 million units in the first 9 months of 1977. The ratio of imports to domestic production declined from 136.4 percent in 1975 to 129.5 percent in 1976, and from 137.5 percent in the first 9 months of 1976 to 134.8 percent in the first 9 months of 1977.

Customers representing a substantial proportion of Benrus' sales of watches increased purchases of imports, either directly or indirectly, in 1976 and 1977 while decreasing their purchases from Benrus.

Benrus made the decision to close its watch case department when their major customer would not make a firm commitment to retain Benrus as their major watch case supplier. This customer increased orders from foreign sources from 1976 to 1977, and indicated that they would be steadily increasing these orders in the future.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with the watches and watch cases produced at the Watch Division of the Wells Benrus Corp. contributed importantly to the decline in sales or production and to the total or partial separations of workers at the Division. In accordance with the provisions of the Act, I make the following certification:

All workers at the Watch Division of the Wells Benrus Corp., Ridgefield, Conn. and New York, N.Y., who became totally or partially separated from employment on or after January 15, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 31st day of March 1978.

HARRY GRUBERT,
Director, Office of Foreign Economic Research.

[FR Doc. 78-9371 Filed 4-6-78; 8:45 am]

[4510-28]

Office of the Secretary

[TA-W-3068]

APEX GLOVE CO. MILWAUKEE, WIS.

Notice of termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on February 7, 1978 in response to a worker petition received on that date which was filed by the Amalgamated Clothing and Textile Workers' Union on January 31, 1978 on behalf of workers and former workers producing industrial work gloves at the Apex Glove Co., Milwaukee, Wis.

Notice of the investigation was published in the FEDERAL REGISTER on February 24, 1978 (43 FR 7744). No public hearing was requested and none was held.

The petitioner in this case, Amalgamated Clothing and Textile Workers' Union, requested withdrawal of the petition on February 16, 1978, citing a previously filed petition and certification on behalf of the petitioning workers (TA-W-710). A new investigation would serve no purpose; consequently the investigation has been terminated.

Signed at Washington, D.C. this 27th day of March 1978.

HAROLD A. BRATT,
Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 78-9157 Filed 4-6-78; 8:45 am]

[4510-28]

ARMCO STEEL CORP., ET AL

Investigation Regarding Certification of Eligibility to Apply for Worker Adjustment Assistance; Correction

In FEDERAL REGISTER Doc. 78-6585 appearing on page 10649 in the FEDERAL REGISTER of March 14, 1978, the following date of receipt in the Appendix under petitioner James H. Beans Foundry, TA-W-3261, is corrected to read as follows: "January 15, 1978".

Signed at Washington, D.C. this 30th day of March 1978.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc. 78-9156 Filed 4-6-78; 8:45 am]

[4510-28]

[TA-W-3071]

BURNHAM-EDINA MANUFACTURING CO., EDINA, MO.

Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on February 7 1978 in response to a worker petition received on that date which was filed by the Amalgamated Clothing and Textile Workers' Union on January 31, 1978 on behalf of workers and former workers producing leather work gloves at the Burnham-Edina Manufacturing Co., Edina, Mo.

Notice of the investigation was published in the FEDERAL REGISTER on February 24, 1978 (43 FR 7744). No public hearing was requested and none was held.

The petitioner in this case, Amalgamated Clothing and Textile Workers' Union, requested withdrawal of the petition on February 16, 1978, citing a previously filed petition and certification on behalf of the petitioning workers (TA-W-709). A new investigation would serve no purpose; consequently the investigation has been terminated.

Signed at Washington, D.C. this 27th day of March 1978.

HAROLD A. BRATT,
Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 78-9158 Filed 4-6-78; 8:45 am]

[4510-28]

[TA-W-3073]

FAIRFIELD GLOVE CO., BONAPARTE, IOWA

Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on February 7, 1978 in response to a worker petition received on that date which was filed by the Amalga-

mated Clothing and Textile Workers' Union on January 31, 1978 on behalf of workers and former workers producing jersey and terrycloth gloves and gloves with leather palms at Fairfield Glove Co., Bonaparte, Iowa.

Notice of the investigation was published in the FEDERAL REGISTER on February 24, 1978 (43 FR 7744). No public hearing was requested and none was held.

The petitioner in this case, Amalgamated Clothing and Textile Workers' Union, requested withdrawal of the petition on February 16, 1978, citing a previously filed petition and certification on behalf of the petitioning workers (TA-W-707). A new investigation would serve no purpose; consequently the investigation has been terminated.

Signed at Washington, D.C. this 27th day of March 1978.

HAROLD A. BRATT,
Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 78-9159 Filed 4-6-78; 8:45 am]

[4510-28]

[TA-W-3074]

FAIRFIELD GLOVE CO., FAIRFIELD, IOWA

Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on February 7 1978 in response to a worker petition received on that date which was filed by the Amalgamated Clothing and Textile Workers' Union on January 31, 1978 on behalf of workers and former workers producing cotton and leather work gloves at the Fairfield Glove Co., Fairfield, Iowa.

Notice of the investigation was published in the FEDERAL REGISTER on February 24, 1978 (43 FR 7744). No public hearing was requested and none was held.

The petitioner in this case, Amalgamated Clothing and Textile Workers' Union, requested withdrawal of the petition on February 16, 1978, citing a previously filed petition and certification on behalf of the petitioning workers (TA-W-706). A new investigation would serve no purpose; consequently the investigation has been terminated.

Signed at Washington, D.C. this 27th day of March 1978.

HAROLD A. BRATT,
Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 78-9160 Filed 4-6-78; 8:45 am]

[4510-28]

[TA-W-2846]

NL INDUSTRIES, INC., TITANIUM PIGMENT DIVISION, SOUTH AMBOY, N.J.

Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was instituted on January 4, 1978, in response to a worker petition received on December 12, 1977, which was filed on behalf of salaried workers and former salaried workers in the Titanium Pigment Division of NL Industries, Inc., South Amboy, N.J.

The Notice of Investigation was published in the FEDERAL REGISTER on January 27, 1978, (43 FR 3777). No public hearing was requested and none was held.

On March 28, 1977, the Oil, Chemical and Atomic Workers' Union filed a petition on behalf of workers and former workers of the Titanium Pigment Division of NL Industries, Inc., South Amboy, N.J. (TA-W-1982). On November 23, 1977, the Department issued a certification covering all employees who became totally or partially separated from employment on or after January 24, 1977, (42 FR 61692).

Since all employees, including salaried workers, at the South Amboy, N.J., Sayreville plant of the Titanium Pigment Division of NL Industries, Inc., who became totally or partially separated from employment on or after January 24, 1977, are already covered by a certification, continuation of the new investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C., this 27th day of March 1978.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc. 78-9161 Filed 4-6-78; 8:45 am]

[4510-28]

[TA-W-3012]

O'KEEFE DRILLING CO. INC., BUTTE, MONT.

Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on February 2, 1978, in response to worker petition received on that date which was filed by the International Union of Operating Engineers Local No. 375 on January 9, 1978, on behalf of workers and former workers engaged in mining operations at the Butte, Mont., mine of O'Keefe Drilling Co.

Notice of investigation was published in the FEDERAL REGISTER on February 17, 1978 (43 FR 17066). No public hearing was requested and none was held.

The union official responsible for filing the petition requested that the petition be withdrawn. The decision to withdraw was based upon the realization that services as performed by employees of O'Keefe Drilling Co. are not covered by the provisions of the Trade Act of 1974. On the basis of the official's request for withdrawal continuation of the investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C., this 28th day of March 1978.

HAROLD A. BRATT,
Acting Director, Office of Trade Adjustment Assistance.

[FR Doc. 78-9162 Filed 4-6-78; 8:45 am]

[4510-28]

[TA-W-2780]

UNITED STATES STEEL CORP. NATIONAL WORKS, McKEESPORT, PA.

Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on December 14, 1977 in response to worker petition received on that date which was filed by the United Steelworkers of America postmarked December 7, 1977, on behalf of workers and former workers producing carbon steel products at the McKeesport, Pa. plant of United States Steel Corp.

Notice of investigation was published in the FEDERAL REGISTER on January 10, 1978 (43 FR 1556). No public hearing was requested and none was held.

The petitioning group of workers in this case are covered under certification TA-W-1444 issued on June 9, 1977. Since all workers separated, totally or partially, from the McKeesport plant on or after November 15, 1975 (impact date) and before June 9, 1979 (expiration date of the certification) are covered by the existing certification, a new investigation would serve no purpose. Consequently, the investigation has been terminated.

Signed at Washington, D.C. this 23rd day of March 1978.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

[FR Doc. 78-9163 Filed 4-6-78; 8:45 am]

[4510-28]

Office of the Secretary

INVESTIGATIONS REGARDING CERTIFICATIONS OF ELIGIBILITY TO APPLY FOR WORKER ADJUSTMENT ASSISTANCE

Petitions have been filed with the Secretary of Labor under section

221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than April 14, 1978.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than April 14, 1978.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

Signed at Washington, D.C. this 15th day of March 1978.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Aquada Products, Inc. (workers).	Long Island City, N.Y	Feb. 21, 1978	Feb. 15, 1978	TA-W-3,348	Sealed vinyl products.
Botany 500 (ACTWU)	Philadelphia, Pa	do	Jan. 31, 1978	TA-W-3,349	Men's tailored clothing.
Cross Country Clothes, Inc. (ACTWU).	do	do	do	TA-W-3,350	Men's tailored clothing.
Conrail-Brier Hill Yard & Road (workers).	Youngstown, Ohio	Feb. 6, 1978	Feb. 1, 1978	TA-W-3,351	Transporting of commodities.
Coordinated Trousers, Inc. (ACTWU).	Philadelphia, Pa	Feb. 21, 1978	Jan. 31, 1978	TA-W-3,352	Men's tailored clothing.
K & D Clothing Manufacturing Co. (ACTWU).	do	do	do	TA-W-3,353	Men's suit coats and sport coats.
Louisiana Pacific Hardboard plant at Oroville, Calif. (United Brotherhood of Carpenters & Joiners of America).	Oroville, Calif	Feb. 27, 1978	Feb. 25, 1978	TA-W-3,354	Hardboards.
Patgat Clothes, Inc. (ACTWU).	Philadelphia, Pa	Feb. 21, 1978	Jan. 31, 1978	TA-W-3,355	Contractor of men's tailored clothing.
Stanley Blacker, Inc. (ACTWU).	do	do	do	TA-W-3,356	Men's tailored clothing.
Union Carbide Chemicals & Plastics (USWA).	Marietta, Ohio	Feb. 10, 1978	Feb. 10, 1978	TA-W-3,357	Polysulfone and phenolic plastics.

[FR Doc. 78-8829 Filed 4-6-78; 8:45 am]

[4510-28]

INVESTIGATIONS REGARDING CERTIFICATIONS OF ELIGIBILITY TO APPLY FOR WORKER ADJUSTMENT ASSISTANCE

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than April 14, 1978.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than April 14, 1978.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

Signed at Washington, D.C., this 22nd day of March 1978.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Bound Brook Togs Co., Inc. (ACTWU).	Bound Brook, N.J	Feb. 13, 1978	Feb. 2, 1978	TA-W-3,398	Contractor of ladies' blouses, pants, skirts, sweat suits, and shorts.
Gregg Lawrence Co., Inc. (ILGWU).	Copiague, N.Y.	Mar. 8, 1978	Feb. 28, 1978	TA-W-3,399	Contractor of ladies' spring and winter coats.
Interlake, Inc. Toledo Plant (USWA).	Toledo, Ohio	do	Feb. 8, 1978	TA-W-3,400	Pig iron.
Kennecott Copper Corp. Chino Mines Div. (USWA).	Hurley, N. Mex.	do	Mar. 7, 1978	TA-W-3,401	Mining, concentrating, smelting, and refining of copper.
Kennecott Refining Corp. (USWA).	Baltimore, Md.	Mar. 7, 1978	Mar. 6, 1978	TA-W-3,402	Refining of copper.
Paramount Coat Co., Inc. (workers).	Cambridge, Mass.	Mar. 9, 1978	Mar. 3, 1978	TA-W-3,403	Men's and women's raincoats.
Southern Union Refining Co. Monument Plant (workers).	Hobbs, N. Mex.	Mar. 6, 1978	Feb. 24, 1978	TA-W-3,404	Refines crude oil and produces jet fuel, gasoline, and burner fuels.
Venice Industries, Inc. (workers).	Carlstadt, N.J.	Feb. 21, 1978	Feb. 13, 1978	TA-W-3,405	Ladies' knitted suits, dresses, pants, skirts, and sweaters.

[FR Doc. 78-8830 Filed 4-6-78; 8:45 am]

[4510-28]

INVESTIGATIONS REGARDING CERTIFICATIONS OF ELIGIBILITY TO APPLY FOR WORKER ADJUSTMENT ASSISTANCE

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners of any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than April 14, 1978.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than April 14, 1978.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

Signed at Washington, D.C., this 20th day of March 1978.

MARVIN M. FOOKS,
Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner—Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Andrew Pallack & Co., Inc. (ACTWU).	New York, N.Y	Feb. 6, 1978	Jan. 31, 1978	TA-W-3,358	Men's suits and sport coats.
Bordentown Industries, Inc. (USWA).	Bordentown, N.J	Feb. 3, 1978	do	TA-W-3,359	Ladies' sportswear.
CF & I Steel Corp. (workers)	Pueblo, Colo	Feb. 24, 1978	Feb. 21, 1978	TA-W-3,360	Rails, cutting, mining products, and carbon steel wire rod.
DeLuca Sportswear, Inc. (ACTWU).	Philadelphia, Pa	Feb. 21, 1978	Jan. 31, 1978	TA-W-3,361	Men's tailored clothing.
Golden State Building Products—El Dorado Veneer Products Div. (United Bro. of Carpenters & Joiners of America).	Shingle Springs, Calif	Feb. 27, 1978	Feb. 25, 1978	TA-W-3,362	Wooden box tops.
Fulton Clothes Co., Inc. (ACTWU).	Philadelphia, Pa	Feb. 21, 1978	Feb. 16, 1978	TA-W-3,363	Men's, and women's tailored clothing.
Hickey Freeman Co. (ACTWU).	Rochester, N.Y	do	Jan. 23, 1978	TA-W-3,364	Men's tailored clothing.
HiCraft Clothing Co. (ACTWU).	Philadelphia, Pa	Feb. 28, 1978	Feb. 24, 1978	TA-W-3,365	Do.
Herman Geist, Inc. (ILGWU).	Boston, Mass	Mar. 17, 1978	Mar. 13, 1978	TA-W-3,366	Ladies' blouses, sportswear, and dresses.
Lawrence Clothes, Inc. (ACTWU).	Philadelphia, Pa	Feb. 21, 1978	Jan. 31, 1978	TA-W-3,367	Men's tailored clothing.
Marshall Ray Corp. (ACTWU).	Troy, N.Y	do	Feb. 16, 1978	TA-W-3,368	Men's sport coats, and jackets.
Mil Garment Co., Inc. (ILGWU).	Red Bank, N.J	Feb. 3, 1978	Jan. 26, 1978	TA-W-3,369	Ladies' coats.

APPENDIX—Continued

Petitioner—Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
The Puritan Co. (ACTWU)	Lansdale, Pa	Feb. 21, 1978	Jan. 31, 1978	TA-W-3,370	Men's, women's blazers.
Rochester Clothing Corp. (ACTWU).	Rochester, N.Y	do	Jan. 23, 1978	TA-W-3,371	Men's suits, sport coats, and slacks.
Sea-Land Service, Inc. (workers).	Fort Lauderdale, Fla	Feb. 28, 1978	Feb. 27, 1978	TA-W-3,372	Transporting of various products and goods within the United States.
Scotese Bros. (ACTWU)	Philadelphia, Pa	Feb. 21, 1978	Jan. 31, 1978	TA-W-3,373	Men's vests.

[FR Doc. 78-8831 Filed 4-6-78; 8:45 am]

[1410-03]

NATIONAL COMMISSION ON NEW TECHNOLOGICAL USES OF COPYRIGHTED WORKS

MEETING

The National Commission on New Technological Uses of Copyrighted Works (CONTU) will hold its 21 meeting on Thursday, April 20, and Friday, April 21, 1978, in the Wilson Room, second floor of the Library of Congress, Washington, D.C.

On Thursday the Commission will hear oral Testimony on the draft report of the Photocopy Subcommittee. Friday's session will be devoted to discussion of the revised report of the Software Subcommittee. The sessions will begin at 10 a.m. both days and are open to the public.

All members of the public are invited to submit written comments relating to any matters under the Commission's consideration. Such comments should be addressed to Dolores K. Dougherty, Administrative Officer, National Commission on New Technological Uses of Copyrighted Works, Washington, D.C. 20558.

ARTHUR J. LEVINE,
Executive Director, National Commission on New Technological Uses of Copyrighted Works.

[FR Doc. 78-9311 Filed 4-6-78; 8:45 am]

[6820-36]

NATIONAL TRANSPORTATION POLICY STUDY COMMISSION

MEETING

In accordance with section 10(a) of the Federal Advisory Committee Act, Pub. L. 92-463, the National Transportation Policy Study Commission announces the following meeting:

Name: Meeting of the Commission.

Date and time: April 27, 1978, 9 a.m.-1 p.m.

Place: 2167 Rayburn House Office Bldg., Washington, D.C. 20515.

Type of meeting: Open.

Contact person: Beth Singley, National Transportation Policy Study Commission, 1750 K Street NW., Suite 800, Washington, D.C. 20006.

Purpose of the Commission: The National Transportation Policy Study Commission was established under section 154 of the Federal-Aid Highway Act of 1976 (Pub. L. 94-280) to report findings and recommendations with respect to the Nation's transportation needs, both national and regional, through the year 2000.

Tentative agenda: Issue Identification, Special Studies, Future Scenarios, Policy Generation.

Dated April 3, 1978.

EDWARD R. HAMBERGER,
General Counsel.

[FR Doc. 78-9170 Filed 4-6-78; 8:45 am]

[7590-01]

NUCLEAR REGULATORY COMMISSION

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS, SUBCOMMITTEE ON THE INDIAN POINT NUCLEAR GENERATING STATION UNIT NO. 3

Meeting

The ACRS Subcommittee on the Indian Point Nuclear Generating Station, Unit No. 3, will hold a meeting on April 24, 1978 in Room 1046, 1717 H Street NW., Washington, D.C. 20555 to review the request of the Consolidated Edison Co. to operate at the design power rating (full power) of 3025 MW(t) from the current license rating of 2760 MW(t).

In accordance with the procedures outlined in the FEDERAL REGISTER on October 31, 1977, page 56972, oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the designated Federal employee as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statments.

The agenda for subject meeting shall be as follows:

TUESDAY, MARCH 28, 1978

8:30 a.m. until the conclusion of business.

The subcommittee may meet in executive session, with any of its consultants who may be present, to explore and exchange their preliminary opionions regarding matters which should be considered during the meeting and to formulate a report and recommendations to the full committee.

At the conclusion of the executive session, the subcommittee will hear presentations by and hold discussions with representatives of the NRC staff, the Consolidated Edison Co., and their consultants, pertinent to this review. The subcommittee may then caucus to determine whether the matters identified in the initial session have been adequately covered and whether the project is ready for review by the full committee.

In addition, it may be necessary for the subcommittee to hold one or more closed sessions for the purpose of exploring matters involving proprietary information. I have determined, in accordance with subsection 10(d) of Pub. L. 92-463, that, should such sessions be required, it is necessary to close these sessions to protect proprietary information (5 U.S.C. 552b(c)(4)).

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the designated Federal employee for this meeting, Mr. Elpidio G. Igne, telephone 202-634-1920 between 8:15 a.m. and 5 p.m., e.s.t.

Background information concerning items to be considered at this meeting can be found in documents on file and available for public inspection at the NRC Public Document Room, 1717 H Street NW., Washington, D.C. 20555 and at the Hendrick Hudson Free Library, 31 Albany Post Road, Montrose, N.Y. 10548.

Dated: April 3, 1978.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc. 78-9242 Filed 4-6-78; 8:45 am]

[7590-01]

[Docket Nos.: 50-452; 50-453]

DETROIT EDISON CO., GREENWOOD ENERGY CENTER, UNITS 2 AND 3

Order Relative to a Prehearing Conference

The Board's Order of March 28, 1977, entitled "Supplemental Order Concerning Motion to Act Affirmatively on a Petition to Intervene" and the Board's Order of April 21, 1977, entitled "Memorandum Concerning Petition to Intervene" set forth the criteria which had to be furnished in order for the "interest" of Citizens for Employment and Energy (CEE) to be established. After an exchange of correspondence, on January 25, 1978, CEE submitted affidavits of four of its members who have stated that they live near the proposed plant and how their interest would be affected. The Applicant stated on March 22, 1978, that CEE's late-filed petition should be denied. The NRC Staff on March 23, 1978, stated that CEE should be admitted as a party to the proceeding. The Board concurs that "interest" has now been established.

The Board has also considered the extremely late filing of CEE and the position of the other parties. The Board has determined that the NRC Staff's filing of September 3, 1976, correctly analyzed the situation—taking into account the postponement of the facility and the criteria in 10 CFR 2.714 relative to out-of-time filing. The Board concurs with the Staff that mitigating factors warrant the acceptance of the non-timely petition. By letter of November 30, 1977, the Applicant announced the reactivation of Greenwood.

Other than the Staff's reference to one contention, the Board has not had the benefits of the other parties' position on the proposed contentions. In order for the Board and the petitioners to have the position of Applicant and Staff on each contention (as amended), the parties are requested to have the filings in the hands of the Board and petitioner not later than April 21, 1978. The contentions are to be considered *seriatim.*

Take notice, a prehearing conference will commence at 9:30 a.m. (local time) on April 26, 1978, in the 2d Floor Courtroom, Federal Building, 526 Water Street, Port Huron, Mich. It is anticipated that the prehearing will continue on April 27, 1978, since the Board will give the petitioner and the parties an opportunity to comment further on the proposed contentions.

The public is invited to attend. No limited appearance statements will be invited at this prehearing conference but will be called for later at the evidentiary hearing.

It is so ordered.

Dated at Bethesda, Md., this 3d day of April, 1978.

For the Atomic Safety and Licensing Board,

ELIZABETH S. BOWERS,
Chairman.

[FR Doc. 78-9244 Filed 4-6-78; 8:45 am]

[7590-01]

[Docket No. 50-335]

FLORIDA POWER & LIGHT CO.

Issuance of Amendment to Facility Operating License and Negative Declaration

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 22 to Facility Operating License No. DPR-67, issued to Florida Power & Light Co. (the licensee), which revised the Technical Specifications for operation of the St. Lucie Plant, Unit No. 1 (the facility) located in St. Lucie County, Fla. The amendment is effective as of its date of issuance.

The amendment authorizes replacement of the existing racks in the spent fuel storage pool of the facility with racks of design capable of accommodating up to 728 fuel assemblies. The existing racks have a capacity for storage of 310 fuel assemblies.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Notice of Consideration of Modification to Facility Spent Fuel Storage Pool in connection with this action was published in the FEDERAL REGISTER on September 15, 1977 (42 FR 46427). No request for a hearing or petition for leave to intervene was filed following notice of the proposed action.

The Commission has prepared an environmental impact appraisal for this action and has concluded that an environmental impact statement is not warranted because there will be no environmental impact attributable to the action significantly greater than that which has already been predicted and described in the Commission's Final Environmental Statement for the facility dated June 1973.

For further details with respect to this action, see (1) the application for amendment dated August 31, 1977, as supplemented December 8 and 19, 1977, and February 8, 1978, (2) Amendment No. 22 to License No. DPR-67, (3) the Commission's related Safety Evaluation, and (4) the Commission's Environmental Impact Appraisal. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Indian River Junior College Library, 3209 Virginia Avenue, Ft. Pierce, Fla. A copy of items (2), (3), and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 29th day of March 1978.

For the Nuclear Regulatory Commission,

ROBERT W. REID,
Chief, Operating Reactors Branch No. 4, Division of Operating Reactors.

[FR Doc. 78-9245 Filed 4-6-78; 8:45 am]

[7590-01]

[Docket No. 27-39]

NUCLEAR ENGINEERING CO., INC., SHEFFIELD, ILL. LOW-LEVEL RADIOACTIVE WASTE DISPOSAL SITE

Order Setting Prehearing Conference

Pursuant to 10 CFR section 2.751a, a prehearing conference in this matter will be held on April 24, and 25, 1978, at Room 247, U.S. Post Office and Federal Building, 100 Northeast Monroe Street, Peoria, Ill. 61601, commencing at 9:30 a.m. each day.

All parties to this proceeding, including all Intervenors previously granted the right to intervene, are instructed to appear at this prehearing conference, or to be represented by counsel.

The hearing will be transcribed and the public will be permitted to attend this prehearing conference; however, no one who is not a party to the proceeding will be permitted to participate in the prehearing conference.

This prehearing conference is being held for the following purposes:

1. To define with more precision the issues to be considered at the later evidentiary hearing. In this regard all the parties and their counsel are requested to further particularize their statements of contentions so that the Board may be appraised of the contentions of each party. An attempt should be made by the parties to eliminate overlap and duplication of contentions;
2. To establish a schedule for discovery of evidence by the parties;
3. To inquire into the necessity to amend any of the pleadings;
4. To provide for the obtaining of any stipulations and admissions of fact;
5. To provide for the production and authenticity of any documents and requests for depositions or interrogatories;

6. To identify proposed witnesses;
7. To establish a future hearing schedule; and
8. To dispose of any other matters which may aid in the orderly disposition of the proceeding.

Dated at Bethesda, Md., this 3rd day of April, 1978.

For the Atomic Safety and Licensing Board.

ANDREW C. GOODHOPE,
Chairman.

[FR Doc. 78-9243 Filed 4-6-78; 8:45 am]

[7590-01]

REGULATORY GUIDE

Issuance and Availability

The Nuclear Regulatory Commission has issued a new guide in its Regulatory Guide Series. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

Regulatory Guide 1.140, "Design, Testing, and Maintenance Criteria for Normal Ventilation Exhaust System Air Filtration and Adsorption Units of Light-Water-Cooled Nuclear Power Plants," presents methods acceptable to the NRC staff for implementing certain regulations with regard to the design, testing, and maintenance criteria for air filtration and adsorption units installed in the normal ventilation exhaust systems of light-water-cooled nuclear power plants.

This guide does not apply to postaccident engineered-safety-feature atmosphere cleanup systems that are designed to mitigate the consequences of postulated accidents. Regulatory Guide 1.52, "Design, Testing, and Maintenance Criteria for Postaccident Engineered-Safety-Feature Atmosphere Cleanup System Air Filtration and Adsorption Units of Light-Water-Cooled Nuclear Power Plants," provides guidance for these systems.

Comments and suggestions in connection with: (1) Items for inclusion in guides currently being developed, or (2) improvements in all published guides are encouraged at any time. Public comments on Regulatory Guide 1.140 will, however, be particularly useful in evaluating the need for an early revision if received by June 5, 1978.

Comments should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of issued guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Technical Information and Document Control. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a))

Dated at Rockville, Md., this 30th day of March 1978.

For the Nuclear Regulatory Commission,

ROBERT B. MINOGUE,
Director, Office of Standards Development.

[FR Doc. 78-9247 Filed 4-6-78; 8:45 am]

[7590-01]

[NUREG-75/087]

REVISION TO THE STANDARD REVIEW PLAN

Issuance and Availability

As a continuation of the updating program for the Standard Review Plan (SRP) previously announced (FEDERAL REGISTER notice dated December 8, 1977), the Nuclear Regulatory Commission's (NRC's) Office of Nuclear Reactor Regulation has published Revision No. 1 to Section No. 9.5.7 of the SRP for the NRC staff's safety review of applications to build and operate light-water-cooled nuclear power reactors. The purpose of the plan, which is composed of 224 sections, is to improve both the quality and uniformity of the NRC staff's review of applications to build new nuclear power plants, and to make information about regulatory matters widely available, including the improvement of communication and understanding of the staff review process by interested members of the public and the nuclear power industry. The purpose of the updating program is to revise sections of the SRP for which changes in the review plan have been developed since the original issuance in September 1975 to reflect current practice.

Copies of the Standard Review Plan for the Review of Safety Analysis Reports for Nuclear Power Plants, which has been identified as NUREG-75/087, are available from the National Technical Information Service, Springfield, Va. 22161. The comestic price is $70, including first-year supplements. Annual subscriptions for supplements alone are $30. Individual sections are available at current prices. The domestic price for Revision No. 1 to Section No. 9.5.7 is $4. Foreign price information is available from NTIS. A copy of the Standard Review Plan including all revisions published to date is available for public inspection at the NRC's Public Document Room at 1717 H Street NW., Washington, D.C. 20555.

(5 U.S.C. 552(a).)

Dated at Bethesda, Md., this 21st day of March 1978.

For the U.S. Nuclear Regulatory Commission,

ROGER J. MATTSON,
Director, Division of Systems Safety, Office of Nuclear Reactor Regulation.

[FR Doc. 78-9248 Filed 4-6-78; 8:45 am]

[7590-01]

[NUREG-75/087]

REVISION TO THE STANDARD REVIEW PLAN

Issuance and Availability

As a continuation of the updating program for the Standard Review Plan (SRP) previously announced (FEDERAL REGISTER notice dated December 8, 1977), the Nuclear Regulatory Commission's (NRC's) Office of Nuclear Reactor Regulation has published Revision No. 1 to section No. 10.2 of the SRP for the NRC staff's safety review of applications to build and operate light-water-cooled nuclear power reactors. The purpose of the plan, which is composed of 224 sections, is to improve both the quality and uniformity of the NRC staff's review of applications to build new nuclear power plants, and to make information about regulatory matters widely available, including the improvement of communication and understanding of the staff review process by interested members of the public and the nuclear power industry. The purpose of the updating program is to revise sections of the SRP for which changes in the review plan have been developed since the original issuance in September 1975 to reflect current practice.

Copies of the Standard Review Plan for the Review of Safety Analysis Reports for Nuclear Power Plants, which has been identified as NUREG-75/087, are available from the National Technical Information Service, Springfield, Va. 22161. The domestic price is $70, including first-year supplements. Annual subscriptions for supplements alone are $30. Individual sections are available at current prices. The domestic price for Revision No. 1 to section No. 10.2 is $4. Foreign price information is available from NTIS. A copy of the Standard Review Plan including

all revisions published to date is available for public inspection at the NRC's Public Document Room at 1717 H Street NW., Washington, D.C. 20555.

(5 U.S.C. 552(a).)

Dated at Bethesda, Md., this 31st day of March 1978.

For the U.S. Nuclear Regulatory Commission.

ROGER J. MATTSON,
Director, Division of Systems Safety, Office of Nuclear Reactor Regulation.

[FR Doc. 78-9249 Filed 4-6-78; 8:45 am]

[7590-01]

[NUREG-75/087]

REVISION TO THE STANDARD REVIEW PLAN

Issuance and Availability

As a continuation of the updating program for the Standard Review Plan (SRP) previously announced (FEDERAL REGISTER notice dated December 8, 1977), the Nuclear Regulatory Commission's (NRC's) Office of Nuclear Reactor Regulation has published Revision No. 1 to section No. 9.5.6 of the SRP for the NRC staff's safety review of applications to build and operate light-water-cooled nuclear power reactors. The purpose of the plan, which is composed of 224 sections, is to improve both the quality and uniformity of the NRC staff's review of applications to build new nuclear power plants, and to make information about regulatory matters widely available, including the improvement of communication and understanding of the staff review process by interested members of the public and the nuclear power industry. The purpose of the updating program is to revise sections of the SRP for which changes in the review plan have been developed since the original issuance in September 1975 to reflect current practice.

Copies of the Standard Review Plan for the Review of Safety Analysis Reports for Nuclear Power Plants, which has been identified as NUREG-75/087, are available from the National Technical Information Service, Springfield, Va. 22161. The domestic price is $70, including first-year supplements. Annual subscriptions for supplements alone are $30. Individual sections are available at current prices. The domestic price for Revision No. 1 to section No. 9.5.6 is $4. Foreign price information is available from NTIS. A copy of the Standard Review Plan including all revisions published to date is available for public inspection at the NRC's Public Document Room at 1717 H Street, NW., Washington, D.C. 20555.

(5 U.S.C. 552(a)).

Dated at Bethesda, Md., this 31st day of March 1978.

For the U.S. Nuclear Regulatory Commission,

ROGER J. MATTSON,
Director, Division of Systems Safety, Office of Nuclear Reactor Regulation.

[FR Doc. 78-9250 Filed 4-6-78; 8:45 am]

[7590-01]

[Docket No. 50-338]

VIRGINIA ELECTRIC AND POWER CO., NORTH ANNA POWER STATION, UNIT NO. 1

Issuance of an Amendment to Facility Operating License

Notice is hereby given that the Nucler Regulatory Commission (the Commission) has issued Amendment No. 3 to Facility Operating License No. NPF-4 to the Virginia Electric and Power Co. authorizing operation of the North Anna Power Station, Unit No. 1 at reactor core power levels not in excess of 2775 megawatts thermal (100% power), in accordance with the provisions of the amended license and the Technical Specifications. However, the operation of Unit No. 1 is temporarily restricted to a hot standby condition (modified operational Mode 3) until completion of construction items as defined in the license have been completed to the satisfaction of the Commission. The amended license is effective as of its date of issuance and shall expire at midnight on February 19, 2011. NPF-4 issued on November 26, 1977 authorized fuel loading and maintenance of the North Anna Power Station, Unit No. 1 in an operational Mode 5 condition (cold shutdown condition). The Technical Specifications were attached to the license as Appendices A and B. Amendment No. 1 to NPF-4 issued on January 26, 1978 authorized the licensee to operate the North Anna Power Station, Unit 1 in a hot standby condition. Amendment No. 2 to NPF-4 issued on March 17, 1978 authorized an exemption to certain technical specifications contained in Appendix A. The North Anna Power Station, Unit No. 1 is a pressurized water nuclear reactor located at the licensee's site near Mineral in Louisa County, Va.

The Commission has made appropriate findings as required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the amended license. The application for the license complies with the standards and requirements of the Act and the Commission's rules and regulations. This action completes the licensing action encompassed in the "Notice of Receipt of Application for Facility Operating Licenses; Notice of Consideration of Issuance of Facility Operating License and Notice of Opportunity for Hearing", dated May 8, 1973.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action see a copy of (1) Amendment No. 3 to NPF-4; (2) Amendment No. 2 to NPF-4 with Appendix A Technical Specification page changes; (3) Amendment No. 1 to NPF-4 with Appendix B technical Specification page changes; (4) Facility Operating License No. NPF-4, complete with Technical Specifications (Appendices "A" and "B"); (5) the report of the Advisory Committtee on Reactor Safeguards, dated January 17, 1977; (6) Office of Nuclear Reactor Regulation's Safety Evaluation Report dated June 4, 1976 and its nine supplements; (7) the Final Safety Analysis Report and amendments thereto; (8) the applicant's Environmental Report dated June 17, 1970 and supplements thereto; (9) the Draft Environmental Statement dated December 12, 1972; and (10) the Final Environmental Statement dated April 1973 and its Addendum, Dated November 1976. These documents are available for public inspection at the Commission's Public Document Room at 1717 H Street NW., Washington, D.C. at the County Administrator's Office, Louisa County Courthouse, P.O. Box 27, Louisa, Va. 23093 and the Alderman Library Manuscripts Department, University of Virginia, Charlottesville, Va. 22901. A copy of the amended license may be obtained upon request addressed to the United States Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Project Management.

Copies of the Safety Evaluation and its supplements (Document No. NUREG-0053) and the addendum to the Final Environmental Statement (Document No. NUREG-0134) may be purchased, at current costs, from the National Technical Information Service, Springfield, Va. 22161.

Dated at Bethesda, Md., this 1st day of day of April, 1978.

For the Nuclear Regulatory Commission.

OLAN D. PARR,
Chief, Light Water Reactors Branch No. 3, Division of Project Management.

[FR Doc. 78-9246 Filed 4-6-78; 8:45 am]

[7590-01]

[Docket No. 27-39]

NUCLEAR ENGINEERING COMPANY, INC.

Opportunity for Hearing

The Nuclear Regulatory Commission (the Commission) has previously given notice (43 FR 1160, January 6, 1978) that the Nuclear Engineering Co., Inc. (NECO), 9200 Shelbyville Road, Suite 526, P.O. Box 7246, Louisville, Ky. 40207, has filed an application, dated August 5, 1977, for amendment to License No. 13-10042-01 seeking approval of additional compact and fill burial trenches, including in particular "Trench 15," within the currently licensed 20.45 acres at the existing low-level waste burial facility located near Sheffield, Ill. and operated by NECO.

As a result of the January 6, 1978, FEDERAL REGISTER notice, several requests for hearings on Trench 15 have been filed. By order published in the FEDERAL REGISTER on March 17, 1978, (43 FR 11290) the Chairman of the Atomic Safety and Licensing Board Panel established an Atomic Safety and Licensing Board to rule on petitions concerning Trench 15 and directed the NRC Staff to publish in the FEDERAL REGISTER a "Notice of Opportunity for Hearing" in this matter.

The Chairman of the Board and his address is as follows:

Andrew C. Goodhope, Esq., 3320 Estelle Terrace, Wheaton, Md. 20906.

The other members of the Board and their addresses are as follows:

Dr. Linda W. Little, Research Triangle Institute, P.O. Box 12194, Research Triange Park, N.C. 27709.

Dr. Forrest J. Remick, 305 East Hamilton Avenue, State College, Pa. 16801.

This notice has been prepared in response to the order of the Chairman of the Atomic Safety and Licensing Board Panel and in the interest of providing for full public participation in Commission licensing activities. Pursuant to 10 CFR 2.105, by May 8, 1978, the licensee may file a request for a hearing with respect to issuance of a license amendment authorizing burial in Trench 15; and any person whose interest may be affected by this proceeding may file a request for a hearing and/or a petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed within the time prescribed in this notice, the Atomic Safety and Licensing Board will rule on the request and/or petition and will issue a notice of hearing or an appropriate order.

A petition for leave to intervene must be filed under oath or affirmation in accordance with the provisions of 10 CFR 2.714. As required in 10 CFR 2.714, a petition for leave to intervene shall set forth the interest of the petitioner in the proceeding, how that interest may be affected by the results of the proceeding, and any other contentions of the petitioner including the facts and reasons why he should be permitted to intervene, with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. Any such petition shall be accompanied by a supporting affidavit identifying the specific aspect or aspects of the subject matter of the proceeding as to which the petitioner wishes to intervene and setting forth with particularity both the facts pertaining to his interest and the basis for his contentions with regard to each aspect on which he desires to intervene. A petition that sets forth contentions relating only to matters outside the jurisdiction of the Commission will be denied.

A request for a hearing or a petition for leave to intervene must be filed with the Atomic Safety and Licensing Board designated to rule on petitions.

A copy of the petition and/or request should be sent to the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., by May 8, 1978. A copy should also be sent to the Executive Legal Director, United States Nuclear Regulatory Commission, Washington, D.C. 20555 and to James N. Neel, President and Chief Executive Officer of NECO, the applicant.

A petition for leave to intervene which is not timely will not be granted unless the Atomic Safety and Licensing Board determines that the petitioner has made a substantial showing of good causes for failure to file on time and after considering those factors specified in 10 CFR 2.714(a) (1)-(4) and 2.714(d).

For further details, see the application for license amendment, dated August 5, 1977, and associated correspondence. These documents are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Moline Public Library, 504 17th Street, Moline, Ill. 61265.

For the Nuclear Regulatory Commission.

Dated at Silver Spring, Md., this 27th day of March 1978.

MICHAEL J. BELL,
Chief, Low-Level Waste Branch Division of Fuel Cycle and Material Safety.

[FR Doc. 78-9111 Filed 4-6-78; 8:45 am]

[3310-01]

OFFICE OF MANAGEMENT AND BUDGET

SUBCONTRACTING TO MINORITY BUSINESSES

Proposed Policy; Invitation for Public Comment

AGENCY: Office of Federal Procurement Policy (OFPP), Office of Management and Budget.

ACTION: Notice of a proposed policy concerning subcontracting to minority businesses.

SUMMARY: The President recently instructed that direct and indirect Federal purchases from minority firms be doubled within 2 years. In concert with this instruction, the President directed OFPP to review and revise the procurement regulations to assure adequate involvement of minority subcontractors by requiring submissions by prospective contractors of preaward plans detailing the planned use of minority firms as subcontractors. OFPP thus proposes that the Federal Procurement Regulations, the Armed Service Procurement Regulations, and the National Aeronautics and Space Administration Procurement Regulations be amended:

(1) To require that on all nonconstruction negotiated contracts estimated to be over $500,000 a summary plan of each offeror's intended minority business subcontracting under the contract be obtained. Each plan would be evaluated as part of the company's proposal. A detailed plan would be required from the apparent successful offeror. The terms of the plan would then be negotiated and incorporated into the resulting contract. The minority subcontracting plan shall be identified as an important factor in determining which offeror receives the contract award.

(2) To require that on formally advertised nonconstruction contracts over $500,000 a detailed plan for minority business subcontracting be obtained from the low responsive and otherwise responsible bidder, prior to award, for approval by the contracting officer and incorporation into the contract.

The detailed minority business subcontracting plans required in (1) and (2) above would be as specific as possible as to the work to be subcontracted, with firm commitments identified when obtainable.

(3) To require that construction contracts estimated to exceed $500,000 set

forth a percentage goal for subcontracts with minority firms. While the precise percentage established by the contracting officer should reflect known circumstances and conditions at the time of the procurement solicitation, it should be sufficiently high to contribute to the program of increasing the share of subcontracting awards to minority businesses. A similar policy regarding subcontracting to small business will be announced in the near future.

PROPOSED POLICY: ASPR 1-332; 7-104.36; 7-204.37; 7-303.51; 7-402.33; 7-602.48; 7-605.44; 7-702.52; 7-703.46; 7-901.28; 7-1703.7; 7-1902.19; 7-1909.25; FPR Subpart 1-1.13; 1-7.103-12; 1-7.202-28; 1-7.203-20; 1-7.302-31; 1-7.303-51; 1-7.402-33; 1-7.403-55; 1-7.602-33; 1-7.603-24; and NASAPR 1-332 are deleted and the following substituted therefor. Appropriate modifications to the following will be made to meet the format requirements of those regulations.

MINORITY BUSINESS

SCOPE

The following contains policies, procedures, and contract clauses applicable to the participation of minority businesses in Government procurement at both the prime and subcontract level to carry out the purposes of Executive Order 11625, October 13, 1971.

APPLICABILITY

The following applies to the United States, its territories and possessions, the Commonwealth of Puerto Rico, and the Trust Territory of the Pacific Islands.

AGENCY RESPONSIBILITIES

(a) Minority business programs shall be established by agencies to increase the participation of minority businesses in Government procurement. The head of each agency, or his designated representative, shall be responsible for administering the agency's minority business program, which, at a minimum, shall provide for the agency to do the following:

(1) Seek out minority businesses and place such concerns on the agency's source lists;

(2) Solicit offers from the minority businesses on the agency's source lists;

(3) Counsel minority businesses with respect to prime contracting and subcontracting opportunities to promote their potential participation in Government procurement;

(4) Ensure that minority businesses have an equitable opportunity to obtain contracts, particularly by arranging (i) solicitations, (ii) time for the preparation of bids, (iii) quantities, (iv) specifications, and (v) delivery schedules, to facilitate the participation of minority businesses;

(5) Maintain records showing with respect to minority businesses (i) concerns on source lists, (ii) concerns solicited, and (iii) dollar value of awards to such concerns;

(6) Obtain data on subcontract awards to minority businesses from prime contractors, including small businesses, having contracts of $500,000 or more; and

(7) Submit semiannual reports based on the data developed pursuant to paragraph (a)(5)(iii) and (a)(6) of this section to the head of the agency.

SOLICITATION REPRESENTATION

The following representation shall be included in all solicitations and contracts other than those made pursuant to small purchase procedures;

MINORITY BUSINESS

The offeror represents that it ☐ is, ☐ is not, a minority business. A minority business is defined as a business controlled by minority group members, at least 50 percent of which is owned by minority group members or, in the case of publicly owned businesses, at least 51 percent of which is owned by minority group members. For the purpose of this definition, minority group membersd are Black Americans, Hispanic Americans, American Orientals, American Indians, American Eskimos, and American Aleuts.

Failure to execute the representation will be deemed a minor informality and the bidder or offeror shall be permitted to satisfy the requirement prior to award.

MINORITY BUSINESS SUBCONTRACTING PROGRAM

(a) *Contracts between $10,000 and $500,000.* The following clause shall be included in all contracts between $10,000 and $500,000 except personal service contracts.

UTILIZATION OF MINORITY BUSINESS

(a) It is the policy of the Government that minority businesses shall have the maximum practicable opportunity to participate in the performance of Government contracts.

(b) The Contractor agrees to use its best efforts to carry out this policy in the award of its subcontracts to the fullest extent consistent with the efficient performance of this contract. As used in this contract, the term "minority business" means a business, controlled by minority group members, at least 50 percent of which is owned by minority group members, or, in case of publicly owned businesses, at least 51 percent of the stock of which is owned by minority group members. For the purposes of this definition, minority group members are Black Americans, Hispanic Americans, American Orientals, American Indians, American Eskimos, and American Aleuts.

Contractors may rely on written representations by a subcontractor regarding its status as a minority business, in lieu of an independent investigation.

(b) *Contracts over $500,000.* (1) In all procurements for supplies and services estimated to result in a contract exceeding $500,000 the procurement solicitation shall:

a. Require that the otherwise successful offeror or bidder will submit to the contracting officer a detailed plan setting forth the work to be subcontracted to minority business. The solicitation shall state that no contract will be awarded until an acceptable plan is submitted to and accepted by the contracting officer and that acceptable plans will be incorporated into the contract as a contract requirement.

In negotiated procurements the solicitation shall, in addition, require that a summary plan for subcontracting to minority businesses must be submitted by each offeror and that the summary plan will be an important factor in evaluating the proposal.

In formally advertised procurements the Invitation for Bids shall not require a summary plan.

b. Require that the contractor:

1. Designate a liaison officer who will administer the contractor's minority business enterprises program.

2. Maintain records showing (i) awards to minority businesses, and (ii) specific efforts to identify and award contracts to minority business.

3. Cooperate with the contracting officer in any studies and surveys of the contractor's minority businesses procedures and practices that the contracting officer may from time to time conduct.

4. Submit periodic reports of subcontracting to known minority businesses in such form and manner and at such time (not more often than quarterly) as the contracting officer may prescribe.

5. Require, in subcontracts it places in an amount of $500,000 or over, that the first-tier subcontractor submit to the prime contractor an acceptable detailed plan of proposed subcontracting to minority businesses.

(2) In all procurements for construction estimated to result in a contract exceeding $500,000, the procurement solicitation must contain a fixed percentage, as determined by the contracting officer, and inserted in the solicitation, of the total dollar value of all subcontracts to be subcontracted to minority firms. The precise percentage used should reflect known circumstances and conditions at the time of the procurement solicitation but must be sufficiently high to contribute to the program of increasing the share of subcontract awards to minority businesses. In all subcontracts over $500,000 under a construction contract, the subcontractor shall also be required by the prime contractor to subcontract appropriate fixed percentages to minority firms. The following

clause shall be used in construction contracts over $500,000 and in procurement solicitations for such contracts.

MINORITY BUSINESS CONSTRUCTION SUBCONTRACTING

(a) As used in this contract, the term "minority business" means a business, controlled by minority group members, at least 50 percent of which is owned by minority group members or, in case of publicly owned businesses, at least 51 percent of the stock of which is owned by minority group members. For the purposes of this definition, minority group members are Black Americans, Hispanic Americans, American Orientals, American Indians, American Eskimos, and American Aleuts.

(b) Contractors may rely on a written representation by a subcontractor regarding its status as a minority business in lieu of an independent investigation.

(c) The Contractor agrees that at least — percent of the total value of all subcontracts resulting from this prime contract shall be awarded to minority businesses, as defined above. For the purpose of this program, the term "subcontractor" includes all construction, modifications, supplies and material, and service work contracted for by the prime contractor in the prosecution of the work.

(d) The Contractor agrees that it will require in all subcontracts it places over $500,000, that the subcontractor will require that an appropriate percentage of subcontracts be placed with minority businesses.

DATES: Comments must be received by May 23, 1978.

ADDRESSES: Comments should be addressed to the Administrator for Federal Procurement Policy, Office of Management and Budget, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT:

Mr. Owen Birnbaum, Assistant to the OFPP Administrator for Small and Minority Business.

VELMA N. BALDWIN,
Assistant to the Director for Administration.

[FR Doc. 78-9401 Filed 4-6-78; 8:45 am]

[8010-01]

SECURITIES AND EXCHANGE COMMISSION

[File No. 500-1]

CANAVERAL INTERNATIONAL CORP.

Suspension of Trading

MARCH 29, 1978.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the securities of Canaveral International Corp. being traded on a national securities exchange or otherwise is required in the public interest and for the protection of investors;

Therefore, pursuant to section 12(k) of the Securities Exchange Act of 1934, trading in such securities on a national securities exchange or otherwise is suspended, for the period from 10 a.m (EST) on March 29, 1978 through April 7, 1978.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-9168 Filed 4-6-78; 8:45 am]

[8010-01]

[Release No. 14620; File No. SR-CSE-77-1]

CINCINNATI STOCK EXCHANGE

Self-Regulatory Organizations; Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on March 29, 1977, the above-mentioned regulatory organization filed with the Securities and Exchange Commission revised amendments to a proposed rule change as follows:

1. STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The text of the amendment to proposed Rule 9D3 is printed in Exhibit A, and represents an amendment to a proposed rule change published in Release No. 34-14365.[1] The new amended proposed rule change has been set forth in Exhibit A with brackets used to indicate words deleted and italics used to indicate words added by the most recent amendments.

2. STATEMENT OF PURPOSE OF PROPOSED RULE CHANGE

The CSE states that the purpose of proposed Rule 9D3 (Temporary) is to enable the Cincinnati Stock Exchange ("the Exchange") to establish and operate, on an experimental basis, a pilot program for Multiple Dealer Trading using an electronic communications system designated for that purpose by the Exchange's Board of Trustees through which bids and offers of competing dealers, as well as public bids and offers, may be consolidated for review and execution by users. The purpose of the amendment to the proposed rule change is to clarify how the Multiple Dealer Trading system will work, specify the responsibilities of participants in the system, and provide that the system is a temporary pilot program, including no more than 200 issues, which shall be terminated no later than January 31, 1979, unless extended by another rule change (or amendment to this rule) filed with and approved by the Commission pursuant to section 19(b)(2) of the Act.

3. STATEMENT OF BASIS UNDER THE ACT FOR PROPOSED RULE CHANGE

The CSE states that the proposed rule change, in providing for a Multiple Dealer Trading system on the CSE through the mechanism of automated communications facilities would, among other things, be consistent with the provisions of Sections 6(b) and 11A of the Act concerning the furtherance of investor protection, removal of impediments to, and perfection of the mechanism of, a free and open market and a national market system.

4. COMMENTS RECEIVED FROM MEMBERS, PARTICIPANTS, OR OTHERS ON PROPOSED RULE CHANGE

No comments have been received.

5. BURDEN ON COMPETITION

The CSE states that it does not believe that the proposed rule change would impose any burden on competition.

On or before May 11, 1978, or within such longer period: (i) As the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted within 21 days of the date of this publication.

[1] The proposed rule change was originally filed June 30, 1977 and published in Securities Exchange Act Release No. 13788 (July 21, 1977), 42 FR 38447 (July 28, 1977). The proposed rule change was amended on January 3, 1978 and published in Securities Exchange Act Release No. 14365 (January 11, 1978), 42 FR 2674 (January 18, 1978).

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

MARCH 30, 1978.

EXHIBIT A

1. *Text of Proposed Rule Change.*

(a) Rule 9D3 (Temporary) Multiple Dealer Trading.

Rule 9D3 (*Temporary*) *Multiple Dealer Trading* [is provided through the mechanism of any communication system operated by the Exchange or by others to which the Exchange shall have access,] *The purpose of this Rule is to enable the Cincinnati Stock Exchange ("Exchange") to establish and operate, on an experimental basis, a pilot program for Multiple Dealer Trading using an electronic communication system designated for that purpose by the Exchange's Board of Trustees* through which bids and offers of competing dealers, as well as public bids and offers, may be consolidated for review and execution by Users (*the "System"*). *For the purpose of this Rule, Users are defined as Members of the Exchange, Access Non-Members of the Exchange and Approved Dealers.*

Any class of securities listed or admitted to unlisted trading privileges on the Exchange shall be eligible for designation be the Exchange's Board of Trustees as securities to be traded in the System ("Designated Issues"), provided, however, that the total number of Designated Issues for trading in the pilot program at any one time shall not exceed 200. Unless extended by a duly authorized Rule of the Exchange, or an amendment to this Rule, approved by the Securities and Exchange Commission pursuant to Section 19(b)(2) of the Securities Exchange Act of 1934 ("the Act"), this Rule shall expire and the pilot program authorized by this Rule shall terminate on January 31, 1979, or on such earlier date as the Board of Trustees may determine.

a. *Approved Dealers.* The following types of Approved Dealers *shall perform market maker functions by* [may] enter*ing* bids and offers *for Designated Issues into the System:* [into the Multiple Dealer Trading system utilized by the Exchange and may perform market maker functions by showing bids and offers to Users through such Exchange approved facilities:]

(i) *Designated Dealers.* The Board of Trustees shall, in a manner consistent with the due process requirements of Section 6 of the Act, [and] the rules and regulations thereunder, *and subsection h of this Rule,* approve [not more than] one *or more applicant* Members of the exchange [for each issue available for Multiple Dealer Trading (herein called "Designated Dealer") said Member to] *as a Designated Dealer for one or more Designated Issues. Such Designated Dealers shall* maintain minimum Net Capital of at least $500,000 pursuant to Section 15c3-1 of the Act. [The] *A* Designated Dealer shall perform the following functions:

(a) *Upon request of any User,* guarantee settlement, *at such Designated Dealer's customary charge,* for [all] transactions [occurring] *executed* through [Exhcange facilities] *the System* in *Designated* Issues for which he is *a* [the] Designated Dealer.

(b) *Upon request of any User, at such Designated Dealer's customary charge,* act as clearing contra-party for [all] transactions [occurring] *executed* through [Exchange facilities in] *the System in Designated* Issues for which he is [the] *a* Designated Dealer.

(c) Provide to all Users *through the System,* during Exchange trading hours, [a] continuous [two-sided market in odd-lots of] *bids and offers for round lots of Designated* Issues for which he is [the] *a* Designated Dealer.

(ii) [Specialist: A recognized specialist on any other national securities exchange may, upon becoming a User of this Exchange, offer his bids and offers for Multiple Dealer Trading to other Users in his specialty issues which are traded on the Exchange.

(iii) Registered Market Maker: Any market maker registered under Securities and Exchange Commission Rule 17a-9 may, upon becoming a Member of this Exchange, offer his bids and offers for Multiple Dealer Trading to other Users in those issues in which he is so registered as a market maker which are traded on the Exchange.

(iv) *Contributing Dealers.* Any Member of this Exchange who maintains Net Capital of [$500,000] *$250,000* pursuant to *Section* 15c3-1 of the Act may register [himself] with the Exchange as a Contributing Dealer for [particular] *any Designated* Issue [which are traded through the Exchange and may thereafter offer his bids and offers for Multiple Dealer Trading to other Users in those issues traded on the Exchange] *on the condition that he thereafter provide to all Users through the System, during Exchange Trading hours, regular bids and offers for round lots of Designated Issues* for which he is so registered.

(iii) *Specialists and Exchange Market Makers. Any specialist or market maker registered as such with another exchange with respect to any Designated Issue, may provide bids and offers with respect to that Designated Issue through the System to all Users so long as such specialist or market maker complies with the provisions of this Rule with respect to his use of the System.*

b. [It shall be the responsibility of all Approved Dealers when trading in round lots to

(i) Give precedence in trading to all public agency limit orders shown to him, whether through his Exchange or otherwise, at prices equal to or better than his own bid/offer when he is trading in the exchange environment.

(ii) File and to the extent practicable, execute through the facilities of the communications system operated by the Exchange or others, all public limit orders entrusted to him.]

Members. Members of the Exchange may provide bids and offers for their own accounts in any Designated Issue to all Users through the System so long as, in effecting transactions on the Exchange through the System, they comply with Sections 11(a) of the Act and the rules and regulations thereunder.

c. PUBLIC AGENCY ORDERS. A public agency [limit] order [is defined as having as the ultimate buyer or seller an individual other than a registered broker/dealer.] *to buy or sell a specified amount of any Designated Issue at a specified price may be entered in the System by any User of the Exchange. For purposes of this Rule, a public agency order shall be any order for the account of a person other than an Approved Dealer, a Member or a person who could become an Approved Dealer by complying with this Rule with respect to his use of the System, which order is represented, as agent, by a User. Except as provided below, public agency orders in Designated Issues may not be executed on the Exchange otherwise than by entry and execution through the System. Public agency orders entered in the System which have not been executed may be removed from the System only by the User who entered the order for the purpose of cancelling the order, transferring the order to another national securities exchange, or, in the case of withdrawal by an Approved Dealer or Member, executing such order immediately as principal pursuant to such Approved Dealer's or Member's prior guarantee to provide such an execution upon the occurrence of a transaction in another market at the price of such order (a "limit order guarantee"). Executions of public agency orders as principal pursuant to a limit order guarantee shall be deemed to be transactions effected on the Exchange in the same manner as if such transactions were executed through the System and must be reported to the Exchange as promptly as possible and in any event within one minute of execution.*

d. PRIORITIES FOR BIDS AND OFFERS IN THE SYSTEM. *Public agency orders to buy or sell at a particular price shall, in all cases except execution of such an order pursuant to a limit order guarantee, have priority over all other bids and offers in the System at the same price.*

Subject to the foregoing condition, (i) all bids entered in the System shall be queued for execution so that the highest price bid shall be the first to be executed and so that, in the case of bids at the same price, the bid entered earliest in time shall be the first to be executed; and

(ii) all offers entered in the System shall be queued for execution so that the lowest price offered shall be the first to be executed and so that, in the case of offers at the same price, the offer entered earliest in time shall be the first to be executed.

e. RESPONSIBILITIES OF USERS. *(i) It shall be the responsibility of every Approved Dealer and Member when trading on the Exchange for his own account in round lots of Designated Issues to effect such transactions through the System and, in so doing, to yield priority to:*

(a) all public agency orders in the System at prices equal to, or better than, his own bid or offer; and

(b) all bids and offers of Approved Dealers and Members for their own accounts in the System at prices better than his own bid or offer or at the same price in the event any such bid or offer was entered in the System at an earlier time than his own bid or offer.

(ii) It shall be the responsibility of all Users when trading on the Exchange for the account of another person in round lots of Designated Issues, to effect such transactions through the System.

(iii) Any Approved Dealer or Member in effecting an execution in a Designated Issue on the Exchange for his own account through the System, and any User effecting an execution in a Designated Issue on the Exchange for the account of another person through the System, shall do so by accepting bids or offers in the System in accordance with the priorities for bids and offers set forth in paragraph d of this Rule.

(iv) Nothing in this paragraph shall preclude an Approved Dealer or Member from effecting an execution of a public agency order in a Designated Issue of the Exchange pursuant to a limit order guarantee.

f. CONFIRMATIONS. *The System shall provide hardcopy confirmations of each transaction affected through the System promptly to each User (or his agent) who is a party to that transaction, supplying the following information; size, price, security, whether the User was a buyer or a seller and the transaction identification number.*

g. ACCESS. *Any User may obtain from the Exchange (or its designee) electronic means of direct access to the System upon the payment of such reasonable fees as the Board of Trustees may specify from time to time in an effective rule filed with the Securities and Exchange Commission pursuant to Section 19(b)(2) or 19(b)(3) of the Act.*

h. PROCEDURES. *The Board of Trustees shall be responsible for the supervision of Multiple Dealer Trading, including the following:*

(i) Affording to any person adversely affected by any prohibition or limitation with respect to access to services offered by the Exchange or any Member in connection with the System, the following procedural rights:

(a) Ten (10) days written notice specifying the grounds upon which such action is based.

(b) Representation by counsel and the right of confrontation in open hearing on a written record before an impartial, qualified and duly designated Hearing Officer.

(c) Any final determination by the Hearing Officer shall be supported by a written statement setting forth the grounds upon which it is based.

(d) Appeal may be had to the Board of Trustees from any final determination by a Hearing Officer. The Board of Trustees shall promptly hear the appeal and render its determination in writing.

(ii) Requiring all persons participating in the System to maintain such additional records and to provide such access to those records as the Exchange shall determine are in the public interest or appropriate for the protection of investors or the maintenance of fair and orderly markets.

(iii) Requiring all Users participating in the System to comply with all Exchange Rules, except Sections 4(a), 4(b), 7(a), 14, 14(a), 15(a) and 21(d)1. Approved Dealers and Members shall apprise customers promptly when they have acted as principal in effecting transactions with such customers, unless earlier notification and consent is required by law.

[FR Doc. 78-9169 Filed 4-6-78; 8:45 am]

[4710-07]

DEPARTMENT OF STATE

[Public Notice CM-8/38]

NATIONAL COMMITTEE OF THE U.S. ORGANIZATION FOR THE INTERNATIONAL RADIO CONSULTATIVE COMMITTEE

Meeting

The Department of State announces that the National Committee of the U.S. Organization for the International Radio Consultative Committee (CCIR) will meet on May 4, 1978, at 9:30 a.m. in Room 1107, Department of State, 22nd and C Streets NW., Washington, D.C.

The National Committee assists in the resolution of administrative/procedural problems pertaining to U.S. CCIR activities; provides advice on matters of policy and positions in preparation for CCIR Plenary Assemblies and meetings of the international Study Groups; and recommends the disposition of proposed U.S. contributions to the international CCIR which are submitted to the Committee for consideration.

The main purposes of the meeting will be:

a. Review of results of the Study Group meetings;

b. Consideration of positions for the XIVth Plenary Assembly; and

c. Review of preparations for the Special Preparatory Meeting for the 1979 World Administrative Radio Conference.

Members of the general public may attend the meeting and join in the discussions subject to instructions of the Chairman. Admittance of public members will be limited to the seating available. In that regard, entrance to the Department of State building is controlled and entry will be facilitated if arrangements are made in advance of the meeting. It is requested that prior to May 4, members of the general public who plan to attend the meeting inform their name and address to Mr. Gordon L. Huffcutt, Office of International Communications Policy, Department of State; the telephone number is 202-632-2592. All non-Government attendees must use the C Street entrance to the building.

GORDON L. HUFFCUTT,
Chairman,
U.S. National Committee.

APRIL 3, 1978.

[FR Doc. 78-9257 Filed 4-6-78; 8:45 am]

[4810-28]

DEPARTMENT OF THE TREASURY

Office of Revenue Sharing

ENTITLEMENT DATA

Procedure for Data Improvement

The data used by the Office of Revenue Sharing in calculating the revenue sharing allocations for all State governments and units of local government pursuant to the State and Local Fiscal Assistance Act of 1972 (86 Stat. 919; 31 U.S.C. 1221 et seq.), as amended by the State and Local Fiscal Assistance Amendments of 1976 (90 Stat. 2347) for Entitlement Period Ten (October 1, 1978, through September 30, 1979) will be mailed to each recipient government on or about April 7, 1978. The collective data for all State governments and units of local government used in the allocations for Entitlement Period Ten will be provided to libraries designated as depositories for Government publications pursuant to title 44 U.S.C. 1911 by early summer, 1978.

These data have been compiled by the Bureau of the Census, the Bureau

of Economic Analysis, the Internal Revenue Service, and the Bureau of Indian Affairs. The definitions of each data element are provided in this notice.

Additionally, an estimated allocation amount has been provided to each State government, and to each local recipient government on the data Form 3233 or Form 3240 (described below), to aid each recipient government in its data verification efforts. Please note that this allocation amount is an estimate only, and will not be used as the basis for each recipient government's payment for Entitlement Period Ten. If a recipient government does not believe the estimated allocation amount is approximately correct, it should check its data carefully to find the source of the discrepancy.

In order to assure equitable treatment for each recipient government, the amount of revenue sharing funds each recipient government will actually receive will be determined only after the Office of Revenue Sharing has had an opportunity to review all of the data questioned by May 16, 1978. This process is necessary to validate the data and to correct data found to be erroneous.

The amount of revenue sharing funds each recipient is scheduled to receive for Entitlement Period Ten will be printed on Statement of Assurances Forms for Entitlement Period Ten which will be sent to all recipient governments in late July 1978. Quarterly payments for Entitlement Period Ten will be made in January, April, July, and October 1979. The amount of revenue sharing funds each recipient government will actually receive will differ from the estimated allocation amount appearing on Form 3233 or Form 3240 containing each recipient government's data factors. This is because data which are reviewed and corrected under this data improvement procedure will differ from that used to calculate the estimated allocation amounts. When these revised data are entered into the revenue sharing allocation process, which is competitive in nature, the amount of revenue sharing funds each recipient government actually receives will be subject to change.

Entitlement Period Ten allocation amounts printed on the Statement of Assurances Forms will be subject to change as a result of an adjustment allocation which will be computed during 1979. Differences between the allocation and adjustment allocation amounts for Entitlement Period Ten will be added to or subtracted from the State or local government's payments for the following entitlement period.

After the adjustment allocation, a State or local government (or the Secretary of the Treasury) may make a demand for adjustment on or before September 30, 1980, pursuant to section 102(b) of the State and Local Fiscal Assistance Act of 1972, 31 U.S.C. 1221 as amended by § 6(e)(2) of the State and Local Fiscal Assistance Amendments of 1976 (90 Stat. 2347). If a demand for adjustment is made by a recipient government, the demand shall be made in writing and contain evidence and documentation to fully justify the proposed corrections of data. In that event, the adjustment, if any, will affect only the recipient government for which a demand for adjustment has been made.

State Governments

The State data will be mailed to the Governor of each State and to the Mayor of Washington, D.C. For purposes of the revenue sharing program, the District of Columbia is treated as a State.

Each State government will receive a letter showing its data elements. The definitions of each data element are provided in this notice. If State governments believe that there are errors in these data relative to these definitions and effective dates, they should so inform the Office of Revenue Sharing in writing and provide evidence and documentation to fully justify the proposed corrections of data.

The written justification must be received by the Office of Revenue Sharing on or before May 16, 1978, in order that corrections to data elements may be used to calculate allocations on which payments for Entitlement Period Ten will be determined. The data of record in the Office of Revenue Sharing will be considered valid for those State governments which do not respond by May 16, 1978.

Upon receipt of any written challenge from State governments, the Office of Revenue Sharing, in conjunction with appropriate Federal agencies, will substantiate or correct all data questioned and advise the State governments of its findings.

Units of Local Government

The data for units of local government will be mailed to the official of record for each government. Each recipient unit of local government will be sent either a Form 3233 or a Form 3240. Form 3240 will be sent only to those governments in areas declared major disaster areas since April 1, 1974, under the Disaster Relief Act of 1974 (88 Stat. 143; 42 U.S.C. chapter 58) and whose data were possibly adversely affected by the major disaster. Those local governments, which receive a Form 3240, in order to be eligible for the data stabilization benefit of the Disaster Relief Act (which permits them to use their pre-disaster data figures rather than their post-disaster figures) are required to certify that one or more of their data factors were adversely affected by the disaster. Such certification must be received in the Office of Revenue Sharing by May 16, 1978, in order to be used in calculating the government's payments by Entitlement Period Ten.

Form 3233 will be sent to all other recipient governments. If a recipient government believes that there are errors in these data, relative to these definitions and effective dates, it should so inform the Office of Revenue Sharing in writing and return the Form 3233 on or before May 16, 1978, with evidence and documentation to fully justify the proposed corrections of data. Governments which receive Form 3240 will also have the opportunity to question their data elements by returning Form 3240 on or before May 16, 1978, with evidence and documentation to fully justify the proposed corrections to these data. It is essential that either Form 3233 or Form 3240 be returned to the Office of Revenue Sharing on or before May 16, 1978, in order that corrections to data elements may be processed in time to be reflected in the Entitlement Period Ten payments. Recipient governments which do not wish to question their data need not return the form.

The data of record in the Office of Revenue Sharing for those local governments which do not respond by May 16, 1978, will be used to calculate allocations on which payments for Entitlement Period Ten will be determined. In the case of those local governments sent Form 3240, the post-disaster data of record in the Office of Revenue Sharing will be considered valid for those governments for which the Office of Revenue Sharing has not received a disaster certification by May 16, 1978.

Upon receipt of a written challenge from a recipient government the Office of Revenue Sharing will, as timely as practicable, work with the Bureau of the Census, the Bureau of Indian Affairs, or other appropriate Federal agency, to substantiate or correct all data questioned and to advise the recipient government of its findings.

Dated: April 4, 1978.

Bernadine Denning,
Director, Office of Revenue Sharing.

I. Population

The population of a State for revenue sharing purposes for Entitlement Period 10 is the total resident population as of July 1, 1977 as determined by the Bureau of the Census. The July 1, 1977 State populations are provisional estimates which were published by the Bureau of the Census in *Current Population Reports*, Series P-25. Incorporated in these population totals for the year ending July 1, 1977, are estimates of

population change including migration, which are based on vital statistics, key population indicators, and extrapolations of past trends. For a complete description of the methodology used, please consult the full report in the Bureau of the Census' Series P-25.

II. Urbanized Population

The urbanized population of a State for revenue sharing purposes for Entitlement Period 10 is the 1970 urbanized population of the State as determined by the Bureau of the Census. A State's 1970 urbanized population is that State's 1970 population that was living in territory designated as urbanized areas according to the Bureau of the Census' 1974 Urbanized Area Criteria. The Bureau of the Census revised its definitional criteria for urbanized areas in 1974 to make them more consistent with the criteria for Standard Metropolitan Statistical Areas (SMSAs). Urbanized areas were defined using 1970 census population.

1. An urbanized area must include a central city or cities that qualify under one of the criteria listed below. All population criteria refer to 1970 census population counts (except as specified in item 1a).

a. A city of 50,000 inhabitants or more according to the 1970 census, a special census taken between 1960 and 1970, or the 1960 census, provided that the city is located in an SMSA and is not included in an existing urbanized area.

b. A city with at least 25,000 inhabitants which, together with those contiguous places (incorporated or unincorporated) having population densities of at least 1,000 persons per square mile, has a combined population of 50,000 and constitutes for general economic and social purposes a single community, provided that the city is located within an SMSA and is not included in an existing urbanized area.

2. In addition to a central city or cities, an urbanized area includes contiguous territory meeting the following criteria:

a. Incorporated places of 2,500 inhabitants or more but excluding the rural portions of extended cities.

b. Incorporated places with fewer than 2,500 inhabitants, provided that each has a closely settled area of 100 housing units or more; and all unincorporated places recognized in the 1970 census.

c. Contiguous small parcels of unincorporated land (delineated as either enumeration districts or block parcels prior to the 1970 census) determined to have a 1970 census population density of 1,000 inhabitants or more per square mile. The areas of large nonresidential tracts devoted to such urban land uses as railroad yards, airports, factories, parks, golf courses, and cemeteries are excluded in computing the population density.

d. Other similar small areas in unincorporated territory without regard to population density provided that they serve—to eliminate enclaves, or—to close indentations of one mile or less in width across the open end of the urbanized areas in order to eliminate narrow fingers of "rural" area, or—to link outlying areas of qualifying density provided that these are not more than 1½ miles from the main body of the urbanized area.

III. Income

The per capita income (PCI) of a State for revenue sharing purposes for Entitlement Period 10 is the 1975 per capita income of the State as determined by the Bureau of the Census. The per capita income is the estimated mean or average amount of total money income received during calendar year 1975 by all persons residing in the State in April 1976. The 1975 PCI estimates are based on data from the 1970 census and reflect corrections to the census data which have been made since 1970.

Total money income is the sum of:
Wage and salary income.
Net nonfarm self-employment income.
Net farm self-employment income.
Social Security and railroad retirement income.
Public assistance income
All other income such as interest, dividends, veteran's payments, pensions, unemployment insurance, alimony, etc.

The total represents the amount of income received before deductions for personal income taxes. Social security, bond purchases, union dues, medicare deductions, etc.

Receipts from the following sources are not included as income: Money received from the sale of personal property; capital gains; the value of income "in kind" such as food produced and consumed in the home or free living quarters; withdrawals of bank deposits; money borrowed; tax refunds; exchange of money between relatives living in the same household; gifts and lump sum inheritances, insurance payments, and other types of lump sum receipt.

The 1970 census PCI data were updated to 1975, based on income data from the 1969 and 1975 Federal income tax returns and State income estimates prepared by the Bureau of Economic Analysis to measure the change from 1969 to 1975.

At the State level, 1975 per capita income estimates were developed by carrying forward the 1970 census aggregate wage and salary income and per capita income for the remaining types of income itemized above, and dividing the sum of the 1975 aggregates for each State by the estimated April 1976 population. The percent change in wage and salary income as reflected by the IRS data, was used to update the 1970 census wage and salary amount, while the remaining income types were carried forward using the percent change implied in estimates developed by the Bureau of Economic Analysis (BEA).

As a result of data revisions currently being developed by BEA, the Bureau of the Census will revise the 1975 per capita income estimates in mid 1978. These revisions will, among other changes, incorporate the results of the 1974 Census of Agriculture and will impact mainly areas with a high proportion of farm related income. The 1975 per capita income revisions will be incorporated into the Entitlement Period 10 data base when they become available. Substantial data revisions may result in significant allocation adjustments for some local governments for Entitlement Period 10. For a discussion of these revisions, please see the August 1977 issue of *Survey of Current Business*, "State Personal Income Revisions, 1971-75."

The 1975 PCI estimates were published by the Bureau of the Census in *Current Population Reports*, Series P-25, in State reports numbered in alphabetical sequence from Alabama through Wyoming. The estimates being used for revenue sharing purposes may not agree exactly with the figures in the P-25 reports since corrections have been made to the estimates subsequent to the publication of the reports.

IV. State Individual Income Tax

The State individual income tax data of a State for Entitlement Period 10 of revenue sharing is the total calendar year 1977 collections of the tax imposed upon the income of individuals by such State and described as a State income tax under section 164 (a)(3) of the Internal Revenue Code of 1954. These are collections of taxes on special types of incomes (e.g., interest, dividends, income from intangibles, etc.).

Actual calendar year 1977 State individual income tax collections data were obtained from the Bureau of the Census' publication entitled *Quarterly Summary of State and Local Tax Revenue, October-December 1977*. The calendar year 1977 State individual income tax collections data used for revenue sharing may not agree exactly with the figures in the Census Bureau's *Quarterly Summary of State and Local Tax Revenue*, if corrections to these data were made subsequent to its publication.

V. Federal Individual Income Tax Liabilities

The Federal individual income tax liability of a State for revenue sharing purpose is the total annual Federal individual income taxes after credits attributed to the residents of the State by the Internal Revenue Service. Income tax after credits is determined by subtracting statutory credits from the total of income tax before credits and the tax surcharge. It does not include self-employment tax or tax from recomputing prior year investment credit, nor does it take into account refundable credits.

Income tax before credits is the tax liability computed on taxable income based on:
1. The regular combined normal tax and surcharge including tax from the optional tax tables,
2. Alternative tax, or
3. Tax computed using the income averaging provisions.

Examples of credits which are applied against income taxes are:
1. Retirement income credit,
2. Investment credit,
3. Foreign Tax credit, and
4. Other tax credits.

The most recent Federal individual income tax liabilities available for revenue sharing use in Entitlement Period 10 are the 1976 IRS estimates of Federal individual income tax liabilities of States. These estimated tax amounts for calendar year 1976 are the preliminary 1976 estimates from the internal Revenue Service's *Statistics of Income*.

VI. State and Local Taxes

The State and local taxes data of a State are the compulsory comtributions exacted by the State (or by any unit of local government or other political subdivision of the State) for public purposes (other than employee and employer assessments and contributions to finance retirement and social insurance systems, and other than special assessments for capital outlay) as such contributions are determined by the Bureau of the Census for general statistical purpose.

State and local taxes data used for revenue sharing purposes in Entitlement Period 10 are the Fiscal Year 1975-76 State and local taxes as reported by the Bureau of the Census in Table 17 of *Governmental Finances 1975-76* (GF 76, No. 5). Fiscal Year 1975-76 is a government's 12-month accounting period that ended between July 1,

1975 and June 30, 1976 except for the State governments of Alabama and Texas (as well as school districts in those States). These latter governments have fiscal years which end at the end of September and August, respectively, and are treated as though they were part of the group with fiscal years ending June 30.

Tax revenue comprises amounts collected from all taxes which are imposed by a government and collected by that government or which are collected for it by another government acting as its agent. This includes interest and penalties but does not include amounts refunded or taxes paid under protest and held in suspense accounts subject to possible refund. These latter amounts are not regarded as revenue except as awarded to the government concerned. For purposes of this definition, local governments and political subdivisions include counties (parishes in Louisiana and boroughs in Alaska), municipalities, townships, school districts, and special districts. A unit of government also includes, in addition to the central authority of the unit, any semiautonomous boards, commissions, or other agencies dependent on it that do not in themselves meet requirements as to fiscal and administrative independence even though as to accounting records and other specific administrative aspects such agencies may operate outside the central accounting and administrative pattern of the unit.

The State government information contained in State and local taxes is based on the annual Bureau of the Census survey of State finances. State finance statistics are compiled by representatives of the Bureau of the Census from official records and reports of the various States. The local government portion of the State and local taxes data are estimates based on information received from a sample of such governments. The sample consisted of approximately 16,000 local governments and included all counties having a 1970 population of 50,000 or more, all cities having a 1970 population of 25,000 or more, all other governments whose relative importance in their State based on expenditure or debt was above a specified size, and a random sample of remaining units.

The Fiscal Year 1975-76 State and local taxes data may not agree exactly with the figures in *Governmental Finances 1975-76*, because corrections may have been made to these data subsequent to its publication.

VII. General Tax Effort Factor

The general tax effort factor of a State used for Entitlement Period 10 is the amount of Fiscal Year 1975-76 State and Local taxes of the State divided by the aggregate personal income of the State for 1975. State and local taxes for Fiscal Year 1975-76 are as defined above, and as reported by the Bureau of the Census in Table 17 of *Governmental Finances 1975-76* (GF 76, No. 5).

Aggregate personal income of a State in calendar year 1975 is the income of individuals as estimated by the Bureau of Economic Analysis of the Department of Commerce for national income accounts purposes and as reported in Table 1 of *Survey of Current Business*, August 1977, Volume 57, Number 8.

Aggregate personal income represents the total current income received by persons residing in the State from all sources, including transfers from government and business but excluding transfers among "person." Not only individuals (including owners of unincorporated enterprises), but also nonprofit institutions, private trust funds, and private pension, health and welfare funds are classified as "persons." Personal income is measured on a before-tax basis, as the sum of wages and salary disbursements, other labor income, proprietors' and rental income, interest and dividends, and transfer payments, minus personal contributions for social insurance, etc.

I. Population

Population of Counties, Cities, Towns and Townships

The population of a unit of government for revenue sharing purposes is the resident population as of July 1, 1976 as determined by the Bureau of the Census. The July 1, 1976 population estimates were published by the Bureau of the Census in *Current Population Reports*, Series P-25, in State reports numbered in alphabetical sequence from Alabama through Wyoming. The population estimates being used for the revenue sharing program reflect corrections which have been made since the publication of the P-25 Series reports.

The July 1, 1976 estimates of population were derived by the Bureau of the Census using a component procedure whereby components of population change are estimated separately and then added to the enumerated 1970 census populations of the units of local government. The 1970 population base reflects all population corrections made to the data after the initial Bureau of the Census publications as well as changes due to new incorporations, disincorporations and annexations.

The components of population change are: 1. *Natural increase, i.e., the excess of births over deaths:* Annual births and deaths were compiled from State vital statistics offices supplemented by data from the National Center for Health Statistics. County statistics were available for all States. When vital statistics were not available for all areas within a county, the births and deaths for these areas were estimated and adjusted to agree with county-level figures.

2. *Net Migration:* This component of population change was estimated for each unit of government by developing net migration rates for the periods between 1970 and 1973, between 1973 and 1975, and between 1975 and 1976. The net migration rate was developed by matching IRS files of 1972 tax returns and 1969 tax returns, by matching 1974 and 1972 tax returns, and by matching 1975 and 1974 tax returns, respectively. Thus, it was possible to determine for each unit of local government the number of taxpayers who did not move, or who moved in or out of the jurisdiction between 1970 and 1973, between 1973 and 1975, and between 1975 and 1976. The number of those who moved in minus the number of those who moved out yields the net migration. The net migration rate of taxpayers was applied to the nongroup quarters population in an area.

In addition to the estimates of natural increase and net migration, adjustments were incorporated into the estimates to account for immigration from abroad, institutional inmates, members of the armed forces living in barracks, and college students. For all areas where special censuses were taken by the Bureau of the Census close to the 1976 estimate date, and in selected areas where special censuses were conducted locally, the special census counts were taken into account in preparing the estimates. The special census counts were adjusted to the July 1, 1976 estimate date. In several States, the subcounty estimates were also merged with estimates developed by State agencies participating in the Federal-State Cooperative Program for Local Population Estimates. This occurred in six States—California, Florida, New Jersey, Oregon, Washington, and Wisconsin.

Efforts are being made by the Bureau of the Census to include the involvement of local government officials in the review and evaluation of local area population estimates. Cities and other local governments receive the population estimates for their areas directly from the Bureau of the Census, along with related materials to assist them in the review process. Final figures are arrived at in conjunction with the Bureau of the Census before being submitted for use in the allocation formulas. An increasing role also is being developed for the State agencies active in the Federal-State Cooperative Program with respect to population figures for both State and places (e.g., cities and towns).

The July 1, 1976 population estimates being used for revenue sharing for counties represent the average change between July 1, 1975 and July 1, 1976 administrative record-based estimates derived by the procedures described above and Component Method II estimates derived from the Federal-State Cooperative Program. This change was added to the July 1, 1975 county estimates to yield July 1, 1976 county estimates. The county populations were further adjusted to be consistent with State estimates published by the Bureau of the Census in *Current Population Reports*, Series P-25. The population estimates for the governments in each county area were adjusted to be consistent with the county population.

The July 1, 1976 population estimates published by the Bureau of the Census in Series P—25 are related to boundaries as of December 31, 1976. Adjustments to the 1970 population base were made for new incorporations, disincorporations, and annexations.

Population of Indian Tribes and Alaskan Native Villages

The population of an Indian tribe or Alaskan native village for revenue sharing purposes is the resident population as of July 1, 1976 as determined by the Bureau of Indian Affairs. For Indian tribes, the resident population is the number of Indians living within the boundaries of the tribal reservation plus the number of Indians living on trust land (including public domain allotments) adjacent to the reservation and pertaining to the tribe. The adjacent trust land may be tribally owned or individually owned. Resident non-Indian members of families with an Indian head or spouse are also included in the population estimate.

For Alaskan native villages, the resident population is the number of Indians, Aleuts and Eskimos living within the boundaries of the village. Resident non-Alaskan native members of families with an Alaskan native head or spouse are also included in the population estimate.

The methodology used by the Bureau of Indian Affairs to update the 1970 population of an Indian tribe or Alaskan native village depended on the type of accurate data that was available for that tribe or village.

In general, the population estimates were derived using a component procedure incorporating a natural increase rate (births minus deaths) as reported by the Indian Health Service and a net migration rate from Bureau of the Census data. Another example of the type of data used to develop the July 1, 1976 population estimates are lists of residents supplied by the tribe or native village.

II. Per Capita Income

The 1975 per capita income (PCI) is the estimated mean or average amount of total money income received during calendar year 1975 by all persons residing in a given political jurisdiction in April 1976. The 1975 PCI estimates are based on data from the 1970 census and reflect corrections to the census data as well as changes in income, population, and geographic boundaries which have occurred since 1970. The 1975 PCI estimates were published by the Bureau of the Census in *Current Population Reports*, Series P-25, in State reports numbered in alphabetical sequence from Alabama through Wyoming. The estimates being used for revenue sharing will not agree exactly with all of the figures in the P-25 reports, since corrections have been made to the data subsequent to the publication of the reports.

The 170 census PCI data were updated to 1975 based on income data from the 1969, 1972, 1974, and 1975 Federal income tax returns and State and county money income estimates prepared by the Bureau of Economic Analysis (BEA) to measure the change from 1969 to 1975.

As a result of data revisions currently being developed by BEA, the Bureau of the Census will revise the 1975 per capita income estimates in mid 1978. These revisions will among other changes, incorporate the results of the 174 Census of Agriculture and will impact mainly areas with a high proportion of farm related income. The 1975 per capita income revisions will be incorporated into the Entitlement Period 10 data base when they become available. Substantial data revisions may result in significant allocation adjustments for some local governments for Entitlement Period 10. For a discussion of these revisions, please see the August 1977 issue of *Survey of Current Business*, "State Personal Income Revisions, 1971-1975."

Total money income is the sum of:

Wage and salary income.
Net nonfarm self-employment income.
Net farm self-employment income.
Social Security and railroad retirement income.
Pulic assistance income.
All other income such as interest, dividends, veteran's payments, pensions, unemployment insurance, alimony, etc.

The total represents the amount of income received before deductions for personal income taxes, Social Security, bond purchases, union dues, medicare deductions, etc.

Receipts from the following sources are not included as income: Money received from the sale of personal property; capital gains; the value of income "in kind" such as food produced and consumed in the home or free living quarters; withdrawal of bank deposits; money borrowed; tax refunds; exchange of money between relatives living in the same household; gifts and lump sum inheritances, insurance payments, and other types of lump sum receipts.

County Estimates

At the county level, 1975 PCI estimates were developed by carrying forward the 1970 census per capita amount for each income type listed above. Census wage and salary per capita income amounts were updated using the percent change in the IRS wage and salary per exemption. For the remaining income types, the percent change in the BEA per capita amounts were used. The 1975 per capita amounts for each income type were then multiplied by the April 1, 1976 population estimate, and the resulting county income aggregates were adjusted to State income aggregates. For each county the aggregate amounts for each income type were added to get an estimated 1975 total money income which was then divided by the estimated population to derive the 1975 PCI estimate.

Subcounty Governmental Unit Estimates

For all townships and municipalities, the updates were also developed using per capita amounts. Updated census estimates of Adjusted Gross income per capita were developed using the percent change in IRS Adjusted Gross Income per exemption. The estimates for Social Security, public assistance and other forms of transfer income were made by assuming that the 1970 Census per capita amounts for this income type grew at the same rate as that for the county.

The rates of change in per capita income for governmental units with a 1970 population under 1,000 were computed in the same manner as those for larger areas. However, the 1970 census per capita income figure was not used as the base figure for these small area estimates. The 1969 base per capita income estimates for these areas were developed by computing a weighted average of their 1970 Census value and a regression estimate. This procedure was used to improve the statistical accuracy of these estimates.

The PCI estimates for all townships and municipalities outside of townships were adjusted to the county estimates to ensure conformity. The estimates for municipalities located within townships were adjusted to the township estimates.

III. Adjusted Taxes

The adjusted taxes for a unit of local government, as derived from the General Revenue Sharing Survey conducted by the Bureau of the Census in 1977, are the total taxes of the unit of government in Fiscal Year 1977 (that government's 12-month accounting period that ended between July 1, 1976 and June 30, 1977) excluding taxes for schools and other educational purposes. A government's total Fiscal Year 1977 taxes are those which were exacted by that government and which were collected by or for that government during Fiscal Year 1977. Total general purpose taxes include:

1. *Property taxes*—county, municipal or township taxes levied on the value of real or personal property.

2. *Sales taxes*—county, municipal or township taxes, either general or specific, on goods and services, measured as a percent of sales or receipts, or as an amount per unit sold.

Sales taxes are of two types: a. General sales or gross receipts taxes.

b. Selective sales or gross receipts taxes.

Examples of selective sales taxes are:

Gasoline taxes.
Liquor taxes.
Cigarette and tobacco taxes.
Public utilities excise taxes.
Amusement taxes.
Hotel and motel room occupancy and meals taxes.

3. *Licenses, permits and other taxes*—county, municipal or township taxes not included in items 1 and 2 above.

Examples of license taxes are:

Alcoholic beverage licenses.
Business privilege licenses.
Motor vehicle and operators licenses.
Hunting and fishing licenses.
Marriage licenses.
Inspection fees charged in connection with the granting or renewal of a license.

Examples of permits are:

Building permits.
Permits for a business or nonbusiness privilege.

Examples of other taxes are:

Income, payroll or earning taxes.
Mortgage transfer and recordation taxes.
Severance taxes.
Fees retained by a government for collecting taxes for other governments.

General purpose taxes do not include receipts from service charges, special assessments, interest earnings or fines.

A tax which is jointly imposed by a State government and units of local government is apportioned in order to determine local tax effort. An example of a jointly imposed tax would be a five percent sales tax of which four percent was imposed by the State government and one percent was imposed by the local government. In such case the amount of revenue realized by virtue of the one percent locally imposed portion will be credited to local tax effort. It is important to distinguish a "jointly imposed tax" from a wholly State imposed tax where part of the tax revenue is shared with local governments. An example of a shared State tax would be a five percent sales tax wholly imposed by the State, but which provides a 20 percent revenue share to units of local government. A local government's share of a "wholly State imposed tax" is classified as an intergovernmental transfer and not as local tax effort. Thus, in determining local tax effort the point of reference is the government which imposed the tax rather than the government which expended the resulting tax revenue. The one exception to the foregoing definition is that locally collected and retained shares of State taxes (including any collection fees retained) are classified as tax revenue of the government ultimately receiving the proceeds.

Certain sales taxes imposed by counties which meet the requirements of Section 109(e)(2)(B) of the Revenue Sharing Act may be considered to be taxes of the units of local government within the county rather than the county government. The "Memphis Rule," as this section is called, provides for situations whereby a county government imposes a sales tax within the geographic area of local governments within the county, and then shares part or all of the applicable tax revenue with those local governments. These taxes must be transferred by the county government without specifying the purposes for which the local governments may spend the revenues. In such cases, the Governor of the State must certify to the Secretary of the Treasury

that the requirements of the "Memphis Rule" are met. This certification must be made by the Governor before the beginning of the entitlement period when the "Memphis Rule" is to take effect. The taxes which are transferred by the county to the units of local government will then be considered for revenue sharing purposes to be taxes of the local governments and not the taxes of the county government.

Amounts in lieu of taxes received by a government from a utility it operates are treated as internal transfers and are excluded from taxes. Amounts in lieu of taxes received from utilities operated by other governments are reported as intergovernmental transfers.

The taxes of a local government are adjusted for revenue sharing purposes to exclude taxes for education. School taxes are tax revenues of a unit of government which are used for school purposes. They consist of taxes levied for current operation, capital outlay and debts service including amounts collected for a governmental unit's schools by the State or a local government acting as a collecting agent.

In some jurisdictions, tax revenues for purposes of education are not separately identifiable, because education is financed by appropriations, transfers or direct expenditures from one or more general-type funds. In such instances, a school tax amount must be derived.

For these governments, school taxes are calculated by taking the ratio of tax revenues to total revenues in the general-type fund and multiplying that ratio by the amount of expenditure or transfer of monies for educational purposes from the general-type fund.

Commencing with the Fiscal Year 1976 General Revenue Sharing Survey, a revised procedure has been used to determine the amount of adjusted taxes for these governments. The governments affected are New York City, some places in Alabama, Alaska, Arizona, North Carolina, Tennessee, and generally in Connecticut, Maryland and Virginia. The new procedure is designed to remove certain dedicated funds from the general-type fund(s) prior to calculating adjusted taxes. Dedicated funds are, in general, those funds received or generated with a requirement that they be spent for a specific purpose. Dedicated funds also include amounts received from Federal, State, or other local governments as reimbursement for a specific purpose or activity, whether received in advance of or subsequent to the expenditure of local monies for the specific purpose involved.

IV. Intergovernmental Transfers of Revenue

Intergovernmental transfers are amounts received by a unit of government from other governments in Fiscal Year 1977 (the government's 12-month accounting period that ended between July 1, 1976 and June 30, 1977) for use either for specific functions or for general financial support. This amount is derived from the General Revenue Sharing Survey conducted by the Bureau of the Census in 1977. The figure includes grants, shared taxes, contingent loans and reimbursements for tuition costs, hospital care, construction costs, etc. Intergovernmental revenue does not include amounts received from the sale of property or commodities, utility services to other governments, or Federal general revenue sharing entitlement funds.

[FR Doc. 78-9287 Filed 4-6-78; 8:45 am]

[7035-01]

INTERSTATE COMMERCE COMMISSION

Office of Hearings

[Notice No. 629]

ASSIGNMENT of HEARINGS

April 4, 1978.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 99581 Sub-No. 4, Horace Simmons, DBA Vaca Valley Bus Lines, is assigned for hearing April 10, 1978 at San Francisco, CA, and will be held at Court Rm. No. 2, 6th Flr., 211 Main St.

AB 83 Sub 1, Maine Central Railroad Co. Abandonment between Ayers Junction and Eastport in Washington County, ME, now assigned May 3, 1978, at Eastport, ME, is canceled and reassigned to May 3, 1978 (3 days), at Baring (Calais), ME, and will be held in The Moose Horn National Wildlife Refuge Building on U.S. Highway 1.

MC 143829, Scalea Airport Service, Inc. now being assigned May 1, 1978 (1 day) at Philadelphia, PA, in a hearing room to be later designated.

MC 123788 Sub 4, American-Western Co., Inc., now assigned May 2, 1978 at Portland, OR, is canceled, application dismissed.

MC-F-13355, B & L Motor Freight, Inc.—Merge—Prunty Motor Express, Inc. and MC-123255 Sub 124, B & L Motor Freight, Inc., now assigned April 26, 1978 at Columbus, OH, is postponed to July 19, 1978 (3 days) at Columbus, OH, at a hearing room to be later designated.

MC 56679 (Sub-No. 97), Brown Transport Corp., is assigned for hearing May 31, 1978 at Atlanta, GA, and will be held at Rm. 305, 1252 West Peachtree St. NW.

MC 116915 (Sub-No. 32), Eck Miller Transportation Corp., is assigned for hearing May 16, 1978 at Dallas, TX and will be held at Rm 5A15-17 Federal Building, 1100 Commerce St.

MC 115841 (Sub-No. 550), Colonial Refrigerated Transportation Inc., is assigned for hearing May 17, 1978 at Dallas, TX, and will be held at Rm 5A15-17 Federal Building, 1100 Commerce St.

MC 142831 (Sub-No. 5), Hamric Transportation, Inc., is assigned for hearing May 26, 1978 at Dallas, TX, and will be held at Room 5A15-17 Federal Building, 1100 Commerce St.

MC 116915 (Sub-No. 30), Eck Miller Transportation Corp., is assigned for hearing May 22, 1978 at Dallas, TX, and will be held at Room 5A15-17 Federal Building, 1100 Commerce St.

No. 36747, *Armco Steel Corp.* v. *The Atchison, Topeka and Santa Fe Railway Co., et al.*, is assigned for hearing May 23, 1978, at Dallas, TX, and will be held at Rm. 5A15-17 Federal Building, 1100 Commerce St.

MC 113658 (Sub-No. 16), Scott Truck Line, Inc., is now assigned for hearing July 11, 1978 (9 days) at Chicago, IL, at a location to be later designated.

AB 43 (Sub-No. 47), Illinois Central Gulf Railroad Co. Abandonment at Cherokee, IA, and Sioux Falls, SD, in Cherokee, O'Brien, Sioux, and Lyon Counties, IA, Rock County, MN, and Minnehaha County, SD, is assigned for hearing May 8, 1978, at Cherokee, IA and will be held at Cherokee County Courthouse, West Main.

MC 18121 (Sub-Nos. 19 and 20), Advance Transportation Co., are now assigned for hearing May 8, 1978, (5 days), at Madison, WI, at a location to be later designated.

No. MC 125433 (Sub-No. 114), F-B Truck Line Co., now assigned April 25, 1978, at Los Angeles, CA, is postponed to April 26, 1978 (1 day), at Los Angeles, CA, Courtroom 323, Federal Building and Courthouse, 312 North Spring Street.

MC 123061 Sub 92, Leatham Brothers, Inc., is now assigned for hearing June 5, 1978 (5 days) at Portland, OR, at a location to be later designated.

H. G. Homme, Jr.,
Acting Secretary.

[FR Doc. 78-9289 Filed 4-6-78; 8:45 am]

[7035-01]

[Docket No. AB-19 (Sub-No. 24)]

BALTIMORE AND OHIO RAILROAD CO. ABANDONMENT PORTION ELK BRANCH BETWEEN HARTLAND AND CLENDENIN, IN CLAY AND KANAWHA COUNTIES, W. VA.

Notice of Findings

Notice is hereby given pursuant to section 1a(6)(a) of the Interstate Commerce Act (49 U.S.C. 1a(6)(a)) that by an order entered on March 24, 1978, and the decision and order of the Commission, Division 3, served September 26, 1977, as modified, adopted the initial decision of the Administrative Law Judge, which is administratively final, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Oregon Short Line R. Co.—Abandonment—Goshen*, 354 I.C.C. 76 (1977), the present and future public convenience and necessity permit abandonment by the Baltimore and Ohio Railway Co. of a portion of the Elk Branch extending from Valuation Station 8249+00 south of Clendenin, W. Va., to Valuation Station 6731+00 at or near Hartland, W. Va., a distance of about 28.75 miles located in Kanawha and Clay Counties, *provided*, applicant shall not physically abandon the line until April 1, 1979, and *further*, applicant shall sell the line or any portion thereof, for a reasonable amount, to any responsible person, firm, group, organization, association, or corporation, including the State of

West Virginia, or any agency thereof, prior to April 1, 1979, for continued operation of the property to be abandoned. A certificate of abandonment will be issued to the Baltimore and Ohio Railroad Co. based on the above-described finding of abandonment, 30 days after publication of this notice, unless within 30 days from the date of publication, the Commission further finds that:

(1) a financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) it is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandondment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for pending Rail Abandonment Cases" published in the FEDERAL REGISTER on March 31, 1976, at 41 FR 13691. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced order.

H. G. HOMME, Jr.
Acting Secretary.

[FR Doc. 78-9291 Filed 4-6-78; 8:45 am]

[7035-01]

[Amendment No. 2 to Exemption No. 146]

EXEMPTION UNDER PROVISION OF RULE 19 OF THE MANDATORY CAR SERVICE RULES ORDERED IN EX PARTE NO. 241

To: all railroads

Upon further consideration of Exemption No. 146 issued February 22, 1978.

It is ordered, That under authority vested in me by Car Service Rule 19, Exemption No. 146 to the Mandatory Car Service Rules ordered in Ex Parte No. 241 is amended to expire April 30, 1978.

This amendment shall become effective March 31, 1978.

Issued at Washington, D.C., March 27, 1978.

INTERSTATE COMMERCE COMMISSION,
Joel E. Burns,
Agent.

[FR Doc. 78-9295 Filed 4-6-78; 8:45 am]

[7035-01]

[Amendment No. 3 to Exemption No. 145]

EXEMPTION UNDER PROVISION OF RULE 19 OF THE MANDATORY CAR SERVICE RULES ORDERED IN EX PARTE NO. 241

To: all railroads

Upon further consideration of Exemption No. 145 issued February 17, 1978.

It is ordered, That under authority vested in me by Car Service Rule 19, Exemption No. 145 to the Mandatory Car Service Rules ordered in Ex Parte No. 241 is amended to expire April 30, 1978.

This amendment shall become effective March 31, 1978.

Issued at Washington, D.C., March 27, 1978.

INTERSTATE COMMERCE COMMISSION
JOEL E. BURNS,
Agent.

[FR Doc. 78-9294 Filed 4-6-78; 8:45 am]

[7035-01]

[Exemption No. 135-A]

EXEMPTION UNDER PROVISION OF RULE 19 OF THE MANDATORY CAR SERVICE RULES ORDERED IN EX PARTE NO. 241

To: all railroads

Upon further consideration of Exemption No. 135 issued March 25, 1978.

It is ordered, That, under authority vested in me by Car Service Rule 19, Exemption No. 135 to the Mandatory Car Service Rules ordered in Ex Parte No. 241 is vacated.

This exemption shall become effective at 11:59 p.m., March 31, 1978.

Issued at Washington, D.C., March 27, 1978.

INTERSTATE COMMERCE COMMISSION
JOEL E. BURNS,
Agent.

[FR Doc. 78-9296 Filed 4-6-78; 8:45 am]

[7035-01]

[Docket No. AB-43 (Sub-No. 16)]

ILLINOIS CENTRAL GULF RAILROAD CO.—ABANDONMENT—BETWEEN ELCO AND MURPHYSBORO, IN ALEXANDER, UNION, AND JACKSON COUNTIES, IL [1]

[1] This proceeding is pending review in the United States Court of Appeals for the Seventh Circuit, entitled *People of the State of Illinois et al.* v. *United States of America and Interstate Commerce Commission,* No. 77-1953.

Notice of Findings

Notice is hereby given pursuant to section 1a(6)(a) of the Interstate Commerce Act (49 U.S.C. 1a(6)(a)) that by an order entered on July 20, 1977, and the order of the Commission, Division 3, acting as an Appellate Division, served December 21, 1977, as modified, adopted the report and order of the Commission, Review Board Number 5, which is administratively final, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Oregon Short Line R. Co.—Abandonment—Goshen,* 354 ICC 76 (1977), and for public use as set forth in said order, the present and future public convenience and necessity permit the abandonment by the Illinois Central Gulf Railroad Co. of the line of railroad from milepost 518 near Elco, Ill., in a northerly direction to milepost 554 near Murphysboro, Ill., a distance of 36 miles, in Alexander, Union and Jackson Counties, Ill.

A certificate of abandonment will not be issued to the Illinois Central Gulf Railroad Co. based on the above-described finding of abandonment until final determination of the proceeding by the United States Court of Appeals. During the interim, however, the procedures specified in section 1a (6) and (7) of the Act will otherwise be followed. Thus, the Commission will be in a position to issue a certificate of abandonment 30 days after publication of this notice unless within 30 days from the date of publication, the Commission further finds that:

(1) A financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) It is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment

will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect.

However as previously indicated no such certificate will be issued until the pending court proceeding has been finally resolved. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the FEDERAL REGISTER on March 31, 1976, at 41 FR 13691. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced order.

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

[FR Doc. 78-9292 Filed 4-6-78; 8:45 am]

[7035-01]

[Amendment No. 4 to ICC Order No. 10]

REROUTING TRAFFIC

Under Revised Service Order No. 1252

To all railroads. Upon further consideration of ICC Order No. 10 (San Diego & Arizona Eastern Railway Co.) and good cause appearing therefor:

It is ordered, That:

ICC Order No. 10 is amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) *Expiration date.* This order shall expire at 11:59 p.m., September 30, 1978, unless otherwise modified, changed, or suspended.

It is further ordered, That this amendment shall become effective at 11:59 p.m., March 31, 1978, and that this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., March 27, 1978.

INTERSTATE COMMERCE COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc. 78-9293 Filed 4-6-78; 8:45 am]

[7035-01]

[Docket No. AB-12 (Sub-No. 52)]

SOUTHERN PACIFIC TRANSPORTATION CO. ABANDONMENT BETWEEN KAPLAN AND EUNICE, IN ACADIA, ST. LANDRY AND VERMILION PARISHES, LA.

Notice of Findings

Notice if hereby given pursuant to section 1a(6)(a) of the Interstate Commerce Act (49 U.S.C. 1a(6)(a)) that by an order entered on February 16, 1978, a finding, which is administratively final, was made by the Administrative Law Judge, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Oregon Short Line R. Co.—Abandonment—Goshen,* 354 ICC 76 (1977), the present and future public convenience and necessity permit abandonment by the Southern Pacific Transportation Co. of its line of railroad extending between railroad milepost 31.00 at Kaplan and railroad milepost 80.56 at Eunice, a distance of 49.56 miles, all in Acadia, St. Landry and Vermilion Parishes, La. A certificate of abandonment will be issued to the Southern Pacific Transportation Co. based on the above-described finding of abandonment, 30 days after publication of this notice, unless within 30 days from the date of publication, the Commission further finds that:

(1) A financially responsible person (including a Government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) It is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the FEDERAL REGISTER on March 31, 1976, at 41 FR 13691. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced order.

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

[FR Doc. 78-9290 Filed 4-6-78; 8:45 am]

[7035-01]

[S.O. No. 1304]

CAR SERVICE

Distribution of Covered Hopper Cars; Correction

AGENCY: Interstate Commerce Commission.

ACTION: Petition denied.

SUMMARY: Corrected Service Order No. 1304 (43 FR 8529, March 2, 1978), limits the number of large capacity covered hopper cars that a railroad may place in unit-grain service to twenty percent (20%) of its ownership of such cars. It also requires that carrier-furnished covered hopper cars operated in unit-grain-trains be returned to the control of the carrier for re-distribution after five consecutive trips in the services of a single shipper. This order denies a petition by the Chicago & North Western Transportation Co. requesting an exemption from the order or, alternatively, that the order be vacated.

DATE: Effective on date of service, March 31, 1978.

FOR FURTHER INFORMATION CONTACT:

C. C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, telephone 202-275-7840, Telex 89-2742.

SUPPLEMENTARY INFORMATION: The order is printed in full below.

At a Session of the Interstate Commerce Commission, Railroad acting as an appellate board, held at its office in Washington, D.C., on the 30th day of March 1978.

Upon consideration of the petition filed by the Chicago & North Western Transportation Co. on March 7, 1978, seeking exemption from compliance with the provisions of Corrected Service Order No. 1304, or alternatively that Corrected Service Order No. 1304 be vacated.

Corrected Service Order No. 1304 was issued by the Railroad Service

Board in accordance with applicable law upon its determination that an acute shortage of covered hopper cars exists throughout the country; that certain carriers have placed substantial numbers of large capacity covered hopper cars in unit-grain-train services; that many shippers who are unable to participate in unit-grain-train shipments are deprived of their fair share of the available supply of these cars; that the Commission, in Docket Ex Parte No. 307, ordered the carriers to incorporate into their tariffs rules requiring that carriers, during periods of shortage in the supplies of covered hopper cars, resume control of the distribution and use of such cars after completion of five consecutive trips in unit-train-service for a single shipper; that the petition states no errors of fact or law warranting the relief sought, and for good cause appearing;

It is ordered, That the petition be, and it is hereby, denied.

By the Commission, Railroad Service Board, acting as an appellate board. Joel E. Burns, Robert S. Turkington, and John R. Michael.

JOEL E. BURNS,
Chairman.

[FR Doc. 78-9166 Filed 4-6-78; 8:45 am]

[1505-01]

[Volume No. 65]

MOTOR CARRIER, BROKER, WATER CARRIER AND FREIGHT FORWARDER OPERATING RIGHTS APPLICATIONS

Correction

In FR Doc. 78-5391, appearing at page 8630 in the issue for Thursday, March 2, 1978, on page 8651, middle column, the ninth line of the second paragraph should read, "(1) *Coal tar and coal tar products,* in bulk, in tank vehicles, from Houston, TX, to points in AR, LA, and OK;"

[1505-01]

[Volume No. 69]

PETITIONS, APPLICATIONS, FINANCE MATTERS (INCLUDING TEMPORARY AUTHORITIES) RAILROAD ABANDONMENTS, ALTERNATE ROUTE DEVIATIONS, AND INTRASTATE APPLICATIONS

Corrections

In FR Doc. 78-6091, appearing at page 9697 in the issue for Thursday, March 9, 1978, the following corrections should be made:

1. In the last paragraph of the middle column on page 9702, the tenth line should read, "*Roofing materials* from the facilities of Fry Division of Owens Corning Fiberglas at or near Summit, IL to points in MN, ND, and SD."

2. In the last paragraph of the third column on page 9706, beginning with the thirteenth line should read, "thereof, between Toledo, OH, Laurinburg and Clinton, NC, on the one hand, and, on the other, points in the United States (except AK and HI)."

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

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Postal Service	11
Securities and Exchange Commission	12

[6570-06]

1

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

TIME AND DATE: 9:30 a.m. (eastern time), Tuesday, April 11, 1978.

PLACE: Chairman's Conference Room, No. 5240, on the fifth floor of the Columbia Plaza Office Building, 2401 E Street NW., Washington, D.C. 20506.

STATUS: Parts of the meeting will be open to the public and part will be closed.

MATTERS TO BE CONSIDERED:

Parts open to the public:

1. Staff report on hearings concerning work-scheduling as it relates to religious discrimination and proposed uniform guidelines on employee selection procedures.
2. Freedom of Information Act Appeal No. 78-2-FOIA-36, concerning a request for affidavits and statements contained in a Commission investigatory file.
3. Establishment of jurisdictional boundaries for field offices.
4. Proposed contract for an Assessment Center to aid in the evaluation of applicants for District Director positions.

Part closed to the public:

Litigation Authorization: General Counsel Recommendations.

Matters closed to the public under § 1612.13(a) of the Commission's regulations (42 FR 13830, March 14, 1977).

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 April 4, 1978.

[S-734-78 Filed 4-5-78; 2:15 pm]

[6712-01]

2

FEDERAL COMMUNICATIONS COMMISSION.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETINGS: 9:30 a.m., Wednesday, April 5, 1978 (open), followed by the closed meeting.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Open and closed Commission meetings.

CHANGES IN THE MEETINGS:

These meetings have been rescheduled for Thursday, April 6, 1978. The open meeting will commence at 9:30 a.m., and will be followed by the closed meeting.

The following item has been deleted from the portions open to the public.

Agenda, Item No., and Subject

General—1—Release of the Conglomerate Study to the Federal Trade Commission.

The prompt and orderly conduct of Commission business requires these changes and no earlier announcement of the changes was possible.

CONTACT PERSON FOR MORE INFORMATION:

Samuel M. Sharkey, FCC Public Information Office, telephone 202-632-7260.

Issued: April 3, 1978, April 4, 1978.

[S-740-78 Filed 4-5-78; 3:09 pm]

[6740-02]

3

APRIL 5, 1978.

FEDERAL ENERGY REGULATORY COMMISSION.

TIME AND DATE: 10 a.m., April 12, 1978.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

NOTE.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth F. Plumb, Secretary, telephone 202-275-4166.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda, however, all public documents may be examined in the Office of Public Information, Room 1000.

POWER AGENDA—85TH MEETING, APRIL 12, 1978, REGULAR MEETING

I. ELECTRIC RATE MATTERS

ER-1.—Docket No. ER78-249, American Electric Power Service Corp.
ER-2.—Docket Nos. E-8586 and E-8587, Public Service Co. of Indiana, Inc.
ER-3.—Docket No. E-8264, Maine Public Service Co.
ER-4.—(A) Docket Nos. ER77-5 and E-8152, Otter Tail Power Co. (B) Docket Nos. ER77-5 and E-8152, Otter Tail Power Co.

II. LICENSED PROJECT MATTERS

P-1.—Project No. 2005, South San Joaquin and Oakdale Irrigation Districts.

POWER AGENDA—85TH MEETING, APRIL 12, 1978, REGULAR MEETING

CAP-1.—Docket No. ER76-826, Pennsylvania Power & Light Co.
CAP-2.—Docket Nos. ER76-17 and ER76-83, Ohio Power Co.
CAP-3.—Docket No. ER77-339, West Texas Utilities Co.
CAP-4.—Project No. 2551, Indiana & Michigan Electric Co.

MISCELLANEOUS AGENDA—85TH MEETING, APRIL 12, 1978, REGULAR MEETING

M-1.—Certification Process and Schedule for the Alaska Gas Project.

MISCELLANEOUS AGENDA—85TH MEETING, APRIL 12, 1978, REGULAR MEETING

CAM-1.—Portland General Electric Co., Crown Zellerbach Corp. and Publishers' Paper Co.
CAM-2.—Tidal Transmission Co.

GAS AGENDA—85TH MEETING, APRIL 12, 1978, REGULAR MEETING

I. PIPELINE RATE MATTERS

A. Pipeline Rates

RP-1.—Docket No. RP73-97, Kentucky West Virginia Gas Co.

RP-2.—Docket No. RP75-105, Columbia Gulf Transmission Co.; Docket No. RP75-106, Consolidated Taxes, Columbia Gas Transmission Corp.
RP-3.—Docket No. RP75-30, United Gas Pipe Line Co.

II. PRODUCER MATTERS

A. Special Relief

CI-1.—Docket No. RI77-85, Goldking Production Co.
CI-2.—Reserved.
CI-3.—Reserved.

B. Producer Rates

CI-4.—Docket CS71-876, et al., Jones-O'Brien, Inc., et al.

III. PIPELINE CERTIFICATE MATTERS

A. Pipeline Certificates

CP-1.—(A) Docket Nos. CP75-104, et al., High Island Offshore System. (B) Docket No. CP77-108, Tennessee Gas Pipeline Co., a division of Tenneco Inc. (C) High Island Offshore System. (D) Docket No. CI78-252, et al., the Superior Oil Co., et al.
CP-2.—Docket No. CP78-43, Trunkline Gas Co.
CP-3.—Docket No. CP77-591, Southern Natural Gas Co.

GAS AGENDA—85TH MEETING, APRIL 12, 1978, REGULAR MEETING

CAG-1.—Docket No. RP73-48 (PGA78-3), Northern Natural Gas Co. (Peoples Division).
CAG-2.—Docket No. RP73-92 (PGA78-1), Raton Natural Gas Co.
CAG-3.—Docket No. RP74-52 (PGA78-1), Transwestern Pipeline Co.
CAG-4.—Docket No. RP76-157, Northern Natural Gas Co. (Peoples Division).
CAG-5.—Docket No. RP74-82, Columbia Gas Transmission Corp.
CAG-6.—Docket No. CI68-976, Pioneer Production Corp.
CAG-7.—Docket Nos. CI60-214, et al., Petroleum Inc. (Operator), et al.
CAG-8.—Docket No. CP78-140, Mid Louisiana Gas Co.
CAG-9.—Docket No. CP78-188, Northern Natural Gas Co.

KENNETH F. PLUMB,
Secretary.

[S-739-78 Filed 4-5-78; 3:09 pm]

[6730-01]

4

FEDERAL MARITIME COMMISSION.

TIME AND DATE: April 12, 1978—10 a.m.

PLACE: Room 12126—1100 L Street NW., Washington, D.C. 20573.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Proposed rules implementing Clean Water Act of 1977.
2. Agreement No. 5600-36: Modification of the Philippines North American Conference Agreement to amend self-policing provisions.
3. Agreement No. 2846-33: Modification of the West Coast of Italy, Sicilian and Adriatic Ports/North Atlantic Range Conference Agreement to amend provisions relating to bank guarantees.
4. Soviet liner activites in the United States foreign trade.
5. Petition of Port of Portland, Oreg., for investigation of equalization and absorption practices of Pacific Westbound Conference.
6. Docket No. 77-3: *State of Alaska on Behalf of Tlingit-Haida Purchasing Association and All Other Similarly Situated* v. *Pelican Cold Storage, Inc., and Alaska Outports Transportation Association, Inc.*—Staff evaluation of alleged violations.
7. Special Docket No. 537: *Salentine & Co., Inc.* v. *Europe Canada Lakes Line;* Special Docket No. 538: *Salentine & Co., Inc.* v. *Europe Canada Lakes Line;* Special Docket No. 539: *M. E. Dey & Co., Inc.* v. *Europe Canada Lakes Line*—Review of initial decision.
8. Special Docket No. 562: *Schenectady Midland, Ltd.* v. *Gulf/United Kingdom Conference*—Review of initial decision.
9. Special Docket No. 564: *Commodity Credit Corporation* v. *Delta Steamship Lines, Inc.*—Review of initial decision.
10. Special Docket No. 565: *Mitsui & Co. (USA), Inc.* v. *Pacific Westbound Conference*—Review of initial decision.
11. Special Docket No. 566: *David Ullman* v. *Sea-Land Service, Inc.*—Review of initial decision.

CONTACT PERSON FOR MORE INFORMATION:

Francis C. Hurney, Secretary, 202-523-5725.

[S-737-78 Filed 4-5-78; 2:19 pm]

[6210-01]

5

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 13658, March 31, 1978, and additional notice sent to FEDERAL REGISTER on March 31, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., Friday, April 7, 1978.

CHANGES IN THE MEETING: Deletion of the following open item from the agenda:

Proposals concerning the Federal Reserve's participation in electronic funds transfer: (a) Provision of interregional automatic clearing house services by the Federal Reserve System; (b) request by Bankwire 11, a data communications firm owned by an association of commercial banks, for the Federal Reserve System to provide settlement facilities through reserve account balances. (Proposed earlier for public comment; Docket No. R-0138.)

This matter will be considered at an open meeting the following week, and will be announced later.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board: 202-452-3204.

Dated: April 4, 1978.

THEODORE E. ALLISON,
Secretary of the Board.

[S-729-78 Filed 4-5-78; 9:29 am]

[6750-01]

6

FEDERAL TRADE COMMISSION.

TIME AND DATE: 10 a.m., Wednesday, April 12, 1978.

PLACE: Room 432, Federal Trade Commission Building, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission has not yet scheduled any matters for discussion at this meeting. If no item is placed on the agenda by 10 a.m., on Wednesday, April 12, 1978, the meeting will automatically be cancelled. Any item that is placed on the agenda before that time will be announced in accordance with the Additional Information procedures posted with Commission Meeting Notices outside Room 130 of the Federal Trade Commission.

CONTACT PERSON FOR MORE INFORMATION:

Wilbur T. Weaver, Office of Public Information: 202-523-3830; recorded message: 202-523-3806.

[S-735-78 Filed 4-5-78; 2:18 pm]

[7020-02]

7

INTERNATIONAL TRADE COMMISSION,

[USITC SE-78-15A]

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 12987, March 28, 1978.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 2 p.m., Thursday, April 6, 1978.

CHANGES IN THE MEETING: The following agenda item, previously noticed for the meeting of Thursday, April 6, 1978, will be discussed at the meeting of April 20, 1978:

1. Stainless steel flatware (Inv. TA-201-30)—Vote on remedy.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth R. Mason, Secretary, 202-523-0161.

[S-731-78 Filed 4-5-78; 3:06 pm]

[7035-01]

8

INTERSTATE COMMERCE COMMISSION.

TIME AND DATE: 9:30 a.m., Tuesday, April 11, 1978.

PLACE: Room 4225, Interstate Commerce Commission Building, 12th Street and Constitution Avenue NW., Washington, D.C.

STATUS: Open Special Conference.

MATTERS TO BE CONSIDERED:

1. F.D. 28583 (Sub-No. 1) Burlington Northern, Inc.—Control and Merger—St. Louis-San Francisco Railway Co. (Brief Status Report by Office of Proceedings—Section of Finance).
2. Major Rate Bureau Agreements Under Section 5b of the Interstate Commerce Act (Report by Office of Proceedings—Section of Rates).
3. Possible Amendment of TOFC Regulations (Report by the Bureau of Operations).

CONTACT PERSON FOR MORE INFORMATION:

Douglas Baldwin, Director, Office of Communications, telephone 202-275-7252.

The Commission's professional staff will be available to brief news media representatives on conference issues at the conclusion of the meeting.

APRIL 14, 1978.

[S-728-78 Filed 4-5-78; 8:53 am]

[4910-58]

9

NATIONAL TRANSPORTATION SAFETY BOARD.

TIME AND DATE: 9:30 a.m., Thursday, April 13, 1978 (NM-78-17).

PLACE: NTSB Board Room, National Transportation Safety Board, 800 Independence Avenue SW., Washington, D.C. 20594.

STATUS: The first item will be open; the last two items will be closed under Exemption 10 of the Government in the Sunshine Act.

MATTERS TO BE CONSIDERED:

1. *Highway Accident Report.*—Midas Mini Motor Home/Automobile Collision, U.S. Route 69, near McAlester, Okla., July 14, 1977.
2. *Opinion and Order.—Administrator* v. *Kortum,* Dkt. SE-3651; disposition of Administrator's appeal.
3. *Opinion and Order.—Administrator* v. *McCleery,* Dkt. SE-3717; disposition of Administrator's appeal.

CONTACT PERSON FOR MORE INFORMATION:

Sharon Flemming, 202-472-6021.

[S-733-78 Filed 4-5-78; 10:11 am]

[7590-01]

10

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: April 4, 1978 (changes).

PLACE: Commissioners' Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Open and Closed.

MATTERS TO BE CONSIDERED:

9:30 A.M.

1. Discussion of NRDC request for hearing in Tarapur export license (approximately 1 hour—Public meeting). (Postponed.)

10:30 A.M.

2. Affirmation items (approximately 30 minutes—Public meeting).
Items a through g as announced.
Item h is postponed.
Item i as announced.
Item j is postponed.

ADDITIONAL AFFIRMATION ITEMS

k. Response to Commission question concerning the protection of strategic special nuclear material (SSNM) shipments.
l. Proposed rulemaking for certain minor quantities of nuclear material.
m. Hearing on Nuclear Engineering Co.'s application for renewal and expansion of the operating license for its low-level radioactive waste burial site; Sheffield, Ill.
3. Discussion of proposed licensing legislation (closed meeting). (Postponed to April 17, 1978.)

CONTACT PERSON FOR MORE INFORMATION:

Walter Magee, 202-634-1410.

Dated: April 4, 1978.

ROGER M. TWEED,
Office of the Secretary.

[S-732-78 Filed 4-5-78; 10:11 am]

[7710-12]

11

POSTAL SERVICE.

NOTICE OF VOTE TO CLOSE A MEETING

On April 3, 1978, the Board of Governors of the U.S. Postal Service unanimously voted to close to public observation a portion of its meeting scheduled for April 4. The portion of the meeting to be closed was to consist of discussion of the possible appointment of a new Deputy Postmaster General. The members voting in favor of closing this portion of the meeting were: Messrs. Wright, Holding, Ching, Codding, Hardesty, Robertson, and Bolger.

Prior to the April 4 meeting, the Board of Governors gave due public notice of its intention to hold the meeting, the notice and the proposed agenda for the meeting having been published in the FEDERAL REGISTER on March 29, 1978 (43 FR 13163). The agenda noted the possibility that the Governors might decide to take action which might result in the appointment of a new Deputy Postmaster General. On April 3, 1978, the members of the Board unanimously decided that agency business required them to decide to take this action and that, insofar as this decision involves a change in the agenda, no earlier announcement of the change was possible.

The only persons to attend this closed portion of the meeting were Governors Wright, Holding, Ching, Codding, Hardesty, and Robertson; and Postmaster General William F. Bolger.

The Governors were of the opinion that free and candid discussion of possible appointees to the position of Deputy Postmaster General would be likely to disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy. In making this determination, the Governors were conscious both of the need to balance the public interest in disclosure against any likely invasion of personal privacy, and of the obligation to determine that the public interest does not require that such discussions be disclosed to the public. In this regard, the Governors recognized the possibility that their discussions were likely to involve consideration of individuals who may presently occupy positions in Government or in the private sector. Further, they noted the obligation under the Government in the Sunshine Act (5 U.S.C. 552b(f)(2)) to make promptly available to the public a transcript or recording of the closed portion which discloses their discussion, except for such items of the discussion as they determine to contain information which may be withheld under the Sunshine Act. In the circumstances, the Governors determined that the public interest in the fullest practicable information regarding the decisionmaking processes of the Government will be satisfied by subsequent disclosure of information which does not constitute a clearly unwarranted invasion of personal privacy, and that the legitimate privacy interest of individuals who may be discussed would best be protected by closing this portion of the meeting.

The Governors also recognized that their function of selecting a Deputy Postmaster General involves, in a most literal sense, an internal personnel matter, and that information relating solely to internal personnel practices

is exempt from mandatory disclosure under the Government in the Sunshine Act (5 U.S.C. 552b(c)(2)). The Governors were of the opinion that the policy and purpose of the Sunshine Act are most completely accomplished if free discussion of the personal attributes and affairs of prospective candidates, and discussion of relevant personnel matters, is not inhibited by considerations of possible unnecessary embarrassment or unwarranted invasion of personal privacy.

Accordingly, the Governors determined, pursuant to 5 U.S.C. 552b(c) (2) and (6) and 39 CFR 7.3 (b) and (f), that the portion of the meeting to be closed is exempt from the open meeting requirement of the Sunshine Act in that it is likely to disclose information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, and in that in a literal sense it relates solely to internal personnel practices of the agency; and that the public interest does not require this portion of the meeting to be open.

In accordance with 5 U.S.C. 552b(f)(1) and 39 CFR 7.6(a), the General Counsel of the U.S. Postal Service has certified that in his opinion the portion of the meeting to be closed may properly be closed to public observation.

LOUIS A. COX,
Secretary.

[S-736-78 Filed 4-5-78; 2:19 pm]

[8010-01]

12

SECURITIES AND EXCHANGE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 13486, March 30, 1978.

STATUS: Open meeting.

PLACE: Room 825, 500 North Capitol Street, Washington, D.C.

PREVIOUSLY ANNOUNCED TIME AND DATE: 9 a.m., April 6, 1978.

CHANGES IN THE MEETING: Additional item to be considered.

The following additional item will be considered by the Commission at the open meeting scheduled for Thursday, April 6, 1978, at 9 a.m:

Proposed rule change of the Cincinnati Stock Exchange to authorize, as a 9-month pilot program, an electronic "multiple dealer" trading system through which bids and offers may be entered and transactions may be effected without the necessity that either direct party to a trade be physically present on the Cincinnati Stock Exchange floor.

Chairman Williams, Commissioners Loomis, Evans, Pollack, and Karmel determined that consideration of this matter was necessary and that no earlier notice thereof was possible.

APRIL 5, 1978.

[S-738-77 Filed 4-5-78; 2:19 pm]

federal register

FRIDAY, APRIL 7, 1978
PART II

DEPARTMENT OF LABOR

Employment Standards Administration

■

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

General Wage Determination Decisions

[4510-27]

DEPARTMENT OF LABOR

Employment Standards Administration

MINIMUM WAGES FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

General Wage Determination Decisions

General Wage Determination Decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed in construction activity of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24-70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates, (37 FR 21138) and of Secretary of Labor's Orders 12-71 and 15-71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General Wage Determination Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

MODIFICATIONS AND SUPERSEDEAS DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS

Modifications and Supersedeas Decisions to General Wage Determination Decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the Modifications and Supersedeas Decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24-70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 13-71 and 15-71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing General Wage Determination Decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and Supersedeas Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Office of Special Wage Standards, Division of Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rule-making procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Wage Determination Decision.

MODIFICATIONS TO GENERAL WAGE DETERMINATION DECISIONS

The numbers of the decisions being modified and their dates of publication in the FEDERAL REGISTER are listed with each State.

Alabama:	
AL76-1128	Dec. 3, 1976
Delaware:	
DE77-3134	Sept. 30, 1977
Georgia:	
GA77-1117; GA77-1118	Do.
GA78-1015	Mar. 10, 1978
GA78-1016	Mar. 3, 1978
Hawaii:	
HI78-5016	Mar. 17, 1978
Kentucky:	
KY77-1084	June 24, 1977
KY77-1102; KY77-1107; KY77-1108; KY77-1110.	Aug. 26, 1977
KY77-1127; KY77-1128	Sept. 30, 1977
KY77-1155	Dec. 23, 1977
Nevada:	
NV78-5009	Mar. 10, 1978
NV78-5018	Mar. 17, 1978
New Jersey:	
NJ77-3079	June 17, 1977
NJ77-3093	July 8, 1977
North Carolina:	
GA78-1015	Mar. 10, 1978
South Carolina:	
GA78-1015	Do.
Tennessee:	
KY77-1084	June 24, 1977
Virginia:	
GA78-1015	Mar. 10, 1977
Washington, D.C.:	
GA78-1015	Do.

SUPERSEDEAS DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS

The numbers of the decisions being superseded and their dates of publication in the FEDERAL REGISTER are listed with each State.

Supersedeas Decision numbers are in parentheses following the numbers of the decisions being superseded.

Alabama:	
AL77-1025(AL78-1031)	Mar. 4, 1977
AL77-1040(AL78-1030)	Apr. 1, 1977
Idaho:	
ID77-5089(ID78-5017)	Oct. 7, 1977
Iowa:	
IA77-4291(IA78-4027)	Dec. 23, 1977
Kentucky:	
KY77-1105(KY78-1033); KY77-1106(KY78-1029).	Aug. 26, 1977
KY77-1126(KY78-1032)	Sept. 30, 1977

CANCELLATION OF GENERAL WAGE DETERMINATION DECISIONS

None.

Signed at Washington, D.C. this 31st day of March 1978.

DOROTHY COME,
Acting Assistant Administrator, Wage and Hour Division,

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
DECISION # AL 76-1138 - Mod. #1. (41 FR 53241 - December 3, 1976) Montgomery County, Alabama					
CHANGE:					
Electricians	$9.30	.40	3%	a	½ of 1%
Laborers:					
Unskilled	2.65				
Mason tenders	2.65				
Power Saw Operator	2.65				
Power Equipment Operators:					
Asphalt rakers	2.65				
Tractors	2.65				
Decision #DE77-3134 - Mod. #7 (42 FR-52990 - September 30, 1977) State of Delaware					
Change:					
Sprinkler Fitters	$12.31	.75	1.05		.08

DECISION #GA77-1117 - Mod. #2 (42 FR 52998 - September 30, 1977) Chatham County, Georgia	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Laborers:					
Group A	$ 4.82	.15	.13		.10
Group B	4.97	.15	.13		.10
Group C	5.07	.15	.13		.10
Group D	5.32	.15	.13		.10
Group E	5.82	.15	.13		.10
Painters:					
Brush & roller	7.85				
Paperhanger, drywall tapers, & paint burners	8.10				
Window jacks, steel brush, & steel roller	8.35				
Sandblasting, paint spraying, paint mitts & gloves, & power tools (no roller larger than 9")	8.60				
Power Equipment Operators:					
Group 1	9.43	.55	.50		.02
Group 2	8.08	.55	.50		.02
Group 3	7.42	.55	.50		.02
Group 4	5.69	.55	.50		.02
Sprinkler fitters	10.80	.75	1.05		.08
Boilermakers	9.95	1.05	1.05		.02
DECISION #GA77-1118 - Mod. #3 (42 FR 53000 - September 30, 1977) Richmond County, Georgia					
Change:					
Power Equipment Operators:					
Group 1	9.43	.55	.50		.02
Group 2	8.08	.55	.50		.02
Group 3	7.42	.55	.50		.02
Group 4	5.69	.55	.50		.02
Sprinkler fitters	10.80	.75	1.05		.08
Boilermakers	9.95	1.05	1.05		.02

DECISION NO. GA78-1015 - MOD. #1 (43 FR 10166 - March 10, 1978) Georgia, North Carolina, South Carolina, Virginia, Washington, D.C. and in Florida All counties on the Atlantic Coast and the Gulf Coast west to the Aucilla River and all tributary Water Ways.	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ADD:					
Hydraulic Dredges under 20" Deck Hand	5.08	.63	.50	a	

FOOTNOTE:
a. Six paid holidays, A thru F plus vacation contribution of 7% of straight time pay.

PAID HOLIDAYS:
A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

DECISION #GA78-1016 - Mod. #2 (43 FR 9074 - March 3, 1978) Clayton, DeKalb, and Fulton Counties, Georgia	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Boilermakers	$ 9.95	1.05	1.05		.02
Marble, tile, & terrazzo finishers	6.40				
Sprinkler fitters	10.80	.75	1.05		.08

DECISION #HI78-5016 - Mod. #1 (43 FR 11366- March 17, 1978) Statewide Hawaii					
Change:					
Boilermakers	$10.88	.65	$1.00		
Sheet Metal Workers	11.71	.86	2.21		.37
Sprinkler Fitters	11.96	.75	1.05		.08

DECISION #KY77-1084 - Mod. #2 (42 FR 32473 - June 24, 1977) Fort Campbell (Located in Christian County, Ky. and Montgomery County, Tn.)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Asbestos workers	$11.10	.45	.25		
Boilermakers:					
Kentucky portion	9.80	1.05	1.10	1.50	.02
Tennessee portion	9.95	1.05	1.05		.02
Electricians:					
Wiremen:					
Kentucky portion	11.20	.40	3%		¼ of 1%
Tennessee portion	9.95	.55	3%		¼ of 1%
Cable splicers:					
Kentucky portion	11.45	.40	3%		¼ of 1%
Tennessee portion	10.20	.55	3%		¼ of 1%
Elevator Constructors:					
Mechanics	8.945	.745	.56	1%+a+b	.025
Helpers	6.26	.745	.56	1%+a+b	.025
Probationary helpers	4.47				
Laborers:					
Group 1	6.23	.35	.47		
Group 2	6.38	.35	.47		
Group 3	6.73	.35	.47		
Power Equipment Operators:					
Kentucky portion:					
Group A	10.45	.40	.45		.05
Group B	8.01	.40	.45		.05
Group C	7.34	.40	.45		.05
Roofers - composition, slate, tile, asbestos, asphalt shingle	7.55	.45	.30	.15	
Sprinkler Fitters:					
Kentucky portion	12.10	.75	1.05		.08
Tennessee portion	10.80	.75	1.05		.08
Footnote:					
a. Seven Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Friday after Thanksgiving Day; Christmas Day.					

DECISION #KY77-1102 - Mod. #1 (42 FR 43305 - August 26, 1977) Knox, Laurel, McCreary, Pulaski, Rockcastle, Wayne, & Whitley, Counties, Kentucky					
Change:					
Boilermakers	$ 9.80	1.05	1.10	1.50	.02

DECISION #KY77-1107 - Mod. #1
(42 FR 43331 - August 26, 1977)
Boone, Campbell, Kenton, & Pendleton Counties, Kentucky

Change:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asbestos workers	$12.16	.75	1.00		.02
Boilermakers	9.80	1.05	1.10	1.50	.02
Carpenters & Piledrivermen	11.55	.60	.65		.075
Electricians	11.95	.70	3% + .60		½ of 1%
Elevator Constructors:					
Mechanics	11.78	.745	.56	1&6+a+b	.035
Helpers	8.25	.745	.56	1&6+a+b	.035
Probationary helpers	5.89				
Ironworkers - reinforcing	10.68	.90	1.85		.02
Line Construction:					
Linemen & machine operators	11.95	.70	3% + .60		½ of 1%
Groundmen	8.96	.70	3% + .60		½ of 1%
Marble setters	11.485	.55	.35		
Marble setter finishers	10.385				
Millwrights	11.69	.50	.85		.10
Painters:					
Brush, roller, taping, paperhanging, wall covering, & washing	11.55		.25		
Steamcleaning	11.70		.25		
Spray	11.95		.25		
Drywall machine operators	12.05		.25		
Sandblasting & waterblasting	12.35		.25		
Plasterers	12.295		.50		.02
Plumbers & Gas fitters	12.27	.75	1.05		.05
Power Equipment Operators:					
Group A	11.81	.61	1.00		.11
Group B	11.65	.61	1.00		.11
Group C	11.29	.61	1.00		.11
Group D	10.51	.61	1.00		.11
Group E	10.18	.61	1.00		.11
Group F	8.48	.61	1.00		.11
Sprinkler fitters	12.10	.75	1.05		.08
Terrazzo workers & tile setters	11.435	.55	.35		
Terrazzo finishers	10.335				
Tile finishers	10.285				

Footnote:
a. Seven Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Friday after Thanksgiving Day; Christmas Day.

DECISION #KY77-1108 - Mod. #1
(42 FR 43334 - August 26, 1977)
Fayette County, Kentucky

Change:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asbestos workers	$11.73	.60	1.00		
Boilermakers	9.80	1.05	1.10	1.50	.02
Cement masons	11.15				
Elevator constructors:					
Mechanics	11.41	.745	.56	1&6+a+b	.035
Helpers	7.99	.745	.56	1&6+a+b	.035
Probationary helpers	5.705				
Glaziers	10.50				
Plumbers & Pipefitters	11.95	.45	.85		.02
Roofers	7.75	.50			.02
Sheet metal workers	11.65	1.102	1.05		.14
Sprinkler fitters	12.10	.75	1.05		.08

Footnote:
a. Seven Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Friday after Thanksgiving Day; Christmas Day.

DECISION #KY77-1110 - Mod. #1
(42 FR 43337 - August 26. 1977)
McCracken County, Kentucky

Change:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asbestos workers	$11.35	.45	.60		.03
Boilermakers	9.80	1.05	1.10	1.50	.02
Carpenters & Soft floor layers	9.00	.45	.25		.02
Cement masons	8.00	.80	.35		.04
Electricians:					
Wiremen	11.20	.40	3%		¼ of 1%
Cable splicers	11.45	.40	3%		¼ of 1%
Elevator Constructors;					
Mechanics	11.41	.745	.56	4%+a+b	.035
Helpers	7.99	.745	.56	4%+a+b	.035
Probationary helpers	5.705				
Laborers:					
Group 1	6.23	.35	.47		
Group 2	6.43	.35	.47		
Group 3	6.73	.35	.47		
Lathers	8.61		.20	.75	.01
Line Construction:					
Linemen & equipment operators	11.15	.45	3%		½ of 1%
Cable splicers	11.40	.45	3%		½ of 1%
Groundmen truck drivers	8.40	.45	3%		½ of 1%
Groundmen	8.10	.45	3%		½ of 1%
Millwrights & Piledrivermen	9.35	.45	.25		.02
Plumbers & Pipefitters	10.70	.60	.65	.50	.08
Roofers	8.90		.10		
Sheet metal workers	11.65	1.102	1.05		.14
Sprinkler fitters	12.10	.75	1.05		.08
Plasterers	8.51			.95	.01

Footnote:
a. Seven Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Friday after Thanksgiving Day; Christmas Day.

DECISION #KY77-1127 - Mod. #1
(42 FR 53051 - September 30, 1977)
Henderson County, Kentucky

Change:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asbestos workers	$11.35	.45	.60		.03
Boilermakers	9.80	1.05	1.10	1.50	.02
Carpenters	10.47	.50	1.00		
Cement masons	10.60	.65	.55		
Laborers:					
Group A	8.30	.70	.50		.09
Group B	8.50	.70	.50		.09
Group C	8.60	.70	.50		.09
Group D	9.30	.70	.50		.09
Millwrights	10.89	.50	.90		
Painters:					
Brush & roller	9.65	.65	.30		
Drywall tapers, paperhangers	9.90	.65	.30		
Sandblasters, power tools	10.40	.65	.30		
Spray	10.65	.65	.30		
Piledrivermen	10.72	.50	1.00		
Roofers	9.83	.60	.50		
Sprinkler fitters	12.10	.75	1.05		.08

DECISION #KY77-1128 - Mod. #1
(42 FR 53053 - September 30, 1977)
Franklin County, Kentucky

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Asbestos workers	$11.73	.60	1.00		
Boilermakers	9.80	1.05	1.10	1.50	.02
Carpenters & Soft floor layers	10.45	.45	.30		
Cement masons	11.15				
Elevator constructors:					
Mechanics	11.41	.745	.56	4%+a+b	.035
Helpers	7.99	.745	.56	4%+a+b	.035
Probationary helpers	5.705				
Millwrights & Piledrivermen	10.95	.45	.30		
Plumbers & Pipefitters:					
Western 3/4 of County, including the City of Frankfort:					
Plumbers	12.26	.65	1.04	.77	.10
Pipefitters	12.94	.64	1.15		.09
Remainder of County:					
Plumbers & Pipefitters	11.95	.45	.85		.02
Roofers:					
Roofers	8.00	.60	.40		
Slab, tile, & precast concrete slab	8.40	.60	.40		
Sheet metal workers	11.65	1.102	1.05		.14
Sprinkler fitters	12.10	.75	1.05		.08
Footnote:					
a Seven Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Friday after Thanksgiving Day; Christmas Day.					

DECISION #KY77-1155 - Mod. #1
(42 FR 64617 - December 23, 1977)
Daviess County, Kentucky

Change:					
Bricklayers	9.20	.35	.30		
Tile setters	9.20	.35	.30		

DECISION #NV78-5009 - Mod. #1
(43 FR 10229 - March 10, 1978)
Statewide (does not include the Nevada Test Site and Tonopah Test Range, and highway construction in Douglas County), Nevada

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Add:					
Drywall Installers:					
Clark, Esmeralda County (south of Hwy. #6), Lincoln, Nye County (south of Hwy. #6, including City of Tonopah):					
Zone 1: Area within the city limits of Henderson, Nevada, and Boulder City, Nevada; area within a 10 mile radius of Las Vegas, Nevada; area within a 5 mile radius of Tonopah, Nevada; present fenced area of Nellis Air Force Base, as well as that area adjacent to Nellis Air Force Base bounded on the north by the Nellis spur track and on the west by the train line of the Union Pacific Railroad:	$11.53	.65	.90	$1.00	.10
Zone 2: Area outside of Zone 1 and not more than 20 road miles from the communities described above	12.03	.65	.90	1.00	.10
Zone 3: Area over 20 miles and not more than 40 miles from the communities described in Zone 1	12.28	.65	.90	1.00	.10
Zone 4: Area over 40 miles from the communities described in Zone 1	13.53	.65	.90	1.00	.10
Change:					
Sprinkler Fitters	15.50	.75	1.05		.08

MODIFICATIONS P. 11

DECISION #NV78-5018 - Mod. #1
(43 FR 11447 - March 17, 1978)
Clark County (does not include the Nevada Test Site), Nevada

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Add:					
Drywall Installers:					
Zone 1: Area within the City limits of Henderson, Nevada and Boulder City, Nevada; area within a 10 mile radius of Las Vegas, Nevada; In Clark County, the present fenced area of Nellis Air Force Base, as well as that area adjacent to Nellis Air Force Base bounded on the north by the Nellis spur track and on the west by the train line of the Union Pacific Railroad	$11.53	.65	.90	$1.00	.10
Zone 2: Area outside of Zone 1 and not more than 20 miles from the communities described above	12.03	.65	.90	1.00	.10
Zone 3: Area over 20 miles and not more than 40 miles from the communities described in Zone 1:	12.28	.65	.90	1.00	.10
Zone 4: Area over 40 miles from the communities described in Zone 1	13.53	.65	.90	1.00	.10
Change:					
Sprinkler Fitters	15.50	.75	1.05		.08

MODIFICATIONS P. 12

DECISION #NJ77-3079 - Mod. # 9
(42 FR 31080 - June 17, 1977)
Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Mercer, Monmouth, Ocean, and Salem Counties, New Jersey

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Electricians & Cable Splicers:					
Zone 4	$11.99	6%	3%+1.10		.04
Line Construction:					
Zone 4					
Linemen	11.99	6%	3%+1.10		3/4 of 1%
Line Digger Truck Drivers	7.51	6%	3%+1.10		3/4 of 1%
Groundmen	8.66	6%	3%+1.10		3/4 of 1%
Sprinkler Fitters:					
Zone 2	12.85	.75	1.05		.08

DECISION #NJ77-3093 - Mod. #10
(42 FR-35567 - July 8, 1977)
Bergen, Essex, Hudson, Hunterdon, Middlesex, Morris, Passaic, Somerset, Sussex, Union & Warren Counties, New Jersey

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Change:					
Bricklayers, Stone Masons, Cement Masons & Plasterers:					
ZONE 2	$10.50	1.97	.95		.03

SUPERSEDEAS DECISION

STATE: Alabama COUNTY: Madison
DECISION No.: AL78-1030 DATE: Date of Publication
Supersedes Decision No.: AL77-1040 dated April 1, 1977 in 42 FR-17752
DESCRIPTION OF WORK: Building construction (does not include residential construction consisting of single family homes and garden type apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asbestos workers	10.51	.45	.40		.05
Boilermakers	9.95	1.05	1.00		.02
Bricklayers	9.75				
Carpenters	8.40				.03
Cement masons	9.00				
Electricians: Linemen	10.35	.55	3%+.35		1%
Glaziers	6.00				
Ironworkers:					
Reinforcing	8.855	.50	.50		.03
Structural	8.855	.50	.50		.03
Laborers:					
Laborers, Mason tenders	5.04	.25	.45		
Air tool op. (jackhammer, vibrator), Mortar mixers	5.29	.25	.45		
Millwrights	8.90				.03
Painters:					
Commercial	8.00		.25		.05
Industrial	8.75		.25		.05
New Industrial	9.25		.25		.05
Plasterers	9.25				
Plumbers Pipefitters	10.50	.50	.55		.10
Sheet metal workers	10.05	.69	.82		.09
Tile setter	9.21				
POWER EQUIPMENT OPERATORS:					
Group A	9.98	.40	.40		
Group B	8.64	.40	.40		
Group C	7.92	.40	.40		

AL78-1030 - (Cont'd)

POWER EQUIPMENT OPERATORS:
(CONT'D)

Group A - Backhoe, bulldozers, 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 mechanic 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, ¾ cu. yd. & under, locomotive brakeman, locomotive flagman, locomotive switchman, oiler-driver (35 tons 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., oiler, outboard motor boat & pump operators

Oiler driver - additional $.10 per hour

All cranes, derricks & gantry operators such equipment with an overall height of 150', including jibs; all scrapers operators - additional $.25 per hour.

SUPERSEDEAS DECISION

STATE: Alabama COUNTIES: *See below
DECISION NO.: AL78-1031 DATE: Date of Publication
Supersedes Decision No.: AL77-1025 dated March 4, 1977 in 42 FR-12577
DESCRIPTION OF WORK: Building construction (excluding single family homes and garden type apartments up to and including 4 stories)

*Counties: Lawrence, Limestone, Morgan

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asbestos workers	10.86	.45	.60		.05
Bricklayers:					
Bricklayers, Marble masons, Stonemasons, Pointers, Cleaners, & Caulkers	9.75				
Carpenters:					
Carpenters, & Soft floor layers	8.10	.40	.30		.03
Millwrights	8.74	.40	.30		.03
Piledrivermen	8.50	.40	.30		.03
Cement masons	9.00				
Electricians:					
Electricians, linemen	10.35	.55	3%+.35		1%
Cable splicers	10.60	.55	3%+.35		1%
Groundmen	8.55	.40	3%+.30		1%
Elevator Constructors	9.14	.445	.29	4%+a+b	.02
					.02
Ironworkers:					
Ornamental, reinforcing, structural	8.405	.40	.35		.03
Laborers (Lawrence County):					
Laborers, mason tenders, plasterers' tenders	5.90	.30	.45		
Air tool operator (jackhammer, vibrator), mortar mixers, pipelayers	6.10	.30	.45		
Laborers (Limestone & Morgan Counties):					
Laborers, mason tenders	5.04	.30	.45		
Air tool operator (jackhammer, vibrator), mortar mixers	5.29	.30	.45		
Plasterers & Troweling machine operator	8.90				
Plumbers, pipefitters, steamfitters:					
Lawrence Co. (Eastern portion of Co., north from intersection of State Rt. 33 & Rt. 20 to Wheeler Lake including Moulton & Wren, excluding Bankhead National Park), Limestone Co. & Morgan Co.	10.50	.50	.55		.10

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Plumbers, steamfitters:					
Lawrence Co., (Remaining portion)	10.70	.50	.60		.08
Roofers	8.35		.20		.10
Sheet metal workers	10.05	.69	.82		.09
Terrazzo workers & tile setters	9.15				

PAID HOLIDAYS:
A-New Year's Day, B-Memorial Day, C-Independence Day, D-Labor Day, E-Thanksgiving Day, F-Christmas Day.

FOOTNOTES:
a. 6 paid holidays: A through F.

b. Employer contributes 4% of regular hourly rate to Vacation Pay Credit for employee who has worked in the business more than 5 years. Employer contributes 2% of regular hourly rate to Vacation Pay Credit for employee who has worked in the business less than 5 years.

AL78-1031 - (Cont'd)

POWER EQUIPMENT OPERATORS	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP A	9.98	.40	.40		
GROUP B	8.64	.40	.40		
GROUP C	7.92	.40	.40		

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., 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.

SUPERSEDEAS DECISION

STATE: Idaho COUNTIES: Statewide
DECISION NUMBER: ID78-5017 DATE: Date of Publication
Supersedes Decision No. ID77-5089 dated October 7, 1977, in 42 FR 54709.
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:					
Benewah, Bonner, Boundary, Clearwater, Idaho County (north half), Kootenai, Latah, Lewis, Nez Perce and Shoshone Counties	$ 12.75	.51	$ 1.20		
Remaining Counties and Idaho County (south half)	11.21	.84	1.20		
BOILERMAKERS:					
Benewah, Bonner, Boundary, Clearwater, Idaho, Kootenai, Latah, Lewis, Nez Perce and Shoshone Counties	12.025	1.075	1.00	.75	.02
Remaining Counties	11.825	1.075	1.00	.75	.02
BRICKLAYERS; Stonemasons:					
Ada, Adams, Boise, Canyon, Elmore, Gem, Owyhee, Payette, Valley and Washington Counties	11.15	.75	1.10		
Bannock, Bear Lake, Bingham County (south half), Caribou, Franklin, Oneida & Power Cos.	10.25	.50	.50		
Benewah, Bonner, Boundary, Kootenai and Shoshone Counties	12.00				
Blaine, Camas, Cassia, Gooding, Jerome, Lincoln, Minidoka and Twin Falls Counties	9.90	.35	.40		
Clearwater, Idaho, Latah, Lewis, Nez Perce and Shoshone Counties	11.01	.65	.70		.04
CARPENTERS:					
Benewah, Bonner, Boundary, Clearwater, Idaho County (north of the northern boundary of Township #29 North), Kootenai, Latah, Lewis, Nez Perce and Shoshone Counties:					
Carpenters	10.84	.68	.75		.075
Piledrivermen; Sawfilers; Stationary power woodworking tool operator; Floor Layer; Floor Finisher; Floor Sander	10.99	.68	.75		.075

CARPENTERS: (Cont'd)	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Carpenters (burned, charred, creosoted or similarly treated material); Boom Man	$ 11.09	.68	.75		.075
Millwrights and Machine Erectors	11.34	.68	.75		.075
Piledriver (creoted material)	11.24	.68	.75		.075
Remaining Counties and Idaho County (south of the northern boundary of Township #29 North):					
*Zone 1:					
Carpenters; Floor Layers; Shinglers; Drywall Applicator and Installer	9.65	.65	.60	.55	.10
Saw Filer; Piledrivermen; Bridgeman and Wharf Builders	9.82	.65	.60	.55	.10
Millwrights; Machine Erectors; Piledriverman's boom man	9.94	.65	.60	.55	.10
Zone 2:					
Carpenters; Floor Layers; Shinglers; Drywall Applicator and Installer	10.90	.65	.60	.55	.10
Saw Filer; Piledriverman; Bridge and Wharf Builders	11.07	.65	.60	.55	.10
Millwrights; Machine Erectors; Piledrivermen's boom man	11.19	.65	.60	.55	.10

*For definition of Zones, see POWER EQUIPMENT OPERATORS - AREA 2.

CEMENT MASONS

Benewah, Bonner, Boundary, Clearwater, Idaho County (north of 46th Parallel), Kootenai, Latah, Lewis, Nez Perce and Shoshone Counties

	Zone 1	Zone 2	Zone 3	Zone 4	Zone 5
Cement Masons	$10.28	$10.88	$11.13	$11.58	$11.98
Gunnite; Power Machine; Power Troweling Machine; Power Magnesite or other material with oxichloride base	10.43	11.03	11.28	11.73	12.13
Power Tools	10.73	11.33	11.58	12.03	12.43

FRINGE BENEFITS:

Health & Welfare	$ .70
Pensions	.85
Apprenticeship Training	.05

Zone Pay

Zone 1: Area within a 15 mile radius from the center of the Cities listed below.

Zone 2: Area within 15 - 30 miles radius from the center of the Cities listed below.

Zone 3: Area withon 30 - 45 miles radius from the center of the Cities listed below.

Zone 4: Area within 45 - 90 miles radius from the center of the Cities listed below.

Zone 5: Area over 90 miles radius from the center of the Cities listed below.

Spokane Coeur d'Alene Lewiston

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
CEMENT MASONS: (Cont'd)					
Remaining Counties and Idaho County (south of 46th Parallel) (Cont'd):					
*Zone 1:					
Cement Masons	$ 9.17	.74	.45	.70	.15
Power trowel; Power grinder; Gunnite and composition floor layer	9.37	.74	.45	.70	.15
Zone 2:					
Cement Masons	10.42	.74	.45	.70	.15
Power trowel; Power grinder; Gunnite and composition floor layer	10.62	.74	.45	.70	.15
*For Definition of Zones See POWER EQUIPMENT OPERATORS - AREA 2.					
ELECTRICIANS:					
Ada, Adams, Boise, Canyon, Elmore, Gem, Owyhee, Payette, Valley and Washington Cos.:					
Electricians	10.75	.70	3%+.50		1%
Cable Splicers	11.825	.70	3%+.50		1%
Benewah, Bonner, Boundary, Clearwater, Idaho, Kootenai, Latah, Lewis, Nez Perce and Shoshone Counties:					
Electricians	13.47	.73	3%+.40		.02
Cable Splicers	13.87	.73	3%+.40		.02
Remaining Counties:					
Electricians; Technicians	11.10	.75	3%+.50		1%
Cable Splicers	12.21	.75	3%+.50		1%
ELEVATOR CONSTRUCTORS:					
Benewah, Bonner, Boundary, Clearwater, Idaho, Kootenai, Latah, Lewis, Nez Perce and Shoshone Counties:					
Elevator Constructors	12.965	.745	.56	3%+a	.025
Elevator Constructors' Helpers	9.075	.745	.56	3%+a	.025
Elevator Constructors' Helpers (Prob.)	6.48				
Remaining Counties, except Adams, Lemhi, Valley and Washington Cos.:					
Elevator Constructors	10.555	.745	.56	3%+a	.025
Elevator Constructors' Helpers	7.39	.745	.56	3%+a	.025
Elevator Constructors' Helpers (Prob.)	5.28				

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GLAZIERS:					
Ada, Adams, Boise, Canyon, Elmore, Gem, Gooding County (western part of County from a line running north and south through the eastern limits of the City of Bliss), Idaho County (southern part of County from a line running east and west through the north limits of Elk City), Owyhee, Payette, Valley and Washington Counties	$ 10.00	.35	.30		.10
Benewah, Clearwater, Idaho County (north of 46th Parallel), Latah, Lewis and Nez Perce Counties	9.53	.40	.35	b	
Bonner, Boundary, Kootenai, and Shoshone Counties	10.49	.35	.10	b+.43	
Remaining Counties	7.62	.21		b	
IRONWORKERS:					
Ornamental; Reinforcing; Structural:					
Benewah, Bonner, Boundary, Clearwater, Idaho County (north of the 46th Parallel), Kootenai, Latah, Lewis, Nez Perce and Shoshone Counties	11.85	.93	1.20		.10
Those portions of Adams, Idaho, Valley and Washington Counties located south of the 46th Parallel and north of the Weiser-Gibbonsville Line	11.85	.93	1.20		.10
Remaining Counties and those portions of Adams, Idaho, Valley and Washington Counties located south of the Weiser-Gibbonsville Line	10.69	.65	1.15		.02
LATHERS:					
Benewah, Bonner, Boundary, Clearwater, Idaho County (north of the 46th Parallel), Kootenai, Latah, Lewis, Nez Perce and Shoshone Counties	9.95	.70	.85		

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
MARBLE SETTERS:					
Ada, Adams, Boise, Canyon, Elmore, Gem, Owyhee, Payette, Valley and Washington Counties	$ 11.15	.75	$ 1.10		
Bannock, Bear Lake, Bingham County (south half), Caribou, Franklin, Oneida & Power Cos.	8.95	.50	.50		
Benewah, Bonner, Boundary, Kootenai and Shoshone Counties	12.00				
Clearwater, Idaho, Latah, Lewis and Nez Perce Counties	11.01	.65	.70		.04
PAINTERS:					
Ada, Adams, Boise, Canyon, Elmore (except Mt. Home AFB), Gem, Gooding (western third of County including City of Bliss), Idaho County (south of the 46th Parallel), Owyhee, Payette, Valley and Washington Counties:					
Painters and Tapers	8.75	.45	.30		.07
Elmore (Mt. Home AFB):					
Painters and Tapers	9.75	.45	.30		.07
Bannock, Bear Lake, Bingham, Blaine, Bonneville, Butte, Camas, Caribou, Cassia, Clark, Custer, Franklin, Fremont, Gooding (except the City of Bliss and western third of County), Jefferson, Jerome, Lemhi, Lincoln, Madison, Minidoka, Oneida, Power, Teton and Twin Falls Counties:					
Brush; Roller, Perfataper	8.86	.40	.20		.005
Structural Steel; Swing Stage; Spray	9.31	.40	.20		.005
Benewah, Bonner, Boundary, Clearwater, Idaho County (north of the 46th Parallel), Kootenai, Latah, Lewis, Nez Perce and Shoshone Counties:					
Brush	10.52	.40	.80		.02
Spray; Steel; Steam Cleaning; Rollers (over 9" or 10" handle); Finish Drywall Taper	10.77	.40	.80		.02

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and or Appr. Tr.
PAINTERS: (Cont'd)					
Swing Stage; Over 30 ft. high	$ 10.87	.40	.80		.02
Bitumastic; Sand Blast; Bridge; Towers; Stacks; Steeples; Tanks on legs	10.92	.40	.80		.02
PLASTERERS:					
Benewah, Bonner, Boundary, Clearwater, Idaho, Kootenai, Latah, Lewis, Nez Perce and Shoshone Counties	10.13	.70	.85		
Remaining Counties	8.83	.74	.45	.70	
PLASTERERS' TENDERS:					
Benewah, Bonner, Boundary, Clearwater, Idaho County (north of 46th Parallel), Kootenai, Latah, Lewis, Nez Perce and Shoshone Counties	9.35	.83	.70		.05
PLUMBERS:					
Benewah, Bonner, Boundary, Clearwater, Kootenai, Latah, Nez Perce and Shoshone Cos.	13.91	.75	1.26		.12
Remaining Counties and Idaho County (south of the 46th Parallel)	11.37	.69	.90		.10
ROOFERS:					
Ada, Adams, Boise, Camas, Canyon, Custer, Elmore, Gem, Idaho County (south of the 46th Parallel), Lemhi, Owyhee, Payette, Valley and Washington Counties:					
Roofers; Kettlemen	9.25	.60	.30	.50	
Roofers working with coal tar and pitch products	11.25	.60	.30	.50	
Bannock, Bear Lake, Bingham, Bonneville, Butte, Caribou, Clark, Franklin, Fremont, Jefferson, Madison, Oneida, Power and Teton Counties	9.15		.40		
Benewah, Bonner, Boundary, Kootenai and Shoshone Counties	9.69	.60	.75		.02

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vocation	Education and/or Appr. Tr.
ROOFERS: (Cont'd)					
Clearwater, Idaho (north of the 46th Parallel), Latah, Lewis and Nez Perce Counties: Roofers; Kettlemen; Waterproofer	$ 10.05				
SHEET METAL WORKERS:					
Bannock, Bear Lake, Bingham, Bonneville, Butte, Caribou, Clark, Custer, Franklin, Fremont, Jefferson, Lemhi, Madison, Oneida, Power and Teton Counties	10.52	.41	.25+.22		.08
Benewah, Bonner, Boundary, Clearwater, Kootenai, Latah, Lewis, Nez Perce and Shoshone Counties	12.70	.61	1.14		.14
Remaining Counties	10.94	.57	.52		.14
SOFT FLOOR LAYERS:					
Ada, Adams, Boise, Canyon, Elmore, Gem, Gooding County (western third of County including City of Bliss), Idaho County (south of the 46th Parallel), Owyhee, Payette, Valley and Washington Counties	7.26	.49	.10		.10
Benewah, Bonner, Boundary, Clearwater, Idaho County (north of the 46th Parallel), Kootenai, Latah, Lewis, Nez Perce and Shoshone Counties	9.38	.40	.50	.09	
Remaining Counties	7.50				
SPRINKLER FITTERS	11.38	.65	.95		.08
TERRAZZO WORKERS & TILE SETTERS:					
Ada, Adams, Boise, Canyon, Elmore, Gem, Owyhee, Payette, Valley and Washington Counties	10.60	.75	1.10		
Bannock, Bear Lake, Bingham County (South half), Caribou, Franklin, Oneida and Power Cos.	8.95	.50	.50		
Benewah, Bonner, Boundary, Kootenai and Shoshone Counties	12.00				
Clearwater, Idaho, Latah, Lewis and Nez Perce Counties	10.75	.65	.70		

WELDERS: Receive the rate prescribed for craft performing operation to which welding is incidental.

FOOTNOTES:

a. Employer credits 4% basic hourly rate of employee with over 5 years' service, 2% basic hourly rate for 6 months' to 5 years' service, to Vacation Plan. Six Paid Holidays: A through F.

b. All employees who have been employed for a period of one year shall have 2 weeks' vacation with pay. Also 7 Paid Holidays: A, B, C, E, F, plus Veterans' Day and the Day after Thanksgiving.

PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION WORKERS: (AREA 1): Benewah, Bonner, Boundary, Clearwater, Idaho, Kootenai, Latah, Lewis, Nez Perce and Shoshone Counties:					
Cable Splicers; Leadman Pole Sprayer	$ 13.29	.45	3%+.40	.10	1/2%
Lineman; Pole Sprayer; Heavy Line Equipment Man; Certified Lineman Welder	12.00	.45	3%+.40	.10	1/2%
Tree Trimmer	10.84	.45	3%+.40	.10	1/2%
Line Equipment Man	10.32	.45	3%+.30	.10	1/2%
Head Groundman (chipper); Head Groundman; Powderman; Jackhammer Man	9.04	.45	3%+.30	.10	1/2%
Groundman; Tree Trimmer Helper	8.50	.45	3%+.30	.10	1/2%

ZONE PAY:

Each classification will receive the base rate plus zone A - $1.25, Zone B - $2.00, Zone C - $2.75, Zone D - $4.00.

BASE ZONE - 0 to 3 miles from geographical center of towns listed below.
ZONE A - 3 to 20 miles radius from geographical center of towns listed below
ZONE B - 20 to 35 miles radius from geographical center of towns listed below
ZONE C - 35 to 50 miles radius from geographical center of towns listed below
ZONE D - in excess of 50 miles from geographical center of towns listed below

Spokane	Coeur d'Alene	Kellog
Orofino	Sand Point	Lewiston

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LINE CONSTRUCTION WORKERS: (Cont'd) (AREA 2)					
Remaining Counties: All power construction over 34.5 KV and all work on steel towers and/or multiple wood structures and all substations of 1,000 KVA or greater capacity, all communications, underground work, 34.5 KV, streets and highway lighting and motor traffic controls:					
Groundman	$ 7.48	.45	3%		1/2%
Equipment Operators	9.05	.45	3%		1/2%
Cable Splicers	10.93	.45	3%		1/2%
Lineman	9.94	.45	3%		1/2%
All power construction of 34.5 KV and under when performed for an operating utility. Street lighting when performed for an operating utility or municipality:					
Groundman	7.22	.45	3%		1/2%
Equipment Operator	8.47	.45	3%		1/2%
Lineman	9.41	.45	3%		1/2%

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS: (AREA 1) Benewah, Bonner, Boundary, Clearwater, Idaho County (north of the 46th Parallel), Kootenai, Latah, Lewis, Nez Perce and Shoshone Counties:					
Building Construction:					
Group 1	$ 8.80	.82	.70		.05
Group 2	9.05	.82	.70		.05
Group 3	9.30	.82	.70		.05
Group 4	9.55	.82	.70		.05
Group 5-A	9.50	.82	.70		.05
Group 5-B	9.55	.82	.70		.05
Group 5-C	9.95	.82	.70		.05
Group 5-D	10.00	.82	.70		.05

LABORERS (AREA 1)
Benewah, Bonner, Boundary, Clearwater, Idaho County (North of the 46th Parallel), Kootenai, Latah, Lewis, Nez Perce and Shoshone Counties

Heavy and Highway Construction

Group No.	Zone 1	Zone 2	Zone 3	Zone 4	Zone 5
1	$8.80	$9.40	$9.65	$10.00	$10.50
2	9.05	9.65	9.90	10.35	10.75
3	9.30	9.90	10.15	10.61	11.00
4	9.55	10.15	10.40	10.85	11.25
5-A	9.50	10.10	10.35	10.80	11.20
5-B	9.55	10.15	10.40	10.85	11.25
5-C	9.95	10.55	10.80	11.25	11.65
5-D	10.00	10.60	10.85	11.30	11.70

FRINGE BENEFITS:

Health & Welfare	$.82
Pensions	.70
Apprenticeship Training	.05

Definition of Zones:

Zone 1: Area within a 15 mile radius from the center of the Cities listed below

Zone 2: Area within 15-30 miles radius from the center of the Cities listed below

Zone 3: Area within 30-45 miles radius from the center of the Cities listed below

Zone 4: Area within 45-90 miles radius from the center of the Cities listed below

Zone 5: Area over 90 miles radius from the center of the Cities listed below

Spokane Coeur d'Alene Lewiston

LABORERS (AREA 1)

Benewah, Bonner, Boundary, Clearwater, Idaho County (north of the 46th Parallel), Kootenai, Latah, Lewis, Nez Perce, Shoshone Counties

Building, Heavy and Highway Construction

Group 1: Brush Hog Feeder; Concrete Crewman; Concrete Signalman; Crusher Feeder; Demolition; Dumpman; Fence Erector; Flagman; General Laborer; Grout Machine Header Tender; Nipper; Riprap Man; Scaffold Erector, wood or steel; Scaleman; Stake Jumper; Structural Mover; Tailhoseman (water nozzle); Timber Bucker and Faller (by hand); Track Laborer (RR); Truck Loader; Well-point Man; Window Cleaner

Group 2: Asphalt Raker; Asphalt Roller, walking; Carpenter Tender; Cement Finisher Tender; Cement Handler; Concrete Saw, walking; Demolition Torch; Dope Pot Fireman, non-mechanical; Form Cleaning Machine, feeder, stacker; Form Setter, paving; Grade Checker using level; Jackhammer Operator; Nozzleman (squeeze and flo-crete nozzle); Nozzleman, water, air or steam; Pavement Breaker; Pipelayer, corrugated metal Culvert; Pipelayer, multi-section; Pot Tender; Power Buggy Operator; Power Tool Operator, gas, electric, penumatic; Railroad equipment, power driven except dual mobile power spiker or puller; Railroad power spiker or puller, dual mobile; Rodder and Spreader; Sandblast Tailhoseman; Tamper; Trencher; Shawnee; Tugger Operator; Vibrator, under 4 inches; Wagon Drills; Water Pipe Liner; Wheelbarrow, power driven

Group 3: Air Track Drill; Brush Machine; Caisson worker, free air; Chain Saw Operator and faller; Concrete Stack; Gunite; High Scaler; Hod Carrier; Laser Beam Operator; Monitor Operator, Air Track or similar mounting; Mortar Mixer; Nozzleman (jet blasting nozzleman, over 1200 lbs., jet blast machine power-propelled, sandblast nozzle); Pipelayer (working topman, caulker, collarman, jointer, mortarman, rigger, jacker, shorer, valve or meter installer); Pipewrapper; Vibrator, 4 inches and over

Group 4: Drills with dual masts; Powderman; Welder, electric, manual or automatic

TUNNEL AND SHAFT, Free Air

Group 5:

Class A: Bull Gang; PUmp Crete Crewman, including distributing Pipe, Assembling and dismantle and Nipper

Class B: Brakeman; Dumpman

Class C: Miner and Nozzleman for concrete and Laser Beam Operator on tunnels

Class D: Raise and Shaft Miner; Laser Beam Operator on raises and Shafts

LABORERS: (AREA 2)	Basic Hourly Rates	Basic Hourly Rates	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and/or Appr. Tr.
	ZONE 1	ZONE 2				
Remaining Counties and Idaho County (south of the 46th Parallel)						
Group 1	$ 7.66	$ 8.91	.75	.97	.30	.10
Group 2	7.76	9.01	.75	.97	.30	.10
Group 3	7.86	9.11	.75	.97	.30	.10
Group 4	7.96	9.21	.75	.97	.30	.10
Group 5	8.01	9.26	.75	.97	.30	.10
Group 6	8.26	9.51	.75	.97	.30	.10
Group 7	8.51	9.76	.75	.97	.30	.10
Underground Work:						
Group 8	7.81	9.06	.75	.97	.30	.10
Group 9	7.96	9.21	.75	.97	.30	.10
Group 10	8.26	9.51	.75	.97	.30	.10

ZONE PAY:

ZONE 1: Area located within 20 miles on either side of Interstate 80 North, from the Oregon-Idaho State Line on the west to the intersection of Interstate 80 North and Interstate 15 West in Cassia County; then following Interstate 15 West to Pocatello; then following Interstate 15 North to Idaho Falls; then following State Highway 191 north to the intersection with Moody Road (approximately 2 miles north of the City of Rexburg); then following Interstate 15 south through the City of Pocatello to a point approximately 1 mile south of the City of Downey, which point is located by extending the northerly boundary of Franklin County to the west.

ZONE 2: Remaining area of that portion of the State of Idaho south of Parallel 46 (Washington-Oregon State Line extended eastward toward Montana) that is not included in Zone 1.

LABORERS (AREA 2)
Remaining Counties and Idaho County (South of the 46th Parallel)

Group 1: General Laborers; Sloper, clearing and grading; Form Stripper; Concrete Crew; Concrete Curing Crew; Carpenter Tender; Asphalt Laborer; Hopper Tender; Heater Tender; Stake Jumper; Choker Setter; Spreader and Weighman; Power Wheelbarrow; Scouring Concrete; Rip Rap Man (hand placed); Fence Erector and Installer - manual or mechanical (includes the installation and erection of fences, guard rails, median rails, reference posts, guide posts and right-of-way markers); Crusher Helper; Cribbing and Shoring (in open ditches); Machinery and Parts Cleaner; Leverman - manual or mechanical; Demolition - Salvage; Landscaper; Tool Room Man; Janitor

Group 2: Chuck Tender; Driller Helper; Air Tampers; Gunite Nozzleman Tender; Pipewrapper; Tar Pot Tender; Concrete Sawyer; Signalman, handling cement; Dumpman; Steam Nozzleman; Air and Water Nozzleman (Green Cutter, concrete); Vibrator (less than 4"); Pumpcrete and Grout Pump Crew; Hydraulic Monitor

Group 3: Pipelayer, including sewer, drainage, sprinkler systems and water lines; Free Air Caisson; Jackhammer; Paving Breaker; Powderman Helper; Asphalt Raker; Gasoline powered Tamper; Electric Ballast Tamper; Sand Blasting; Form Setter - airport paving; Gunman (gunite); Manhole Setter; Hand guided machines, such as Roto Tillers, Trenchers, Post Hole Diggers, Walking Garden Tractors, etc.; Form Setter (highway - curb and gutter); Vibrator (4" and over); Timber Faller and Bucker; Metal Pan Installer

Group 4: Hod Carrier; Mason Tender; Plaster Tender; Mason Tender (concrete); Terrazzo-Tile Tender

Group 5: Highscaler; Wagon Drill; Grade Checker; Gunite Nozzleman

Group 6: Diamond Drills; Drillers on Drills with manufacturers' rating 3" and over

Group 7: Powderman

UNDERGROUND WORK

Group 8: Reboundman; Chucktender; Nipper; Dumpman; Vibrator (less than 4"); Brakeman; Muckers; Bullgang

Group 9: Form Setter and Mover

Group 10: Miners; Machinemen; Timbermen; Steelmen; Drill Doctors; Spaders and Tuggers; Spilling and/or Caisson Workers; Vibrator (over 4")

POWER EQUIPMENT OPERATORS (AREA 1)
Benwah, Bonner, Boundary, Clearwater, Idaho County (North of the 46th Parallel), Kootenai, Latah, Lewis, Nex Perce and Shoshone Counties

Group No.	Zone 1	Zone 2	Zone 3	Zone 4	Zone 5
1	$9.30	$9.90	$10.15	$10.60	$11.00
2	9.60	10.20	10.45	10.90	11.30
3	10.15	10.75	11.00	11.45	11.85
4	10.30	10.90	11.15	11.60	12.00
5	10.45	11.05	11.30	11.75	12.15
6	10.70	11.30	11.55	12.00	12.40
7	10.95	11.55	11.80	12.25	12.65

FRINGE BENEFITS:

Health and Welfare	$.90
Pensions	1.15
Apprenticeship Training	.03

ZONE PAY

Zone 1: Area within a 15 mile radius from the center of the Cities listed below

Zone 2: Area within 15-30 miles radius from the center of the Cities listed below

Zone 3: Area within 30-45 miles radius from the center of the Cities listed below

Zone 4: Area within 45-90 miles radius from the center of the Cities listed below

Zone 5: Area over 90 miles radius from the center of the Cities listed below

Spokane Coeur d'Alene Lewiston

POWER EQUIPMENT OPERATORS (Area 1)
Benewah, Bonner, Boundary, Clearwater, Idaho County (North of the 46th Parallel), Kootenai, Latah, Lewis, Nez Perce and Shoshone Counties

Group 1: Bit Grinders; Bolt Threading Machine; Compressors, under 2,000 cu. ft. per minute gas, diesel or electric power; Crusher Feeder (mechanical); Deckhand; Drillers' Helper; Fireman and Heater Tender; Grade Checker; Helper (mechanic or welder, H.D.): Oiler; Oiler and Cable Tender; Mucking Maching Machine; Pumpman; Rollers, all types on subgrade (farm type, Case, John Deere and similar - or compacting or vibrator) except when pulled by Dozer with operable blade; Steam Cleaner; Welding Machine

Group 2: A-Frame Truck (single-drum); Assistant Refrigeration Plant (under 1,000 tons); Assistant Plant Operator; Fireman or Pugmixer (asphalt); Bagley or stationary Scraper; Batch Plant and Wet Mix Operator, single unit (Concrete); Belt Finishing Machine; Bending Machine (pipeline); Blower Operator (cement); Cement Hog; Compressor (2,000 cu. ft. or over, 2 or more - gas, diesel or electric power); Concrete Saw (multiple cut); Distributor Leverman; Elevator Hoisting Materials; Dope Pots (power agitated); Fork Lift or Lumber Stacker, Hydra-lift and similar; Gin Trucks (pipeline); Hoist, single drum; Loader (Bucket Elevators and Conveyors); Longitudinal Float; Mixer (portable-concrete); Pavement Breaker (Hydra-hammer and similar); Post Hole Auger or Punch; Power Broom; Railroad Ballast Regulation Operator (self-propelled); Railroad Power Tamper Operator, (self-propelled); Railroad Power Tamper Jack Operator (self-propelled); Spray Curing Machine (concrete); Spreader Box (self-propelled); Straddle Buggy (Ross and similar on construction job site); Tractor (farm type R/T with attachments except Backhoe); Tugger Operator; Ditch Witch or similar

Group 3: A-Frame Truck (2 or more drums); Assistant Refrigeration Plant and Chiller Operator (over 1,000 tons); Backfillers (Cleveland and similar); Belt-crete Conveyors with power pack or similar; Belt Loader (Kocal or similar); Blade Operator (motor patrol and attachments); Boat Operators; Boom Cats (side); Boring Machine (earth); Boring Machine (rock under 8" bit)(Quarry Master, Joy or similar); Bump Cutter (Wayne, Saginaw or similar); Canal Lining machine (concrete); Chipper (without crane); Cleaning and Doping Machine Pipeline); Concrete Pumps (squeeze-crete, flow-crete, pumpcrete, Whitman and similar); Drills (Churn, Core, Calyx or Diamond); Elevating Belt-type Loader (Euclid, Barber Greene or similar); Elevating Grader-type Loader (Dumor, Adams, or similar); Equipment Serviceman, Greaser and Oiler; Generator Plant Engineers (diesel, electric); Gunite Combination Mixer and Compressor; Hoist (2 or more drums or tower hoist); Loaders (overhead and front-end under 4 yds., R/T); Locomotive Engineer; Mixermobile; Mucking Machine; Power or Curb Extruder (asphalt and concrete); Pump (Grout or Jet); Rollerman (finishing pavement); Rubber-tired Scraper (one motor with one scraper, under 40 yds.); Screed Operator; Soil Stabilizer (P & H or similar); Spreader Machine; Tractor (crawler including Dozer, Scraper, Drills, Booms, Rollers, etc.); Traverse Finishing Machine; Trenching Machines (under 7 ft. depth capacity); Turnhead Operator; Vacuum Drill (reverse circulation drill, under 8")

POWER EQUIPMENT OPERATORS (AREA 1) (Cont'd)
Benewah, Bonner, Boundary, Clearwater, Idaho County (North of the 46th Parallel), Kootenai, Latah, Lewis, Nez Perce and Shoshone Counties

Group 4: Asphalt Plant Operator; Crusher; Grizzle and Screening Plant Operator; H.D. Mechanic; H.D. Welder; Refrigeration Plant Engineer (under 1,000 tons); Rubber-tired Scraper, Multi-engine power, with one scraper (Euclid, TS-24 and similar); Rubber-tired Scraper, one motor with one scraper (40 yards and over); Surface Heater and Planer Machine; Turnhead (with re-screening)

Group 5: Automatic subgrader (ditches and trimmers)(Autograde, ABC, R.A. Hansen and similar on grade wire); Backhoes (under 3 yards); Batch and Wet Mix Operator - multiple units (2 and including 4); Chipper (with crane); Clamshell Operator (under 3 yds.); Concrete Slip Form Paver; Cranes all (under 65 tons); Derricks and Stifflegs (under 65 tons); Draglines (under 3 yds.); Drilling Equipment (8" bit and over) (Robbin's Reverse Circulation and similar); Loader Operator (Front End and Overhead 4 yds. to 8 yds.); Piledriving Engineers; Paver (dual drum); Quad-track or similar equipment; Railroad Track Liner Operator (self-propelled); Rubber-tired Scrapers, multi-engine, power with one scraper (Euclid, TS-24 and similar); Push Pull or Help Mate in use; Rubber-tired Scrapers, multiple engines with two scrapers; Shovels (under 3 yds.); Refrigeration Plant Engineer (1,000 tons and over); Signalmen (Whirleys, Highline Hammerheads or similar); Trenching Machines (7 ft. depth and over); Multiple Dozer units with single blade

Group 6: Backhoes (3 yds. and over); Batch Plant (over 4 units); Cableway Controller - Dispatcher; Cableway Operator; Clamshell Operator (3 yds. and over); Cranes, all - 65 tons and over; Derricks and Stifflegs (65 tons and over); Draglines (3 yds. and over); Elevating Belt (Holland type); Loader (360 degrees revolving Koehring Scooper or similar); Loaders (overhead and front-end over 8 yds. to 12 yds.); Rubber-tired Scrapers (multiple engine with three or more scrapers); Shovels (3 yds. and over); Tower Crane; Whirleys and Hammerheads (all)

Group 7: Helicopter Pilot; Loaders (overhead and front-end - over 12 yards)

POWER EQUIPMENT OPERATORS (AREA 2)	Basic Hourly Rates	Basic Hourly Rates	Fringe Benefits Payments			
			H & W	Pensions	Vocation	Education and/or Appr. Tr.
Remaining Counties and Idaho County (south of the 46th Parallel)	ZONE 1	ZONE 2				
Group 1	$ 9.11	$10.36	.80	.85		.10
Group 2	9.27	10.52	.80	.85		.10
Group 3	9.64	10.89	.80	.85		.10
Group 4	9.95	11.20	.80	.85		.10
Group 5	10.12	11.37	.80	.85		.10
Group 6	10.30	11.55	.80	.85		.10
Group 7	10.66	11.91	.80	.85		.10
Group 8	10.89	12.14	.80	.85		.10
Group 9	11.12	12.37	.80	.85		.10
Group 10	11.36	12.61	.80	.85		.10

Definitions of Zones:

Zone 1: Area located within 20 miles on either side of Inerstate 80 North, from the Oregon-Idaho State Line on the west to the intersection of Interstate 80 North and Interstate 15 west in Cassia County; then following Interstate 15 west to Pocatello; then following Interstate 15 North to Idaho Falls; then followingState Highway 191 north to the intersection with Moody Road (approximately 2 miles north of the City of Rexburg); then following Interstate 15 South through the City of Pocatello to a point approximately 1 mile south of the City of Downey, which point is located by extending the northerly boundary of Franklin County to the west.

Zone 2: Remaining area of that portion of the State of Idaho south of Parallel 46 (Washington-Oregon State Line extended eastward toward Montana) that is not included in Zone 1.

POWER EQUIPMENT OPERATORS (Area 2)
Remaining Counties and Idaho County (South of the 46th Parallel)

Group 1: Brakemen; Crusher; Plant Feeder (mechanical); Deckhand; Drill Helpers; Grade Checkers; Heater Tender; Land Plane; Oilers; Pumpman

Group 2: Air Compressor; Asphalt Refrigeration Plant Operator; Bell Boy; Bit Grinder; Blower Operator (Cement); Bolt Threader Machine Operator; Broom; Cement Hog; Concrete Mixer; Concrete Saw - multiple cut; Discing - harrowing or mulching (regardless of motive power); Distributor Leverman; Drill Steel Threader Machine Operator; Fireman - all; Heavy Duty Mechanic Helper or Welder Helper; Hoist - single drum; Hydraulic Monitor Operator - skid mounted; Oiler (single piece of equipment); Pugmixer - box or screed Operator; Spray Curing Machine; Tractor - rubber-tired farm type using attachments

Group 3: A-Frame Truck (Hydra Lift, Swedish Cranes, Ross Carrier, Hyster on construction jobs); Battery Tunnel Locomotive; Belt Finishing Machine; Cable Tenders (underground); Chip Spreader Machine (self-propelled); Hoist, 2 or more drums or Tower Hoist; Hydralift - Fork Lift and similar (when hoisting); Oiler (underground); Power Loader (Bucket Elevator, Conveyors); Road Roller (regardless of motive power)

Group 4: Boring Machine (earth or rock) (Quarry Master - Joy) (Tractor mounted); Drills: Churn - Core - Calyx or Diamond; Front End and Overhead Loaders and similar machines - (up to and including 4 yds.) - (rubber-tired); Grout Pump; Hydra-hammer; Locomotive Engineer; Longitudinal Float Machine; Mixer-mobile; Spreader Machine; Tractor - rubber-tired - using Back-hoe, Transverse Finishing Machine, Trenching Machine, Waggoner Compactor and similar, Asphalt Spreaders

POWER EQUIPMENT OPERATORS (AREA 2) (CONT'D)
Remaining Counties and Idaho County (South of the 46th Parallel)

Group 5: Concrete Plant Operator; Concrete Road Paver (dual); Elevating Grader Operator; Euclid Elevating Loader; Generator Plant Operator - mechanic (diesel - electric); Post Hole Auger or Punch Operator; Power Shovels and Draglines - under 1 yard; Pump-crete; Refrigeration Plant Operator; Road Roller (Finishing High type Pavement); Skidder - rubber-tired; Subgrader; Multiple station Beltline Operator (Teton Dam Project only); Service Oiler

Group 6: Asphalt Pavers - self-propelled; Asphalt Plant Operator; Blade Operator (motor patrol); Concrete Slip Form Paver; Cranes up to and including 50 ton; Crusher Plant Operator; Derrick Operator; Drilling Equipment (Bit under 8 inches)(Robbins Reverse Circulation and similar); Front End and Overhead Loaders and similar machines (over 4 yds. to and including 7 yds.); Koehring Scooper; Heavy Duty Mechanic or Welder; Mucking Machine (underground); Multi-batch Concrete Plant Operator; Piledriver Engineer; Power Shovels and Draglines (1 yd. to and including 3½ yds.); Tower Crane Operator; Tractor - Crawler type - including all attachments; Refrigeration Plant Operator (over 1,000 tons); Trimmer Machine Operator; Tournapulls - Euclid and similar - to and including 40 yds.

Group 7: Cableway Operator; Continuous Excavator (Barber Greene WL-50); Cranes - over 50 ton; Dredges; Drilling Equipment (Bit 8 inches and over) (Robbins Reverse Circulation and similar); Fine Grader - CMI or Equivalent; Front End and Overhead Loaders and similar machines (over 7 yds.); Power shovels and Draglines (over 3½ yds.); Quad type tractors with all attachments; Tournapulls Euclid and similar - over 40 yds. to and including 50 yds.; Multiple Scraper Units

Group 8: Tournapulls - Euclid and similar - over 50 yds. to and including 75 yds.

Group 9: Tournapulls - Euclid and similar - over 75 yds. to and including 100 yds.

Group 10: Tournapulls - Euclid and similar - over 100 yds.

TRUCK DRIVERS (AREA 1)
Benewah, Bonner, Boundary, Clearwater, Idaho County (North of the 46th Parallel), Kootenai, Latah, Lewis, Nez Perce and Shoshone Counties

Group NO.	Zone 1	Zone 2	Zone 3	Zone 4	Zone 5
1	$10.18	$10.78	$11.03	$11.48	$11.88
2	10.22	10.82	11.07	11.52	11.92
3	10.28	10.88	11.13	11.58	11.98
4	10.37	10.97	11.22	11.67	12.07
5	10.58	11.18	11.43	11.88	12.28
6	10.62	11.22	11.47	11.92	12.32
7	10.68	11.28	11.53	11.98	12.38
8	10.72	11.32	11.57	12.02	12.42
9	10.83	11.43	11.68	12.13	12.53
10	10.87	11.47	11.72	12.17	12.57
11	11.18	11.78	12.03	12.48	12.88
12	11.32	11.92	12.17	12.62	13.02
13	11.48	12.08	12.33	12.78	13.18
14	11.62	12.22	12.47	12.92	13.32

FRINGE BENEFITS:

Health and Welfare	$1.07
Pensions	.75

Definitions of Zones:

Zone 1: Area within a 15 mile radius from the center of the Cities listed below

Zone 2: Area within 15-30 miles radius from the center of the Cities listed below

Zone 3: Area within 30-45 miles radius from the center of the Cities listed below

Zone 4: Area within 45-90 miles radius from the center of the Cities listed below

Zone 5: Area over 90 miles radius from the center of the Cities listed below

Spokane Coeur d'Alene Lewiston

TRUCK DRIVERS (AREA 2) Remaining Counties and Idaho County (South of the 46 Parallel)	Basic Hourly Rates	Basic Hourly Rates	Fringe Benefits Payments			
			H & W	Pensions	Vacation	Education and/or Appr. Tr.
	*ZONE 1	ZONE 2				
Group 1	$ 8.81	$10.06	.75	.70	.45	.10
Group 2	8.87	10.12	.75	.70	.45	.10
Group 3	8.93	10.18	.75	.70	.45	.10
Group 4	8.99	10.24	.75	.70	.45	.10
Group 5	9.04	10.29	.75	.70	.45	.10
Group 6	9.30	10.55	.75	.70	.45	.10
Group 7	9.36	10.61	.75	.70	.45	.10
Group 8	9.42	10.67	.75	.70	.45	.10
Group 9	9.53	10.78	.75	.70	.45	.10
Group 10	9.59	10.84	.75	.70	.45	.10
Group 11	9.65	10.90	.75	.70	.45	.10
Group 12	9.71	10.96	.75	.70	.45	.10
Group 13:						
Class A	9.19	10.44	.75	.70	.45	.10
Class B	9.40	10.65	.75	.70	.45	.10
Class C	9.53	10.78	.75	.70	.45	.10
Class D	9.71	10.96	.75	.70	.45	.10
Class E	9.82	11.07	.75	.70	.45	.10
Class F	9.94	11.19	.75	.70	.45	.10
Class G	10.22	11.47	.75	.70	.45	.10
Class H	10.45	11.70	.75	.70	.45	.10
Class I	10.68	11.93	.75	.70	.45	.10
Group 14	10.10	11.35	.75	.70	.45	.10

*For Definition of Zones, See POWER EQUIPMENT OPERATORS - AREA 2.

TRUCK DRIVERS (AREA 1)

Benewah, Bonner, Boundary, Clearwater, Idaho County (north of the 46th Parallel), Kootenai, Latah, Lewis, Nez Perce and Shoshone Counties

Group 1: Flat Bed Truck, single rear axle; Escort Driver; Fish Truck; Fork Lift, 3,000 lbs. and under; Fuel Truck Driver (steam cleaner and washer); Helper and Swamper; Leverperson loading trucks at bunkers; Pickup hauling material; Seeder and Mulcher; Stationary Fuel Operator; Team Driver; Tractor (small rubber tired pulling trailer or similar equipment); Water Tank Truck 1,800 gallons and under

Group 2: Bus Driver or Employeehaul Driver; Flat Bed Truck, dual rear axle; Power Boat hauling employees or material; Tireperson No. 1

Group 3: Buggy Mobile and similar; Bulk Cement Tanker; Oil Tank Driver; Power operated Sweeper; Semi-trailer, Low Bed, Truck and Trailer; Straddle Carrier (Ross, Hyster and similar); Transit Mixers and Trucks hauling concrete (3 yds. and under); Trucks, side, end and bottom dump (under 6 yds.); Water Tank Truck (1,801 to 4,000 gallons)

Group 4: Auto Crane - 2,000 lbs. capacity; Bulk Cement Spreader; Dumptor (6 yds. and under); Flaherty Spreader, Box Driver, Flat Bed Truck (using power take off); Fork Lift (over 3,000 lbs.); Oil Distributor Driver (road, bootperson, leverperson helper); Rubber-tired Tunnel Jumbo; Scissor Truck; Slurry Truck Driver; Transit Mixers and Trucks hauling concrete (over 3 yds. to 6 yds.); Water Tank Truck (4,001 to 6,000 gallons); Wrecker and Tow Trucks

Group 5: Low Boy (under 50 tons); Service Greaser; Tireperson No. 2; Trucks, side, end and bottom dump (over 6 yds. to 12 yds.)

Group 6: A-Frame (Swedish Crane, Iowa 3,000, Hydrolift); Water Tank Truck (over 6,001 to 8,000 gallons)

Group 7: Dumptor (over 6 yds.); Transit Mixers and Trucks hauling concrete (6 yds. to 10 yds.); Trucks, side, end and bottom dump (over 12 yds. including 20 yds.)

Group 8: Low Boy (over 50 tons); Water Tank Truck (8,001 to 10,000 gallons)

TRUCK DRIVERS (AREA 1) (CONT'D)
Benewah, Bonner, Boundary, Clearwater, Idaho County (North of the 46th Parallel), Kootenai, Latah, Lewis, Nez Perce and Shoshone Counties

Group 9: Transit Mixers and Trucks hauling concrete, (10 yds. to 15 yds.); Trucks, side, end and bottom dump (over 20 yds. including 30 yds.); Water Tank Trucks (10,001 to 12,000 gallons)

Group 10: Mechanic, field

Group 11: Tournarocker, D.W.'s and similar, with 2 or 4 wheel power tractor with trailer, gallonage or yardage scale, which is greater; Transit Mixers and Trucks hauling concrete (15 yds. to 20 yds.); Trucks, side, end and bottom dump (over 30 yds. to 40 yds.); Water Tank Truck (12,001 to 14,000 gallons)

Group 12: Transit Mixers and Trucks hauling concrete (over 20 yds); Trucks, side, end and bottom dump (over 40 yds. to 50 yds.)

Group 13: Truck, side, end and bottom dump (over 50 yds. to 100 yds.)

Group 14: Helicopter Pilot hauling employees or material; Trucks, side, end and bottom dump (over 100 yds.)

TRUCK DRIVERS (AREA 2)

Remaining Counties and Idaho County (South of the 46th Parallel)

Group 1: Leverman loading at Bunkers; Pilot Car or Escort Driver

Group 2: Flat Bed - 2 axle and pickup hauling materials; Water Tank Truck (1,800 gallons and under); Fork Lift (3,000 and under)

Group 3: Flat Bed - 3 axle; Fuel Truck (1,000 gallons and under); Greaser; Tireman; Serviceman; Buggymobile; Man Haul (Shuttle Truck or Bus)

Group 4: Transit Mix Truck - 3 yds. and under; Truck Helpers; Slurry or concrete pumping Truck

Group 5: Flat Bed using power takeoff; Water Tank Truck (over 1,800 to 4,000 gallons); Semi-trailer - Low Boy - up to 96,000 lbs. GVW; Bulk Cement Tanker - up to 96,000 lbs. GVW; Fork Lift - over 3,000 lbs. (Bull Lift, Hydro Lift); Ross, Hyster and similar straddle equipment; "A" Frame Truck (Sewdish Crane, Iowa 3,000, Hydro-lift)

TRUCK DRIVERS (AREA 2) (Cont'd)
Remaining Counties and Idaho County (South of the 46th Parallel)

Group 6: Transit Mix Truck, over 3 yds. - 6 yds.

Group 7: Water Tank Truck - (over 4,000 gallons); Fuel Truck - over 1,000 gallons; Distributor or Spreader Truck

Group 8: Transit Mix Truck - over 6 yds. - 8 yds.; Dumptors; Field Tireman; Serviceman

Group 9: Transit Mix Truck - over 8 yds. to 10 yds.; Snow Plow (Truck mounted)

Group 10: Low Boy - 96,000 lbs. GVW and over; Bulk Cement Tanker - 96,000 lbs. GVW and over

Group 11: Transit Mix Truck - over 10 yds.

Group 12: Turnarocker and similar equipment

Group 13: Truck - side, end and bottom dump
Class A: 6 yds. and under
Class B: Over 6 yds. - including 12 yds.
Class C: Over 12 yds. - including 20 yds.
Class D: Over 20 yds. - including 30 yds.
Class E: Over 30 yds. - including 40 yds.
Class F: Over 40 yds. - including 50 yds.
Class G: Over 50 yds. - including 75 yds.
Class H: Over 75 yds. - including 100 yds.
Class I: Over 100 yds.

Group 14: Truck Mechanic

SUPERSEDEAS DECISION

STATE: IOWA COUNTY: STATEWIDE
DECISION NO. IA78-4027 DATE: Date of Publication
Supersedes Decision No. IA77-4291, dated December 23, 1977, in 42 FR 64613
DESCRIPTION OF WORK: Heavy and Highway Construction (does not include building structures in rest area projects and work on or pertaining to the Mississippi or Missouri Rivers).

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
SCOTT COUNTY					
Carpenters & Piledrivermen	$ 9.83	.45	.60		.04
Cement masons	8.77	.40	.60		
Laborers:					
Group I	8.42	.40	.60		.035
Group II	8.67	.40	.60		.035
Group III	8.92	.40	.60		.035
Power Equipment Operators:					
Group I	9.45	.40	.50		.08
Group II	8.05	.40	.50		.08
Group III	7.00	.40	.50		.08
Truck Drivers	6.95	.35			
CITY OF COUNCIL BLUFFS					
Carpenters & Piledrivermen	9.11	.50	.40	.60	.05
Cement Masons	9.28	.50	.40		
Laborers:					
Group I	6.20	.50	.40	.20	.05
Group II	6.30	.50	.40	.20	.05
Group III	6.40	.50	.40	.20	.05
Group IV	6.38	.50	.40	.20	.05
Group V	6.45	.50	.40	.20	.05
Group VI	6.83	.50	.40	.20	.05
Power Equipment Operators:					
Group I	8.62	.60	.60		.05
Group II	8.22	.60	.60		.05
Group III	7.82	.60	.60		.05
Truck Drivers:					
Single axle	7.28	.50	.30		
Tandem axle, euclids, power lift form trucks	7.34	.50	.30		
Three axle tandem	7.39	.50	.30		
Lowboys, tractor trailers, water pulls	7.47	.50	.30		
Tandem dump with auxiliary end dump trailer	7.52	.50	.30		
Lumber Carrier	7.64	.50	.30		
LINN & POLK COUNTIES AND THE CITIES OF AMES AND DUBUQUE					
Carpenters & Piledrivermen	8.66	.45	.25		
Cement Masons	8.66	.45	.25		
Laborers:					
Group I	7.95	.30	.30		
Group II	7.70	.30	.30		

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Laborers Contd:					
Group III	7.45	.30	.30		
Group IV	7.30	.30	.30		
Group V	7.20	.30	.30		
Power Equipment Operators:					
Group I	8.62	.60	.60		.05
Group II	8.42	.60	.60		.05
Group III	7.82	.60	.60		.05
Truck Drivers	7.92	.45			
CITIES OF BURLINGTON AND CLINTON AND BURLINGTON ORDNANCE PLANT					
Carpenters & Piledrivermen	8.66	.45	.25		
Cement Masons	8.66	.45	.25		
Laborers:					
Group I	7.95	.30	.30		
Group II	7.70	.30	.30		
Group III	7.45	.30	.30		
Group IV	7.30	.30	.30		
Group V	7.20	.30	.30		
Power Equipment Operators:					
Group I	8.95	.65	.60		
Group II	8.00	.65	.60		
Group III	7.40	.65	.60		
Truck Drivers	7.92	.45			
CITY OF FORT DODGE					
Carpenters & Piledrivermen	7.08	.45	.25		
Cement Masons	7.08	.45	.25		
Laborers:					
Group I	5.90	.30	.30		
Group II	5.65	.30	.30		
Group III	5.40	.30	.30		
Group IV	5.25	.30	.30		
Group V	5.15	.30	.30		
Power Equipment Operators:					
Group I	8.62	.60	.60		.05
Group II	8.22	.60	.60		.05
Group III	7.82	.60	.60		.05
Truck Drivers	7.39	.45			
CITY OF IOWA CITY					
Carpenters & Piledrivermen	8.66	.45	.25		
Cement Masons	8.66	.45	.25		
Laborers:					
Group I	7.95	.30	.30		
Group II	7.70	.30	.30		
Group III	7.45	.30	.30		

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Laborers Contd:					
Group IV	7.30	.30	.30		
Group V	7.20	.30	.30		
Power Equipment Operators:					
Group I	8.62	.60	.60		.05
Group II	8.22	.60	.60		.05
Group III	7.82	.60	.60		.05
Truck Drivers	7.39				
CITY OF MASON CITY					
Carpenters &Piledrivermen	8.66	.45	.25		
Cement Masons	7.08	.45	.25		
Laborers:					
Group I	7.65	.30	.30		
Group II	7.40	.30	.30		
Group III	7.15	.30	.30		
Group IV	7.00	.30	.30		
Group V	6.90	.30	.30		
Power Equipment Operators:					
Group I	8.62	.60	.60		.05
Group II	8.22	.60	.60		.05
Group III	7.82	.60	.60		.05
Truck Drivers	7.39	.45			
BLACK HAWK COUNTY					
Carpenters & Piledrivermen	8.66	.45	.25		
Cement Masons	8.66	.45	.25		
Laborers:					
Group I	7.95	.30	.30		
Group II	7.70	.30	.30		
Group III	7.45	.30	.30		
Group IV	7.30	.30	.30		
Group V	7.20	.30	.30		
Power Equipment Operators:					
City of Waterloo:					
Group I	8.62	.60	.60		.05
Group II	8.22	.60	.60		.05
Group III	7.82	.60	.60		.05
Remainder of Black Hawk Co:					
Group I	7.49	.60	.60		.05
Group II	7.09	.60	.60		.05
Group III	6.69	.60	.60		.05
Truck Drivers	7.92	.45			

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ZONE 1					
Carpenters & Piledrivermen	6.76				
Cement Masons	6.76				
Laborers:					
Group I	5.82	.20	.10		
Group II	5.64	.20	.10		
Group III	5.45	.20	.10		
Group IV	5.34	.20	.10		
Group V	5.26	.20	.10		
Group VI	5.05				
Power Equipment Operators:					
Group I	6.85	.40	.20		
Group II	6.70	.40	.20		
Group III	6.55	.40	.20		
Group IV	6.25	.40	.20		
Truck Drivers	5.82	.20	.05		
ZONE 2					
Carpenters & Piledrivermen	6.30				
Cement Masons	6.30				
Laborers:					
Group I	5.55	.20	.10		
Group II	5.05	.20	.10		
Group III	4.80	.20	.10		
Group IV	4.55	.20	.10		
Group V	4.35	.20	.10		
Group VI	4.45				
Power Equipment Operator:					
Group I	6.50	.40	.20		
Group II	6.10	.40	.20		
Group III	5.75	.40	.20		
Group IV	5.10	.40	.20		
Truck Drivers	5.05	.20	.05		
ZONE 3					
Carpenters & Piledrivermen	5.85				
Cement Masons	5.85				
Laborers:					
Group I	5.45	.20	.10		
Group II	4.95	.20	.10		
Group III	4.70	.20	.10		
Group IV	4.35	.20	.10		
Group V	4.05	.20	.10		
Group VI	3.90				
Power Equipment Operators:					
Group I	6.00	.40	.20		

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Power Equipment Operators Contd:					
Group II	5.65	.40	.20		
Group III	5.15	.40	.20		
Group IV	4.55	.40	.20		
Truck Drivers	4.55	.20	.05		
ZONE 4					
Carpenters & Piledrivermen	5.85				
Cement Masons	5.75				
Laborers:					
Group I	5.45	.20	.10		
Group II	4.95	.20	.10		
Group III	4,70	.20	.10		
Group IV	4.35	.20	.10		
Group V	3.95	.20	.10		
Group VI	3.75				
Power Equipment OperatorS;					
Group I	5.85	.40	.20		
Group II	5.50	.40	.20		
Group III	5.00	.40	.20		
Group IV	4.40	.40	.20		
Truck Drivers	4.65	.15	.05		
ZONE 5					
Carpenters & Piledrivermen	5.65				
Cement Masons	5.55				
Laborers:					
Group I	5.25	.20	.10		
Group II	4.75	.20	.10		
Group III	4.50	.20	.10		
Group IV	4.15	.20	.10		
Group V	3.75	.20	.10		
Group VI	3.55				
Power Equipment Operators:					
Group I	5.65	.40	.20		
Group II	5.30	.40	.20		
Group III	4.80	.40	.20		
Group IV	4.20	.40	.20		
Truck Drivers	4.45	.15	.05		

NOTE - All cities listed in this determination include all abutting municipalities.

DEFINITIONS OF ZONES

ZONE 1 Pottawattamie County (area west of the eastern boundaries of Minden, York, Washington and Silver Creek Townships), Benton, Boone, Buchanan, Cedar, Clinton, Dallas, Delaware, Dubuque, Jackson, Jasper, Johnson, Jones, Madison, Marion, Marshall, Story, Warren and Webster Counties (excluding the cities of Ames, Clinton, Council Bluffs, Dubuque, Fort Dodge, and Iowa City and their abutting municipalities).

ZONE 2 Des Moines, Louisa, and Muscatine Counties (excluding City of Burlington and abutting municipalities and the Burlington Ordnance Plant).

ZONE 3 Allamakee, Appanoose, Bremer, Butler, Cerro Gordo, Chickasaw, Clayton, Davis, Fayette, Floyd, Franklin, Grundy, Hamilton, Hancock, Hardin, Henry, Howard, Iowa, Jefferson, Keokuk, Lee, Mahaska, Mitchell, Monroe, Poweshiek, Tama, Van Buren, Wapello, Washington, Winnebago, Winneshiek, Worth and Wright Counties (excluding City of Mason City and abutting municipalities).

ZONE 4 Adair, Adams, Audubon, Calhoun, Carroll, Cass, Clark, Crawford, Decatur, Fremont Greene, Guthrie, Harrison, Ida, Lucas, Mills, Monona, Montgomery, Page, Ringgold, Sac, Shelby, Taylor, Union, Wayne, and Woodbury Counties, and Pottawattami County (east of Minden, York, Washington and Silver Creek Townships).

ZONE 5 Buena Vista, Cherokee, Clay, Dickinson, Emmet, Humboldt, Kossuth, Lyon O'Brien, Osceola, Palo Alto, Plymouth, Pocahontas and Sioux Counties.

LABORERS CLASSIFICATION DEFINITIONS

PERTAINS TO: All cities (except Council Bluffs) and their abutting municipalities; Polk, Lynn, and Black Hawk Counties.

GROUP I Sandblasters; powdermen; blasters; pipe layer, sewer, water, telephone conduits, etc.; sewer utility man; gunnite nozzleman; diamond and core drills, powered by air; all work performed by laborers working from a bos'n chair, swinging stage, life belt tagline or block and tackle; drill operator of air tracs, wagon drills and similar drills.

GROUP II Tree climber; form setters, rakers; boxtenders; asphalt curb machines; potmen, not mechanical; bull float, hand operated; scalers; timberman, underpinning and shoring caissons over 12 ft.; grade checker and cutting torches on demolition work.

GROUP III Power buggyman; concrete and paving sawman; form liner, expansion joint assembler; bottom man; caulker and jointer and painter; timber and chain saw man; mechanical grouters; automatic concrete power curbing machines; stress or stretcherman on post-tension or pre-stressed concrete on or off the job; powderman helpers.

GROUP IV Form tamper; air, gas & electric tool operators, vibrators, barco hammer, paving breakers, spaders, tampers; electric drills, hammers & jack hammers; tree groundmen chuck tenders; drill helpers; tool room men & checkers; sand blaster helper; concrete processing material & monitors; cement finisher helper; stringman on paving work

GROUP V Fence erectors; handling & placing metal mesh, dowel bars, reinforcing bars & chairs dumpmen & spotters; carrying reinforcing rods; corrugated culvert pipe; concrete drainage pipe; stake chaser, seeding, mulching & planting trees, shrubs & flowers; water boy; common laborer; rodmen; tending carpenters; hot asphalt laborer, flagman.

PERTAINS TO: Scott County

GROUP I Common laborers; carpenter tenders; rod & chain men; flagman; gravel box men, dumpmen & spotters; form handlers; material handlers; fencing laborers; cleaning lumber material checkers, dispatchers; unloading explosives; laying sod; planting trees; removal of trees; asphalt plant laborers; wrecking laborers; writer of scale tickets scalemen, permanent, portable or temporary plant; deck hand.

GROUP II Laying & jointing telephone conduit; barco & jackhammer operator; mechanical tamper & air spade; wagon & hand drill; vibrator operator; operator on power tools used under the jurisdiction of laborers; cement dumpers; puddler; form setter helper, power and hand saw (cleaning timber); center strip; reinforcing in concrete; wire mesh; concrete saw, mortar mixer, prime mover or any mechanical device taking place of concrete buggy or wheelbarrow; sand point setter; asphalt kettleman; mastic asphalt mixerman or any other preparation used on joints; sheeting hammer drivers (2 men back up man or joint man with pipelayer; laborers in ditch ortunnel on sewer & water main & telephone conduit; gas distribution men; pipe setter on laterals, drain tile, culvert pipe & storm sewer connections to catch basins, manholes or main line; handling materials treated with oil, creosote asphalt and/or any foreign material harmful to skin or clothing; chloride handlers; unloading and laborers with steel workers & re-bars; tunnel helpers in free air; batch dumpers; tank cleaners; cofferdam workers; bankman on floating plant.

GROUP III String or wireline-1 man; head form setter; dynamite man; asphalt raker; tunnel miner; pipelayer on sewer & water main; gunnite nozzleman; welders, cutter, burners & torchmen; screedmen on asphalt pavers; lutemen; curb asphalt machine; laser beam operator; concrete burning machine operator; coving mach. operator; head grade man.

PERTAINS TO: City of Council Bluffs and abutting municipalities

GROUP I Common laborers

GROUP II Towboat and dredge deckhands

GROUP III Form setters helpers

GROUP IV Rakers & screedmen on asphalt work; mortar mixers; chain saw operators

GROUP V Pipelayers; concrete saw operator

GROUP VI Form setters and precast manhole setters; inlet builders and manhole setters

PERTAINS TO ZONES 1, 2, 3, 4, & 5

GROUP I Pipe layer (utilities); sand blaster

GROUP II Form setter (structures); grade checker

GROUP III Caulker, jointer, painter, grouter & joint assembler; cure cart operator; form setter (paving) & expansion joint assembler; paving sawman, power buggyman; raker

GROUP IV Air, gas & electric tool operator; cement finisher helper; concrete processing material & monitoring; stringman on paving work

GROUP V Common laborer; dump person and spotter; fence erector; scaleman; handling and placing of metal mesh, dowel bars, reinforcing bars and chairs

GROUP VI Flag person

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS

PERTAINS TO: All Cities and abutting municipalities; Polk, Linn, & Black Hawk Counties

GROUP I Power shovel, crane, backhoe & dragline; central mix plant op.; dredge engineer; dredge leverman; paver or spreader op.; hoisting eng (steel erection); motor patrol; piledriver; concrete mixer; tow or push boat op.; master mechanic; CMI paver; CMI subgrader or equivalent; asphalt plant; front end loader; scraper; bulldozer; push cat; tractor pulling scraper; sideboom tractor; churn or rotary drill; trenching machine (Cleavland 80 or similar cap.); asphalt laydown; asphalt screed; asphalt heater-planer unit; asphalt roller; self propelled elevating grader or similar machine; spreader (concrete); horizontal boring machine; mechanics-welders; group equipment greaser; concrete pump; self propelled curb machine

GROUP II Concrete curb breaker; concrete widening machine; pavingbreaker; barber-greene, haiss loader or similar machine; tractor pulling ripper, disc, sheepsfoot or flat roller; self-propelled sheepsfoot roller; self-propelled roller other than asphalt; distributor; screening and washing plant; self-propelled vibrating compactor; trenching machine (other than above); steel placing machine; conveyor; finishing machine (on concrete); flexplane; bull float; form grader.

GROUP III Boiler; mechanical broom; oiler, mechanics helper, group greaser helper; farm type tractor pulling disc, harrow or roller; welding machine; pump operator other than dredge; boom & winch truck; compressor; tank car heater (combination boiler & booster); pumps on well points & deep wells for dewatering; truck crane combination driver-oiler; consrete curbing machine; safety boat operator; batch plant (dry).

PERTAINING TO: Scott County

GROUP I All hoists or steel erecting equipment; crane, shovel, clamshell, dragline, backhoe, derrick, tower crane, cableway, concrete spreader servicing 2 pavers, asphalt spreader, asphalt mixer plant engineer, dipper dredge operator, dipper dredge craneman, dual purpose truck (boom or winch), leverman or engineer (hydraulic dredge), mechanic, paving mixer with tower attached (2 operators required), pile driver, boom tractor, stationary, portable or floating mixing plane, trenching machine over 40 HP, building hoist (2 drum), hot paint wrapping machine, cleaning & priming machine, back filler (throw bucket, locomotive engineer, qualified welder, tow or push boat, concrete paver, seaman trav-l plant or similar machine, CMI autograder or similar machine, slip form paver, caisson augering machine, asphalt heater-planer unit, hydraulic cranes, mine hoists; athey, barber-greene, euclid or haiss loader, asphalt pug mill, fireman & drier, concrete pump, concrete spreader (servicing 1 paver), bulldozer, endloader, log chippers or similar machines, elevating grader, group equipment greaser, LeTourneaupull & similar machines, DW-10, hyster winch & similar machines, motor patrol, power blade, push cat, tractor pulling elevating grader or power blade, tractor operating scoop or scraper, tractor with power attachments, roller on asphalt or blacktop, single drum hoist, jaeger place & mix machine, pipe bending machine, flexplane or similar machine, automatic curbing machine, automatic cement & gravel batch plants 1 stop set-up, seaman pulvi-mixer or similar machines, blastholer self-propelled rotary drill or similar machine, work boat, combination concrete finishing machine & float, self-propelled sheepfoot roller or compactor (in conjunction w/grading spread), asphalt spreader screed operator, apso spreader or similar machine, slusher, forklift over 6000 lbs cap. or working above 28' concrete conveyors.

GROUP II Asphalt rooster, fireman & pump operator at asphalt plant, mud jack, underground boring machine, concrete finishing machine, form grader w/ roller on earth, mixers (3 bag to 16E), power operated bull float, tractor w/o power attachments,dope pot agitating motor, dope chop machine, distributor (back end), straddle carrier, portable machine fireman, Hydro hammer, power winch on paving work, self-propelled roller or compactor other than provided for above, pump operator more than 1 well point pump, portable crusher operator, trench machine under 40 HP, power subgrader (on forms) or similar equipment, fork lift 6000 lbs or less cap.,gypsum pump, conveyor over 20 HP, fuller kenyon cement pump or similar machine, air compressor 275 cfm or over, driver on truck crane or similar machine, light plant, mixers (1-2 bags), power batching machine (cement auger or conveyor, boiler (engineer or fireman), water pumps, mechanical boom, automatic cement & gravel batch plant (2 Or 3 stop set-up), small rubber tired tractors (not including backhoes or end loaders, self-propelled curing machine.

GROUP III Oiler, mechanics helper, mechanical heater (other than steam boiler), belt machine, small outboard motor boat, engine driven welding machine.

PERTAINS TO: Zones 1, 2, 3, 4, & 5

GROUP I Power shovel, crane, backhoe, dragline, dredge engineer & leverman, hoisting engineer (steer erection) motor patrol (finish), pile driver, master mechanic, sideboom tractor, horizontal boring machine.

GROUP II Central mix plant, paver on self-propelled spreader; tow or push boat, CMI paver, subgrader or equivalent, asphalt plant, scraper over 12 c.y., bulldozer (finish), push cat, churn or rotary drill, trenching machine (Cleveland 80 Or similar cap.), asphalt laydown, asphalt screed, asphalt heater-planer, concrete pump, self-propelled curb machine.

GROUP III Motor patrol (rough), front end loader (3 c.y. or over), scraper(12 c.y. & under), bulldozer (rough), asphalt roller, mechanics-welders, group equipment greaser, concrete curb breaking machine, concrete widening machine, paving breaker, barber-greene - haiss loader or similar machine, crawler tractor (pulling disc, sheepsfoot, ripper or flat roller, self-propelled sheepsfoot roller, self propelled roller, distributor, screening and washing plant, self-propelled vibrating compactor, trenching machine (other than above), steel placing machine, conveyor, finishing machine (on concrete), flex plane, bull float, form grader.

GROUP IV Boiler, mechanical boom, oiler or mechanics helper or group greasers helper, farm type tractor (pulling disc, harrow or roller), welding machine, pump operator (other than dredge), boom and winch trucks, compressor, tank car heater(combination boiler and booster), pumps on well points and deep wells for dewatering, truck crane combination driver-oiler, concrete curbing machine, safety boat, batch plant-dry, spreader attachments, utility tractor with attachments.

SUPERSEDEAS DECISION

STATE: KENTUCKY COUNTIES: HARDIN, JEFFERSON MEADE

DECISION NO.: KY78-1029 DATE: DATE OF PUBLICATION

Supersedes Decision No. KY77-1106, dated August 26, 1977, in 42 FR 43327.

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	$11.78	.55	1.00		
BOILERMAKERS	9.80	1.05	1.10	1.50	.02
BRICKLAYERS & STONE MASONS	10.48	.50	.40		
CARPENTERS	10.15	.45	.45		.05
CEMENT MASONS	9.28	.60	.30		
ELECTRICIANS	12.40	.50	3% + .40		¼ of 1%
ELEVATOR CONSTRUCTORS:					
Mechanics	11.41	.745	.56	4%+a+b	.02
Helpers	7.99	.745	.56	4%+a+b	.02
GLAZIERS	8.90	.35	.45		
IRONWORKERS:					
Structural, ornamental, reinforcing, riggers, fence erectors, sheeters, machinery movers, and conveyormen	10.95	.90	1.15		.06
LATHERS	10.79		.20		.01
LEADBURNERS	10.75	.40	.25	c	.01
LINE CONSTRUCTION:					
Linemen, line truck operators, & hole diggers	12.40	.50	3% + .40		½ of 1%
MARBLE MASONS	9.70	.40	.40		
MARBLE FINISHERS	8.60				
MILLWRIGHTS	11.05	.45	.65		.02
PAINTERS:					
AREA 1 - 35 mile radius from the Jefferson County Courthouse, Louisville, Ky.:					
Brush, roller, drywall painting, taping & finishing, and paperhanging	9.02	.35	.20		.03
Steeple jack work, boatswain chairs, safety-belt work, steamcleaning, sandblasting, exterior stage work and window jack work over 50' in height	9.37	.35	.20		.03
Spray	9.47	.35	.20		.03

DECISION NO. KY78-1029

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PAINTERS - AREA 1 (Cont'd)					
REPAINT WORK:					
Brush, roller, drywall painting, taping & finishing, and paperhanging	$ 8.43	.35	.20		.03
Spray	8.88	.35	.20		.03
AREA 2 - over a 35 mile radius from the Jefferson County Courthouse, Louisville, Ky.:					
Brush, roller, drywall painting, taping & finishing, and paperhanging	9.37	.35	.20		.03
Steeple jack work, boatswain chairs, safety-belt work, steamcleaning, sandblasting, exterior stage work and window jack over 50' in height	9.72	.35	.20		.03
Spray	9.82	.35	.20		.03
REPAINT WORK:					
Brush, roller, drywall painting, taping & finishing, and paperhanging	8.78	.35	.20		.03
Spray	9.23	.35	.20		.03
PILEDRIVERMEN	10.40	.45	.45		.05
PLASTERERS	10.35				
PLUMBERS & PIPEFITTERS:					
AREA 1 - Jefferson County:					
Plumbers	11.56	.65	1.04	.77	.10
Pipefitters	12.24	.64	1.15		.09
AREA 2 - Hardin (northern portion of county up to but not including Elizabethtown) and Meade Counties:					
Plumbers	12.01	.65	1.04	.77	.10
Pipefitters	12.69	.64	1.15		.09
AREA 3 - Hardin (remainder of county) County:					
Plumbers	12.26	.65	1.04	.77	.10
Pipefitters	12.94	.64	1.15		.09

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
ROOFERS:					
Roofers	$ 8.00	.60	.40		
Slab, tile & precast concrete slab	8.40	.60	.40		
SHEET METAL WORKERS	11.65	1.102	1.05		.14
SOFT FLOOR LAYERS	10.15	.45	.45		.05
SPRINKLER FITTERS	12.10	.75	1.05		.08
TERRAZZO WORKERS	9.70	.40	.40		
TERRAZZO FINISHERS	8.60				
TILE LAYERS	9.70	.40	.40		
TILE FINISHERS	8.60				
WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.					
TRUCK DRIVERS:					
Truck helper & warehouseman	8.06	d	e	f	
Driver, 3 tons and under, greaser, tire changer and mechanic helper	8.18	d	e	f	
Driver, over 3 tons, semi-trailer or pole trailer, dump trucks, tandem axle, farm tractor when used to pull building material or equipment	8.29	d	e	f	
Driver, concrete mixer trucks (all types, hauling only on jobsites)	8.36	d	e	f	
Driver, Euclid & other heavy earth moving equipment and low boy, winch truck and A-frame & monorail truck when used to transport building materials	8.46	d	e	f	

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
Group 1	$ 7.43	.35	.47		
Group 2	7.63	.35	.47		
Group 3	7.78	.35	.47		
Group 4	7.93	.35	.47		
Group 5	8.63	.35	.47		

CLASSIFICATIONS DEFINITIONS

Group 1 - General laborers, mobile sweepers;

Group 2 - Power driven Georgia buggy, chain saw, vibrator operator, mesh handler, power tools (air, diesel, electric, gasoline), wagon drill, pipelayer, wall man, chip & bush hammer, concrete saw, gasoline tamper machine, walk behind trenching machine, burner man, joint maker, asphalt raker;

Group 3 - Air track driller, mason tender, side rail setter (metal), stackman;

Group 4 - Powderman, introflax burning rod, gunnite nozzle man operator, sewer & tunnel laborers (free air), sand hog or mucker (free air);

Group 5 - Holeman drilled, piers, augured caissons, sand miner (tunnel free air), caisson workers.

DECISION NO. KY78-1029

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
Class A	$10.45	.40	.45		.05
Class B	8.01	.40	.45		.05
Class C	7.34	.40	.45		.05

CLASSIFICATIONS DEFINITIONS

Class A - Auto patrol, batcher plant, bituminous paver, cableway, central compressor plant, clamshell, concrete mixer (21 cu. ft. or over), concrete pump, crane, crusher plant, derrick, derrick boat, ditching and trenching machine, dragline, dredge operator, dredge engineer, elevating grader and all types of loaders, hoe type machine, hoist (1-drum when used for stack or chimney construction or repair), hoisting engine (2 or more drums), locomotive, motor scraper, carry-all scoop, bulldozer, heavy duty welder, mechanic, orangepeel bucket, pile driver, power blade, motor grader, roller (bituminous), scarifer, shovel, tractor shovel, truck crane, winch truck, push dozer, highlift, forklift (regardless of lift height and except when used for masonry construction), all types of boom cats, core drill, hopto, tow or push boat, A-frame winch truck, concrete paver, gradeall, hoist, hyster, pumpcrete, Hoss carrier, boom, tail boom, rotary drill, hydro hammer, mucking machine, rock spreader attached to equipment, scoopmobile, KeCal loader, tower cranes (French, German and other types), hydrocrane, backfiller, gurries, sub-grader;

Class B - All air compressors (over 900 cu. ft. per min.), bituminous mixer, joint sealing machine, concrete mixer (under 21 cu. ft.), form grader, roller (rock), tractor (50 hp and over), bull float, finish machine, outboard motor boat, flexplane, fireman, boom type tamping machine, truck crane oiler, greaser on grease facilities servicing heavy equipment, switchman or brakeman, mechanic helper, whirley oiler, self-propelled compactor, tractair and road widening trencher and farm tractor with attachments except backhoe, highlift and end loader, elevator (regardless of ownership when used for hoisting any building material), hoisting engine (1-drum or buck hoist), forklift (when used for masonry construction), well points, grout pump, throttle-valve man, tugger, electric vibrator compactor;

Class C - Bituminous distributor, cement gun, conveyor, mud jack, paving joint machine, roller (earth), tamping machine, tractors (under 50hp), vibrator, oiler, concrete saw, burlap and curing machine, hydro-seeder, power form handling equipment, deckhand steersman, hydraulic post driver, drill helper.

DECISION NO. KY78-1029

FOOTNOTES:

a. Seven Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Friday after Thanksgiving Day; Christmas Day.

b. Employer contributes 4% of the basic hourly rate for 5 years or more of service, or 2% of the basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.

c. Nine Paid Holidays: New Year's Day, Washington's Birthday, Good Friday, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Eve, and Christmas Day provided the employee has worked 30 full days during the 90 calendar days prior to the holiday and the regular scheduled work days immediately preceding and following the holiday.

d. Employer contributes $21.00 per week per employee whose name appears on the payroll and has been employed a minimun of 20 work days within any 90 consecutive day period.

e. Employer contributes $20.00 per week per employee whose name appears on the payroll and has been employed a minimum of 20 work days within any 90 consecutive day period.

f. Employee who has been regularly employed on a project for one year and who has worked a minimum of 1200 hours during the year shall receive vacation and pay equal to 40 hours.

SUPERSEDEAS DECISION

STATE: KENTUCKY COUNTY: WARREN
DECISION NUMBER: KY78-1032 DATE: DATE OF PUBLICATION
Supersedes Decision Number KY77-1126, dated September 30, 1977, in 42 FR 53048.
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	.45	.35		
BOILERMAKERS	9.80	1.05	1.10	1.50	.02
BRICKLAYERS & STONE MASONS	8.64	.30	.20		
CARPENTERS & SOFT FLOOR LAYERS	9.30	.45	.45		.05
CEMENT MASONS & PLASTERERS	8.50		.20		.01
ELECTRICIANS & CABLE SPLICERS	10.00		3%		¼ of 1%
ELEVATOR CONSTRUCTORS:					
Mechanics	11.41	.745	.56	4%+a+b	.035
Helpers	7.99	.745	.56	4%+a+b	.035
GLAZIERS	8.05	.50	.50		.02
IRONWORKERS - Structural, Ornamental, & Reinforcing	9.80	.55	.60		.10
LATHERS	8.40		.20	.40	.01
LEAD BURNERS	10.75	.40	.25	c	.01
LINE CONSTRUCTION:					
Linemen, line truck, hole digger, & cable splicers	10.00		3%		½ of 1%
Groundmen	8.50		3%		½ of 1%
MILLWRIGHTS	11.05	.45	.65		.02
PAINTERS:					
Brush & roller	8.80		.40		.10
Spray & drywall finishing	9.05		.40		.10
Paperhangers	9.30		.40		.10
Sandblasting	9.55		.40		.10
PILEDRIVERMEN	9.30	.45	.45		.05
PIPEFITTERS	12.24	.64	1.15		.09
PLUMBERS	11.56	.65	1.04	.77	.10
ROOFERS	7.55	.45	.30	.15	
SHEET METAL WORKERS	11.65	1.102	1.05		.14
SPRINKLER FITTERS	12.10	.75	1.05		.08
WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.					

DECISION NO. KY78-1032

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
Group 1	$6.23	.35	.47		
Group 2	6.38	.35	.47		
Group 3	6.73	.35	.47		

LABORERS' CLASSIFICATION DEFINITIONS

Group 1 - General laborers; wrecking labor on buildings, clearing right-of-way and building site; carpenter tenders; truck spotters and dumpers; axe and cross cut saw filer; concrete pudlers and form strippers.

Group 2 - All power driven tools; hod carriers; mason tenders; finisher tenders; mortar mixers; jack hammers; vibrators; wagon drill; core drill; test drill; well drill; concrete pump machine; tunnel boring machine; men in tunnel and crib ditch work; signal men; riprap rock setters and handlers; asphalt rakers; tampers and smoothers; pipelayers; grout pump men; chain saw; pipe clearing; doping and wrapping; swampers and straight cable hooking; cement guns; grade checkers machine excavating; batch plant scale man; sand hog free air; sand hog compressed air; cutting torch man on salvage work; road form setters; brick slingers; hand spikers; power buggy; handling of creosote material; sandblasters; curing of concrete and apply hardner; air and gas tampers; concrete saw; power posthole diggers and green cut men on concrete work.

Group 3 - Powdermen; blasters

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
POWER EQUIPMENT OPERATORS:					
Class A	$10.45	.40	.45		.05
Class B	8.01	.40	.45		.05
Class C	7.34	.40	.45		.05

CLASSIFICATIONS DEFINITIONS

Class A - Auto patrol, batcher plant, bituminous paver, cableway, central compressor plant, clamshell, concrete mixer (21 cu. ft. or over), concrete pump, crane, crusher plant, derrick, derrick boat, ditching and trenching machine, dragline, dredge operator, dredge engineer, elevating grader and all types of loaders, hoe type machine, hoist (1-drum when used for stack or chimney construction or repair), hoisting engine (2 or more drums), locomotive, motor scraper, carry-all scoop, bulldozer, heavy duty welder, mechanic, orangepeel bucket, pile driver, power blade, motor grader, roller (bituminous), scarifer, shovel, tractor shovel, truck crane, winch truck, push dozer, highlift, forklift (regardless of lift height and except when used for masonry construction), all types of boom cats, core drill, hopto, tow or push boat, A-frame winch truck, concrete paver, gradeall, hoist, hyster, pumpcrete, Ross carrier, boom, tail boom, rotary drill, hydro hammer, mucking machine, rock spreader attached to equipment, scoopmobile, KeCal loader, tower cranes (French, German and other types), hydrocrane, backfiller, gurries, sub-grader;

Class B - All air compressors (over 900 cu. ft. per min.), bituminous mixer, joint sealing machine, concrete mixer (under 21 cu. ft.), form grader, roller (rock), tractor (50 hp and over), bull float, finish machine, outboard motor boat, flexplane, fireman, boom type tamping machine, truck crane oiler, greaser on grease facilities servicing heavy equipment, switchman or brakeman, mechanic helper, whirley oiler, self-propelled compactor, tractair and road widening trencher and farm tractor with attachments except backhoe, highlift and end loader, elevator (regardless of ownership when used for hoisting any building material), hoisting engine (1-drum or buck hoist), forklift (when used for masonry construction), well points, grout pump, throttle-valve man, tugger, electric vibrator compactor;

Class C - Bituminous distributor, cement gun, conveyor, mud jack, paving joint machine, roller (earth), tamping machine, tractors (under 50hp), vibrator, oiler, concrete saw, burlap and curing machine, hydro-seeder, power form handling equipment, deckhand steersman, hydraulic post driver, drill helper.

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TRUCK DRIVERS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Truck helper & warehouseman	$ 8.06	d	e	f	
Driver, 3 tons and under, greaser, tire changer and mechanic helper	8.18	d	e	f	
Driver, over 3 tons, semi-trailer or pole trailer, dump trucks, tandem axle, and farm tractor when used to pull building material or equipment	8.29	d	e	f	
Driver, concrete mixer trucks (all types, hauling only on jobsites)	8.36	d	e	f	
Driver, Euclid & other heavy earth moving equipment and low boy, winch truck and A-frame & Monorail truck when used to transport building materials	8.46	d	e	f	

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FOOTNOTES:

a. Seven Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Friday after Thanksgiving Day; Christmas Day.

b. Employer contributes 4% of the basic hourly rate for 5 years or more of service, or 2% of the basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.

c. Nine Paid Holidays: New Year's Day, Washington's Birthday, Good Friday, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Eve, and Christmas Day provided the employee has worked 30 full days during the 90 calendar days prior to the holiday and the regular scheduled work days immediately preceding and following the holiday.

d. Employer contributes $21.00 per week per employee whose name appears on the payroll and has been employed a minimun of 20 work days within any 90 consecutive day period.

e. Employer contributes $20.00 per week per employee whose name appears on the payroll and has been employed a minimum of 20 work days within any 90 consecutive day period.

f. Employee who has been regularly employed on a project for one year and who has worked a minimum of 1200 hours during the year shall receive vacation and pay equal to 40 hours.

SUPERSEDEAS DECISION

STATE: KENTUCKY COUNTY: BOYD
DECISION NO.: KY78-1033 DATE: DATE OF PUBLICATION
Supersedes Decision No. KY77-1105, dated August 26, 1977, in 42 FR 43324.
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	$12.05	.50	.70		.03
BOILERMAKERS	9.80	1.05	1.10	1.50	.02
BRICKLAYERS & STONE MASONS	11.43				
CARPENTERS	10.17	.50	.75		.03
CEMENT MASONS	11.12		.60		
ELECTRICIANS:					
Wiremen	11.12	.50	3% + .62	1.02	.04
Cable splicers	11.68	.50	3% + .62	1.02	.04
ELEVATOR CONSTRUCTORS:					
Mechanics	11.465	.745	.56	4%+a+b	.035
Helpers	8.025	.745	.56	4%+a+b	.035
GLAZIERS	10.60		.70		
IRONWORKERS - Structural,					
Ornamental & Reinforcing	11.27	.90	1.05		.01
LATHERS	10.925		.10		
LEADBURNERS	10.75	.40	.25	c	.01
LINE CONSTRUCTION:					
Linemen	11.28	.45	3% + .52	1.02	½ of 1%
Cable splicers	12.41	.45	3% + .52	1.02	½ of 1%
Groundmen	9.02	.45	3% + .52	1.02	½ of 1%
Mechanical equipment operator	11.28	.45	3% + .52	1.02	½ of 1%
MILLWRIGHTS	10.79	.40	.37		.03
PAINTERS:					
Brush & paperhanging	8.18		.40		
Roller, drywall, & saping	8.34		.40		
Spray	8.70		.40		
Steamcleaning	8.92		.40		
Mittens or rags	9.23		.40		
Sandblasting	9.39		.40		
Drywall machine operator	9.60		.40		
PILEDRIVERMEN	10.46	.50	.75		.03
PLASTERERS	11.12		.60		

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
PLUMBERS & PIPEFITTERS:					
Area 1 - within a 5 mile radius of 17th St. and Winchester Ave., Ashland	$10.42	.60	.85	1.00+d	
Area 2 - over 5 miles and within a 15 mile radius of 17th St. and Winchester Ave., Ashland	10.62	.60	.85	1.00+d	
Area 3 - over 15 miles and within a 30 mile radius of 17th St. and Winchester Ave., Ashland	10.82	.60	.85	1.00+d	
Area 4 - over a 30 mile radius of 17th and Winchester Ave., Ashland	10.92	.60	.85	1.00+d	
ROOFERS:					
New construction	11.00		.45		
Re-roofing	7.55		.45		
SHEET METAL WORKERS	11.05	.86	.55		.05
SOFT FLOOR LAYERS	10.17	.50	.75		.03
SPRINKLER FITTERS	12.10	.75	1.05		.08
WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.					

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
LABORERS:					
Group 1	$ 7.86	.35	.47		
Group 2	8.01	.35	.47		
Group 3	8.03	.35	.47		
Group 4	8.06	.35	.47		
Group 5	8.11	.35	.47		
Group 6	8.36	.35	.47		
Group 7	8.56	.35	.47		
Group 8	9.06	.35	.47		

CLASSIFICATIONS DEFINITIONS

Group 1 - Laborers, carpenter tenders, concrete men, wreckers, wall men, handlers of empty oxygen and acetylene bottles;
Group 2 - Hod carriers, mortar men, cement finisher tenders, lather and plaster tenders;
Group 3 - Wrapping, heating and applying hot and cold tar on all pipes, applying tape on pipes and operating of a Ttester;
Group 4 - Deck hand and scow men;
Group 5 - Jackhammer and electrical, gas or air power driven tools, burning torch, wagon drill operators, handling of all creosote material, signal men, and asphalt rakers;
Group 6 - Rock and powder men;
Group 7 - Sand hog or muckers, and tunnel miners
Group 8 - Caisson workers

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POWER EQUIPMENT OPERATORS:	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Class A	$10.45	.40	.45		.05
Class B	8.01	.40	.45		.05
Class C	7.34	.40	.45		.05

CLASSIFICATIONS DEFINITIONS

Class A - Auto patrol, batcher plant, bituminous paver, cableway, central compressor plant, clamshell, concrete mixer (21 cu. ft. or over), concrete pump, crane, crusher plant, derrick, derrick boat, ditching and trenching machine, dragline, dredge operator, dredge engineer, elevating grader and all types of loaders, hoe type machine, hoist (1-drum when used for stack or chimney construction or repair), hoisting engine (2 or more drums), locomotive, motor scraper, carry-all scoop, bulldozer, heavy duty welder, mechanic, orangepeel bucket, pile driver, power blade, motor grader, roller (bituminous), scarifer, shovel, tractor shovel, truck crane, winch truck, push dozer, highlift, forklift (regardless of lift height and except when used for masonry construction), all types of boom cats, core drill, hopto, tow or push boat, A-frame winch truck, concrete paver, gradeall, hoist, hyster, pumpcrete, Ross carrier, boom, tail boom, rotary drill, hydro hammer, mucking machine, rock spreader attached to equipment, scoopmobile, KeCal loader, tower cranes (French, German and other types), hydrocrane, backfiller, gurries, sub-grader;

Class B - All air compressors (over 900 cu. ft. per min.), bituminous mixer, joint sealing machine, concrete mixer (under 21 cu. ft.), form grader, roller (rock), tractor (50 hp and over), bull float, finish machine, outboard motor boat, flexplane, fireman, boom type tamping machine, truck crane oiler, greaser on grease facilities servicing heavy equipment, switchman or brakeman, mechanic helper, whirley oiler, self-propelled compactor, tractair and road widening trencher and farm tractor with attachments except backhoe, highlift and end loader, elevator (regardless of ownership when used for hoisting any building material), hoisting engine (1-drum or buck hoist), forklift (when used for masonry construction), well points, grout pump, throttle-valve man, tugger, electric vibrator compactor;

Class C - Bituminous distributor, cement gun, conveyor, mud jack, paving joint machine, roller (earth), tamping machine, tractors (under 50hp), vibrator, oiler, concrete saw, burlap and curing machine, hydro-seeder, power form handling equipment, deckhand steersman, hydraulic post driver, drill helper.

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	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
TRUCK DRIVERS:					
Group 1	$ 9.08	e	f		
Group 2	9.18	e	f		
Group 3	9.33	e	f		
Group 4	9.38	e	f		
Group 5	9.43	e	f		
Group 6	9.48	e	f		
Group 7	9.73	e	f		

CLASSIFICATIONS DEFINITIONS

Group 1 - Warehousemen, yardmen, truck helpers, pickups, station wagons, panel trucks, flat-body material trucks (straight jobs), greasers, washers, tiremen, dump trucks (up to 5 cu. yds.);
Group 2 - Tank trucks (straight);
Group 3 - Dump trucks (5 cu. yds. or over), semi-dump trucks, semi-trailers (whether flat, rack or pole and hauled or pushed by trucks or tractors), agitator or mixer trucks (up to 5 cu. yds.), tank trucks (semi);
Group 4 - Lowboy trailers, winch trucks, fork trucks, distributor trucks (front and back end), truck cranes, monirail trucks;
Group 5 - Material checkers & receivers, mechanics helpers;
Group 6 - Agitator or mixer trucks (5 cu. yds. and over);
Group 7 - Tri-axle dump trucks, hydraulic lifts, tailgate trucks, farm type tractors, ross carriers, athey wagons or similar equipment, A-frame, hydro-lifts, dual purpose trucks, end dumpsters, mechanics.

DECISION NO. KY78-1033

FOOTNOTES:

a. Seven Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Friday after Thanksgiving Day; Christmas Day.

b. Employer contributes 4% of the basic hourly rate for 5 years or more of service, or 2% of the basic hourly rate for 6 months to 5 years of service as Vacation Pay Credit.

c. Nine Paid Holidays: New Year's Day, Washington's Birthday, Good Friday, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Eve, and Christmas Day provided the employee has worked 30 full days during the 90 calendar days prior to the holiday and the regular scheduled work days immediately preceding and following the holiday.

d. Two Paid Holidays: Independence Day and Christmas Day.

e. Employer contributes $82.33 per month per employee employed 30 days or more.

f. Employer contributes $52.00 per month per employee employed 30 days or more.

[FR Doc. 78-8996 Filed 4-6-78; 8:45 am]

federal register

FRIDAY, APRIL 7, 1978
PART III

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

■

REGULATIONS GOVERNING SECTION 511 OF THE RAILROAD REVITALIZATION AND REGULATORY REFORM ACT OF 1976 AS AMENDED

[4910-06]

Title 49—Transportation

CHAPTER II—FEDERAL RAILROAD ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 76-02]

PART 260—REGULATIONS GOVERNING SECTION 511 OF THE RAILROAD REVITALIZATION AND REGULATORY REFORM ACT OF 1976, AS AMENDED

Revision of Regulations

AGENCY: Federal Railroad Administration (FRA), DOT.

ACTION: Revisions to final rule.

SUMMARY: The Federal Railroad Administration is revising the regulations under the Railroad Revitalization and Regulatory Reform Act of 1976 covering the program under which financial assistance is granted to railroads through the guarantee of obligations. These amendments make the regulations consistent with provisions concerning redeemable preference shares and clarify, without changing in a material way, the requirements contained in the regulations. These regulations have been amended on numerous occasions since their initial publication and are being republished in their entirety for the convenience of potential applicants.

EFFECTIVE DATE: April 7, 1978.

FOR FURTHER INFORMATION CONTACT:

Principal attorney: Jeffrey K. Mercer, 202-426-7737; or Principal program person: William E. Loftus, 202-426-9657.

SUPPLEMENTARY INFORMATION: On October 8, 1976, the Federal Railroad Administrator ("Administrator") published in the FEDERAL REGISTER (41 FR 44577) final regulations governing section 511 of the Railroad Revitalization and Regulatory Reform Act of 1976, subsequently amended, covering the guarantee of obligations. These regulations were subsequently amended on December 10, 1976 at 41 FR 53996, on January 25, 1977 at 42 FR 4652, and on March 10, 1977 at 42 FR 13278. This document further amends those regulations to make them consistent with the regulations in 49 CFR Part 258.

Most of the changes to the regulations made by these revisions are language changes intended to clarify the regulations. This is particularly true of changes to Subpart C of the regulations, Procedures for Computing the Internal Rate of Return ("IRR") on Projects. In addition to language changes for clarification, the following changes have been made in the revised rules:

1. Section 260.7(a)(7)(i) is amended to require separate internal rate of return computations for each project part that (A) accounts for a significant portion of the total investment for which Federal assistance is sought, and (B) produces approximately the same cash flow impacts regardless of whether the remainder of the project is undertaken. This was required indirectly by the definition of "project" formerly contained in section 260.33(d), which is deleted by these revisions.

2. Section 260.7(a)(12) is amended and an appendix is added to Subpart A to provide more specific guidance as to the contents of applicant's assessment of the impact of the project on the environment and to make the requirement consistent with the requirement under part 258 concerning redeemable preference shares.

3. Section 260.7(a)(13) is amended to require the posting of notice of an application, including a brief description of the project, on bulletin boards convenient to interested employees of the railroad. This change is also consistent with the regulations concerning redeemable preference shares.

4. Section 260.9 is amended to require all forecasted data provided in the exhibits to be based on the assumption that the project will be funded on the January 1 next following the date of the application.

5. Sections 260.9 (c), (e), and (g) are amended to conform to the requirements under part 258 concerning redeemable preference shares.

6. Section 260.35(b) is amended to provide that the impact of state and local taxes need be included in the IRR computations only if such taxes substantially affect the IRR of the project.

REGULATORY REVIEW

The impact of section 511 assistance, including the inflationary impact of the regulations, was fully considered prior to publication of the initial regulations on October 8, 1976. The amendment provided herein will not affect the overall costs or benefits of the program as it was set forth in the initial regulations. Accordingly, an evaluation of the expected impact of the regulations pursuant to the Department of Transportation Policies to Improve Analysis and Review of Regulations (41 FR 16200) is not required.

In consideration of the foregoing, 49 CFR Part 260 is revised as set forth below.

Dated: March 30, 1978.

JOHN M. SULLIVAN,
Administrator, Federal Railroad Administration.

Subpart A—Procedures for Application for Commitment to Guarantee or Guarantee of Obligations

Sec.
260.1 Applicability.
260.3 Definitions.
260.5 Eligibility.
260.7 Form and content of application.
260.9 Required exhibits.
260.11 Preapplication and application procedure.
260.13 Information requests.
260.15 Waivers and modifications.
Appendix—Environmental Assessments.

Subpart B—Standards for Maintenance of Facilities by Recipients of Obligation Guarantees

260.17 Applicability.
260.19 Definitions.
260.21 Standards.
260.23 Inspection and reporting.
260.25 Waiver.
260.27 Impact on other laws.
260.29 Penalties.

Subpart C—Procedures for Computing the Internal Rate of Return on Projects

260.31 Applicability.
260.33 Definitions.
260.35 Procedures to be followed and format to be utilized.
Appendix A—Selected cash flow impacts.
Appendix B—Forms to be used in computing IRR.
Form I—Analysis of capitalized investment.
Form II—Analysis of sale or retirement of assets.
Form III—Analysis of expenses and contribution to profit.
Form IV—Consolidation of cash flows.
Form V—Computation of IRR.

AUTHORITY: Railroad Revitalization and Regulatory Reform Act of 1976, Pub. L. 94-210, 90 Stat. 76, February 5, 1976, as amended by the Rail Transportation Improvement Act, Pub. L. 94-555, 90 Stat. 2625, October 19, 1976; the Department of Transportation Act, 49 U.S.C. 1651 et seq., Regulations of the Office of the Secretary of Transportation, 49 CFR 1.49(u).

Subpart A—Procedures for Application for Commitment to Guarantee or Guarantee of Obligations

§ 260.1 Applicability.

This subpart prescribes the procedures governing applications for a commitment to guarantee or a guarantee of the payment of the principal balance of, and any interest on, an obligation of an applicant under section 511 of the Railroad Revitalization and Regulatory Reform Act of 1976, as amended ("Act"). Applications for a commitment to guarantee or a guarantee of obligations of the Consolidated Rail Corporation for electrification of high-density mainline routes must be filed in accordance with these proce-

dures, as provided in section 211(i) of the Regional Rail Reorganization Act of 1973, as amended (45 U.S.C. 721(i)). These procedures also govern applications for a commitment to guarantee or guarantee of obligations incurred for the purpose set forth in section 517 of the Act, improvement of intercity rail passenger service on lines of the applicant located outside the Northeast Corridor, being the properties acquired by the National Railroad Passenger Corporation pursuant to Title VII of the Act and described in section 701(a)(4) of the Act.

§ 260.3 Definitions.

As used in this part—

(a) "Act" means the Railroad Revitalization and Regulatory Reform Act of 1976 (Pub. L. 94-210, February 5, 1976), as amended.

(b) "Administrator" means the Federal Railroad Administrator, or his delegate.

(c) "Applicant" means any railroad, or other person (including a governmental entity) that submits an application to the Administrator for the guarantee of an obligation under which it is an obligor or for a commitment to guarantee such an obligation.

(d) "Commission" means the Interstate Commerce Commission.

(e) "Equipment" means any type of new or rebuilt standard gauge locomotive, caboose, or general service railroad freight car the use of which is not limited to any specialized purpose by particular equipment, design, or other features, or any other type of car designated by the Administrator upon a written finding that such designation is consistent with the purposes of the Act. General service railroad freight car includes a boxcar, gondola, opentop or covered hopper car, and flatcar.

(f) "Facilities" means—

(1) Track, roadbed, and related structures, including rail, ties, ballast, other track materials, grading, tunnels, bridges, trestles, culverts, elevated structures, stations, office buildings used for operating purposes only, repair shops, enginehouses, and public improvements used or usable for rail service operations;

(2) Communications and power transmission systems, including electronic, microwave, wireless, communication, and automatic data processing systems, electrical transmission systems, powerplants, power transmission systems, powerplant machinery and equipment, structures, and facilities for the transmission of electricity for use by railroads;

(3) Signals, including signals and interlockers;

(4) Terminal or yard facilities, including trailer-on-flat-car and container-on-flatcar terminals, express or railroad terminal and switching facilities, and services to express companies and railroads and their shippers, including ferries, tugs, carfloats, and related shoreside facilities designed for the transportation of equipment by water; or

(5) Shop or repair facilities or any other property used or capable of being used in rail freight transportation services or in connection with such services or for originating, terminating, improving, and expediting the movement of equipment.

(g) "FRA" means Federal Railroad Administration.

(h) "Guarantee" means guarantee or commitment to guarantee unless the context in which it is used indicates otherwise.

(i) "Including" means including but not limited to.

(j) "Holder" means the obligee or creditor under an obligation, except that when a bank or trust company is acting as agent or trustee for such an obligee or creditor pursuant to an agreement to which the obligor is a part, the term refers to such bank or trust company.

(k) "Obligation" means a bond, note, conditional sale agreement, equipment trust certificate, security agreement, or other obligation issued or granted to finance or refinance equipment or facilities acquisition, construction, rehabilitation or improvement.

(l) "Obligor" means the debtor under an obligation, including the original obligor and any successor or assignee of such obligor who is approved by the Administrator.

(m) "Project" means the use of the proceeds of the obligation for which a guarantee or guarantee commitment is sought.

(n) "Railroad" means a common carrier by railroad or express as defined in section 1(3) of Part I of the Interstate Commerce Act (49 U.S.C. 1(3)), including the National Railroad Passenger Corporation and the Alaska Railroad.

(o) "Trustee" means the trustee, or trustees if more than one trustee has been appointed, of an applicant in bankruptcy.

§ 260.5 Eligibility.

Under section 511 the Administrator may guarantee and make commitments to guarantee the payment of the principal balance of, and any interest on, an obligation of any applicant prior to, on, or after the date of execution or the date of disbursement of such obligation, if the proceeds of such obligation shall be or have been used to acquire or to rehabilitate and improve facilities or equipment, or to develop or establish new railroad facilities.

§ 260.7 Form and content of application.

(a) Each application shall include, in the order indicated and identified by applicable section numbers and letters corresponding to those used in this part, the following information:

(1) Full and correct name and principal business address of the applicant;

(2) Date of applicant's incorporation, or organization if not a corporation, and name of the government, state or territory under the laws of which it was incorporated or organized. If applicant is a trustee then, in addition, the name and address of the reorganization court under the direction of which applicant is acting, and the docket number of the proceeding. If applicant is a partnership, association, or other form of organization other than a corporation, a full description of the organization should be furnished;

(3) Name, title, and address of the person to whom correspondence regarding the application should be addressed;

(4) Certified copy of proposed or executed obligation agreement, including and related agreements of other documents, and detailed description of the obligation, and of the series or issue of which the obligation is a part, including—

(i) Total amount of the obligation;

(ii) Detailed description of the project and its purpose or purposes, including—

(A) A description of all facilities or equipment and the physical condition of such facilities or equipment included in or directly affected by the proposed project and a description of the project;

(B) Each part or sub-part into which the project may reasonably be divided, the priority and schedule of expenditure for each part or sub-part:

(C) Estimated timing of the expenditure of the proceeds of the obligation; and

(D) Statement of whether the project involves another railroad or other participant, through joint execution, coordination, or otherwise; if so, description of the relative participation of applicant and such other railroad or participant, including statement or financing arrangements of each participant, portion of the work to be performed by each participant, and contemplated level of usage of the equipment or facility of each participant when the work is completed, along with a statement by a responsible officer or official of the other railroad or participant that the information provided reflects their agreement on these matters;

(iii) Effective date;

(iv) Schedule for repayment of principal;

(v) Description of the security to be offered the Administrator in connection with any guarantee, applicant's opinion of the value of this security and the basis for such opinion; in the

case of leased equipment to be rehabilitated or improved with the proceeds of the obligation proposed to be guaranteed, applicant shall state, in addition to the above, whether the lease provides for, or the lessor will permit, encumbrance of the leasehold or subordination of the lessor's interest in the equipment to the Administrator.

(vi) Where the obligation for which a guarantee is sought is outstanding, actual effective rate of interest; or where the applicant has discussed with a potential holder the terms of an obligation to be issued, the proposed effective rate of interest;

(5) Statement, in summary form, showing financial obligations to or claims against the United States or obligations for which the United States is guarantor, if any, by applicant or any affiliated corporate entity of the applicant or the applicant's parent as of the date of the application, including:

(i) Status of any claims under litigation; and

(ii) Any other debits or credits existing between the applicant and the United States, showing the department or agency involved in such loans, claims and other debts;

(6) An analysis that includes:

(i) Statement, together with supporting evidence including copies of all market analyses and studies that have been performed to determine present and future demand for rail services, that the financing is justified by present and future demand for rail services, will meet existing needs for such services, and will provide shippers with improved service;

(ii) Description of the impact of the financing upon the projected traffic to be originated, terminated, or carried by the obligor for at least the five years immediately following completion of the project; and

(iii) Description of any other benefit which would accrue to the applicant from the proceeds of the obligation;

(7) Statement, together with supporting evidence, that the facilities or equipment being acquired, rehabilitated or improved will be efficiently and economically utilized, including:

(i) A detailed statement setting forth the estimated internal rate of return on the project, computed in accordance with the provisions of subpart C of this part. This statement shall follow the procedures and follow the format required by subpart C. Relevant material presented elsewhere in the application need not be repeated in this statement, but must be explicitly referenced. If the project can be divided into parts such that each part:

(A) accounts for a significant portion of the total investment for which Federal assistance is sought; and

(B) produces approximately the same cash flow impacts regardless of whether the remainder of the project is undertaken; then the applicant must submit a separate internal rate of return computation, with the supporting documentation described in subpart C of this part, for each part of the project. In that case, all references to the term "project" in subpart C of this part shall be deemed to refer to the part of the project for which the rate of return is being computed;

(ii) Explanation of the manner in which the project will increase the economical and efficient utilization of equipment and facilities; and

(iii) Documentation of any other improvements in service as a result of the project, including service reliability between origin and destination point pairs and reduction in time from load to load car cycle by car type;

(8) Statement, together with supporting evidence, that the transaction will improve the ability of any affected railroad to transport passengers or freight;

(9) Statement of applicant's maintenance program for its entire rail system and planned maintenance program for the equipment or facilities financed by the proceeds of the obligation;

(10) Certified statement that applicant will pay to the Administrator in accordance with § 260.11(b)(4) an initial investigation charge and any additional investigation charges the Administrator assesses with respect to analysis and evaluation of the application, appraisal of any security offered by an applicant, and all studies and investigations that the Administrator deems necessary in order to make determinations or findings prescribed in the Act, up to a maximum of one-half of one percent of the obligation for which a guarantee is sought;

(11) With respect to each existing holder or proposed prospective holder, a statement as to:

(i) Full and correct name and principal business address;

(ii) Reference to applicable provisions of law and the charter or other governing instruments conferring authority on the holder to accept the obligation;

(iii) Brief statement of the circumstances and negotiations leading to the agreement by the holder to take the proposed obligation;

(iv) Brief statement of the nature and extent of any affiliation or business relationship between the existing or prospective holder and any of its directors, partners, or principal executive officers, on the one hand, and, on the other, the applicant and any of its directors, partners, or principal executive officers, or any person or persons whose name is required to be furnished under paragraph (a)(11)(v) of this section; and

(v) Full and complete statement of all sums to be given by the holder in connection with the proposed obligation including:

(A) Name and address of each person to whom the payment has been made or will be made and nature of any affiliation, association, or prior business relationship between any person named in this paragraph and the holder or any of its directors, partners, or officers;

(B) Amount of the cash payment, or the nature and value of other consideration; and

(C) Any condition upon the obligation of the obligee to make such payment;

(12) Detailed assessment of impact of the project on the environment, in the general format and including the information set forth in the appendix to subpart A of this part;

(13) Statement that notice of the application, including a brief description of the project, has been posted on bulletin boards convenient to interested employees of the railroad and by sending registered mail notice to the duly authorized representatives of such employees. This requirement is not in lieu of any other requirement imposed by reason of section 516 of the Act;

(14) Any information that the applicant deems appropriate to convey a full and complete understanding of the project and its impact or to assist the Administrator in making the statutorily prescribed findings; and

(15) Any other information which the Administrator may deem necessary concerning an application filed under this part.

(b) When applicant is a trustee, the application shall provide all of the information required in paragraph (a) of this section, and in addition shall provide a full and complete statement, together with supporting evidence, demonstrating that applicant can reasonably be expected to become self-sustaining within a reasonable period of time.

§ 260.9 Required exhibits.

There shall be filed with and made a part of each application and copy thereof the following exhibits, except that exhibits filed with the Administrator pursuant to some other statutory provision or regulation which are in the same format as the following exhibits may be incorporated in and made part of the application filed under this part by reference. While the application is pending, when actual data become available in place of the estimated or forecasted data required in the exhibits under this part, such actual data must be reported promptly to the Administrator in the form required in the appropriate exhibit. All forecasted data required in the exhibits under this part must be based on the assumption that the project will be funded on the January 1

next following the date of the application.

(a) *Exhibit A.* Map of applicant's existing railroad with location of project indicated, if appropriate.

(b) *Exhibit B.* Statement showing to the latest available date but in any event to a date no less recent than the end of the 3d month preceding the date of filing of the application:

(1) Maximum number of locomotive units out of service during each quarter due to business conditions; maximum number of such units out of service during each quarter due to mechanical defects; and ratio of each to total ownership quarterly for each of the last 3 calendar years but not earlier than the quarter ending June 1974, and the current calendar year; and

(2) Maximum number of general service freight cars out of service during each quarter due to business conditions; maximum number of such cars out of service during each quarter due to mechanical defects; and ratio of each to total number of general service freight cars owned by applicant quarterly for each of the last 3 calendar years but not earlier than the quarter ending June 1974, and the current calendar year.

(c) *Exhibit C.* A copy of applicant's most recent year-end general balance sheet certified by applicant's independent public accountants, if available, and a copy of applicant's most recent unaudited general balance sheet as of a date no less recent than the end of the third month preceding the date of filing of the application. The unaudited balance sheet shall be presented in account form and detail as required in schedule 200 of the Commission's annual report R-1 or R-2, as appropriate, together with the following schedules (where changes in accounts from the end of the prior year to date of the application have not been significant, copies of the appropriate schedules in the prior year's R-1 or R-2 with marginal notations listing the changes may be submitted:

(1) Particulars of account 704, Loans and Notes Receivable, in form and detail as required in schedule 201 of annual report R-1 for the Class I railroads, and in similar form for the Class II railroads except that for Class II railroads loans and notes recievable that are each less than $25,000 may be combined into a single amount;

(2) Particulars of investments in affiliated companies and other investments in form and detail required in schedules 205 and 206 of annual report R-1, or schedules 1001 and 1002 of annual report R-2, as as appropriate;

(3) Particulars of balances in accounts 741, Other Assests, and 743, Other Deferred Charges, in form and detail required in schedule 216 of annual report R-1 or schedule 1703 of annual report R-2, as appropriate;

(4) Particulars of loans and notes payable in form and detail required in schedule 223 of annual report R-1, or schedule 1701 of annual report R-2, as appropriate, as well as information as to bank loans, including the name of the bank, date and amount of the original loan, current balance, maturities, rate of interest, and security, if any;

(5) Particulars of long-term debt in form and detail required in schedules 218 and 219 of annual report R-1 or schedules 670, 695, 901, 902 and 1702 of annual report R-2, as appropriate, together with a brief statement concerning each mortgage, pledge, and other lien, indicating the property or securities encumbered, the mortgage limit per mile, if any, and particulars as to priority;

(6) Particulars of balance in account 784, Other Deferred Credits, in form and detail required in schedule 225 of annual report R-1 or schedule 1704 of annual report R-2, as appropriate; and

(7) Particulars as to capital stock in form and detail required in schedules 228, 229, and 230 of annual report R-1 or schedule 690 in annual report R-2, as appropriate.

(d) *Exhibit D.* Applicant's most recent annual income statement certified by applicant's independent public accountants if available, and a spread sheet showing unaudited monthly and year-to-date income statement data for the calendar year in which the application is filed in account form similar to that required in column (a) of schedule 300 of annual report R-1 or R-2 as appropriate. For those months preceding and ending upon the date of the unaudited balance sheet presented in Exhibit C, the income statement data shall be reported on an actual basis and so noted. For those months between the dates of the unaudited balance sheet and the filing of the application, the income statement data shall be reported on an estimated basis and so noted and shall be submitted in conjunction with corresponding estimated month-end balance sheets. For those months between the date of the application and the end of the year the income statement data shall be presented on a forecasted basis and so noted and shall be submitted in conjuction with a forecasted balance sheet as at the year end.

(e) *Exhibit E.* Spread sheets showing for each of the four years subsequent to the year in which the application is filed, both before and after giving effect to the proceeds of the assistance requested in the application:

(1) Forecasted annual income statement data in account form and detail similar to that required in column (a) of schedule 300 of annual report R-1 or R-2 as appropriate, including the subaccounts comprising line 2 (railway operating expenses), as specified by lines 64, 92, 105, 159, 168, and 180 of Schedule 320; and

(2) Forecasted year-end balance sheets in account form and detail similar to that required in schedule 200 of annual report R-1 or R-2, as appropriate.

These spread sheets shall be accompanied by a statement setting forth the bases for such forecasts.

(f) *Exhibit F.* A spread sheet showing changes in financial position for the year in which the application is filed in account form and detail as required in schedule 309 of annual report R-1 or R-2 as appropriate as follows:

(1) For that period ending on the date of the unaudited balance sheet in Exhibit C, based upon actual data; and

(2) For that period from the balance sheet date to the end of the year, based upon estimated and forecasted data.

(g) *Exhibit G.* A spread sheet showing forecasted changes in financial position for each of the four calendar years subsequent to the year in which the application is filed, both before and after giving effect to any funds requested in the application and including a statement showing the bases for such estimates, in account form and detail as required in schedule 309 of the annual Report R-1 for Class I railroads and in similar form and detail for Class II railroads.

(h) *Exhibit H.* With respect to equipment proposed to be rehabilitated, improved, maintained, or acquired in the application, a statement indicating number of units and in-service or out-of-service status and, as appropriate:

(1) For locomotives, service type, age, size, horsepower, name of builder, description of work, and unit cost of proposed work; and

(2) For freight cars or intermodal equipment, information as to service type (box, gondola, flat, etc.), age, capacity, description of work, and unit costs of proposed work.

Such statement shall show the total cost of the project, types and quantities of work items, unit cost of each item, and distribution of such cost by primary accounts of the Commission's Uniform System of Accounts separated where applicable between material, labor, and other; the ownership of all equipment which is the subject of the project; and the dates on which work is to be commenced or completed. Direct labor, supervision, material costs, contingencies, and any applicable overhead expenses that are included in the total cost of the project should be shown separately and identified.

(i) *Exhibit I.* With respect to the maintenance, rehabilitation, improvement, acquisition, or construction of facilities proposed in the application, a statement showing, as appropriate:

(1) Track Class, as defined by the FRA Track Safety Standards in Part 213 of this chapter, and maximum allowable speed under which each line on which maintenance, rehabilitation, improvement, acquisition or construction is proposed has been and is being operated and the reasons therefor, the track class, maximum allowable speed, and signal requirements necessary in the judgment of the railroad to provide safe, reliable and competitive rail services over such lines, and the highest track class and maximum allowable speed at which each such line will be designated when the proposed project is completed;

(2) Dates on which project is proposed to be commenced and completed; and dates on which any part of sub-part into which the project may reasonably be divided is proposed to be commenced and completed;

(3) Types and quantities of work items, unit cost of each item, cost of project in total and by parts or subparts into which the project may be reasonably divided, and distribution of such costs by primary accounts of the Commission's Uniform System of Accounts, separated where applicable between material, labor and other. Direct labor, supervision, material costs, contingencies, and any applicable overhead expenses that are included in the costs of the project should be shown separately and identified.

(j) *Exhibit J.* A draft notice of filing, to be published by the Administrator in the FEDERAL REGISTER, which shall contain a brief summary of the project(s) proposed to be funded, including as applicable:

(1) The name and address of applicant;

(2) A brief description of the project(s) proposed to be funded, the total cost of such project(s), and the amount of Federal financial assistance sought;

(3) A brief description of the facilities or equipment to be acquired, rehabilitated or improved, including where appropriate, city or county and State location termini, and approximate distance in miles;

(4) The justification for the project(s); and

(5) A final paragraph which shall read as follows:

Interested persons may submit written comments on the application to the Associate Administrator for Federal Assistance, Federal Railroad Administration, 400 Seventh Street SW., Washington, D.C. 20590, not later than 30 days after the date on which this notice is published in the FEDERAL REGISTER. Such submission shall indicate the docket number shown on this notice and state whether the commenter supports or opposes the application and the reasons therefor.

The comments will be taken into consideration by the Federal Railroad Administration in evaluating the application. However, formal acknowledgment of the comments will not be provided.

NOTE.—The account forms referred to in the exhibits are those of the Commission's Uniform System of Accounts for Railroad Companies in use on October 1, 1976. However, the information required in any of the exhibits shall give effect to any modification of the Commission's Uniform System of Accounts for Railroad Companies in effect on the date of filing the application.

§ 260.11 Preapplication and application procedure.

(a) When a railroad or any other person has developed plans for a project for which it may wish to seek assistance under this part, a responsible official of the railroad or other person may request a meeting with the Associate Administrator for Federal Assistance of the FRA to discuss those plans. Upon receipt of such request, the Associate Administrator will promptly schedule a meeting at which the railroad or other person will present to representatives of the FRA the proposed project and discuss with them information which must be submitted in the application and the type of terms and conditions and financing documents that will be utilized in connection with financial assistance provided under section 511. Applicants are not required to prepare a draft application or other special information for the preapplication conference; however, applicants should be prepared to discuss information which management has used in making its initial decision to seek assistance.

(b) The following procedure shall govern the execution and filing of the application:

(1) The original application shall bear the date of execution, be signed with ink by or on behalf of the applicant, and shall bear the corporate seal in the case of an applicant which is a corporation. Execution shall be by all partners if a partnership, unless satisfactory evidence is furnished of the authority of a partner to bind the partnership, or if a corporation, an association or other similar form of organization, by its president or other executive officer having knowledge of the matters therein set forth. Persons signing the application on behalf of the applicant shall also sign a certificate in form as follows:

———— (Name of official) certifies that he is the ———— (Title of official) of the ———— (Name of applicant); that he is authorized on the part of the applicant to sign and file with the Administrator this application and exhibits attached thereto; that the consent of all parties whose consent is required, by law or by binding commitment of the applicant, in order to make this application has been given; that he has carefully examined all of the statements contained in such application and the exhibits attached thereto and made a part thereof relating to the aforesaid ———— (Name of applicant); that he has knowledge of the matters set forth therein and that all such statements made and matters set forth therein are true and correct to the best of his knowledge, information, and belief.

_____
(Name of official)

_____
(Date)

(2) There shall be made a part of the original application the following certificate by the Chief Financial Officer or equivalent officer of the applicant:

———— (Name of officer) certifies that he is ———— (Title of officer) of ———— (Name of applicant); that he has supervision over the books of accounts and other financial records of the affected applicant and has control over the manner in which they are kept; that such accounts are maintained in good faith in accordance with the effective accounting and other orders of the Interstate Commerce Commission; that such accounts are adequate to assure that proceeds from the financing being requested will be used solely and specifically for the purposes authorized; that he has examined the financial statements and supporting schedules included in this application and to the best of his knowledge and belief those statements accurately reflect the accounts as stated in the books of account; and that, other than the matters set forth in the exceptions attached to such statements, those financial statements and supporting schedules represent a true and complete statement of the financial position of the applicant and that there are no undisclosed assets, liabilities, commitments to purchase property or securities, other commitments, litigation in the courts, contingent rental agreements, or other contingent transactions which might materially affect the financial position of the applicant.

_____
(Name of official)

_____
(Date)

(3) The original application and supporting papers, and ten copies thereof for the use of the Administrator, shall be filed with the Associate Administrator for Federal Assistance of the Federal Railroad Administration, 400 Seventh Street SW., Washington, D.C. 20590. Each copy shall bear the dates and signatures that appear in the original and shall be complete in itself, but the signatures in the copies may be stamped or typed.

(4) The application shall be accompanied by a filing fee in an amount equal to one-eighth of one percent of the principal amount of the obligation for which a guarantee is sought. This filing fee shall be applied towards the costs of analyzing and evaluating the application, appraising any security offered by applicant, and making any studies or investigations that the Administrator deems necessary in order to make the determinations and findings prescribed in the Act, except where the Administrator finds it necessary to retain contractors to perform or assist in performing these functions. Where any of these functions is performed under contract to the Ad-

ministrator, the applicant will be charged, and shall pay promptly, an additional amount to cover the costs of such contract(s) but such charges will not exceed, when added to the initial charge, one-half of one percent of the obligation for which a guarantee is sought.

(5) The application shall be accompanied by a transmittal letter in form as follows:

Re Application for a Commitment to Guarantee [Guarantee] under section 511 of the Railroad Revitalization and Regulatory Reform Act of 1976, as amended (the "Act").

FEDERAL RAILROAD ADMINISTRATOR,
c/o the Associate Administrator for Federal Assistance of the Federal Railroad Administration, Department of Transportation, Washington, D.C.

DEAR SIR: Being duly authorized by ———— (jointly and severally/if more than one) (the "Applicant") to convey the understandings hereinafter set forth, I respectfully submit this application and remit its filing fee. By this filing, Applicant requests the Administrator to investigate the application and make the necessary findings upon which Applicant's eligibility for a Commitment to Guarantee [Guarantee] may be determined.

Applicant understands that neither the acceptance of this filing, the deposit of the filing fee, nor the commencement of an investigation acknowledges the sufficiency of the application's form, content or merit. Furthermore, Applicant understands that the Administrator will incur numerous expenses by this filing, and promises to pay, when charged, such amounts as the Administrator may assess with respect to the investigation of the application, the appraisal of security being offered, and the making of the necessary determinations and findings, up to one-half of one percent (including the filing fee) of the principal amount of the obligation for which Applicant seeks a Commitment to Guarantee [Guarantee].

Finally, Applicant understands that (1) payment of all such charges is required prior to the Administrator's final determination, (2) no charge will be cancelled nor refund made upon any termination of this application, (3) notice of this application will be published in the FEDERAL REGISTER to invite comment by interested parties, and (4) the Administrator will assess an annual premium charge, pursuant to the Act, on any obligation guaranteed under section 511.

Respectfully submitted,

————
Applicant(s)

————
Seal(s)

by ————
Its (Their)

§ 260.13 Information requests.

If an applicant desires that any information submitted in an application or supplement thereto not be released by the Administrator upon request from a member of the public, the applicant must so state and must set forth any reasons why such information should not be released, including particulars as to any competitive harm which would probably result from release of such information. The Administrator will keep such information confidential as permitted by law.

§ 260.15 Waivers and modifications.

The Administrator may, upon good cause shown, waive or modify any requirement of this part not required by law or make any additional requirements he deems necessary.

APPENDIX—ENVIRONMENTAL ASSESSMENTS

Part I: Description of the environment in the area of the project before commencement of such project, together with statement of other Federal activities in the area which are known, or should be known, to the applicant. This description shall include, without limitation, the following information:

(A) *Demographic data.* Statement of population and growth characteristics of area and of any population and growth assumptions made by applicant in planning the project. Such statement should use the rates of growth in the projection compiled for the Water Resources Council by the Bureau of Economic Analysis of the Department of Commerce and the Economic Research Service of the Department of Agriculture, commonly referred to as the OBERS projection of regional economic activity in the United States. Applicants should refer to 1972 OBERS projections for economic areas, and provide 1969 data and 1980 projections for the following: population; manufacturing earnings; transportation, communications and public utilities earnings; agriculture, forestry and fisheries earnings; and mining earnings. Information should be provided for economic areas which the applicant's proposal would affect.

(B) *Current land use patterns.* Statement of the project's relationship to proposed land use plans, policies, and controls of affected communities, including, where appropriate, maps or diagrams. Where the project is inconsistent with any such plans, policies, or controls, the statement should describe and explain in detail the reasons for such inconsistency.

(C) *Characteristics of current operations.* The Applicant should indicate the maximum allowable speed and frequency of current rail traffic on any affected line, the number and location of grade crossings, and the length of time such grade crossings are blocked during a typical day. The Applicant should indicate derailments and fatalities or injuries resulting from accidents involving trains and motor vehicles or pedestrians on such lines. The Applicant should also indicate the hours of operation on such lines and noise levels of rail operations at 100' from the right of way. Applicants should refer to the United States Environmental Protection Agency document titled "Information on Levels of Noise Requisite to Protect Public Health and Welfare with an Adequate Margin of Safety", which provides a system of measuring day and night noises on a weighted average.

(D) *Air quality.* The Applicant should indicate the air quality in the region, as found in the state Air Quality Implementation Plans to meet ambient air quality standards. Each state is required to prepare such a plan under the Clean Air Act (42 U.S.C. 1857). Some states are required to have Transportation Control Plans to meet ambient air quality standards where transportation sources pose major air quality problems. Applicants should refer to state air quality agencies or to the Regional Offices of the U.S. Environmental Protection Agency for guidance.

(E) *Wetland or coastal zones.* Location, types, and extent of wetland areas or coastal zones that might be affected by the project.

(F) *Properties and sites of historical or cultural significance.* Identification of districts, sites, buildings and other structures, and objects or historical, architectural, archeological, or cultural significance that may be affected by the project. This should be accomplished by consulting the National Register and applying the National Register Criteria (36 CFR Part 800) to determine which properties that may be affected by the project are included in or eligible for inclusion in the National Register of Historic Places. The National Register is published in its entirety each February in the FEDERAL REGISTER. Monthly additions and listings of eligible properties are published in the FEDERAL REGISTER the first Tuesday of each month. The Secretary of the Interior will advise, upon request, whether properties are eligible for the National Register. Officials designated by their Governors to act as State Historic Preservation Officers responsible for state activities under the National Historic Preservation Act may also be consulted. A listing of these state officials may be found at 36 CFR 60.5(d), or may be obtained from the Director, National Parks Service, U.S. Department of the Interior, Washington, D.C. 20240.

(G) *Publicly-owned parklands, recreational areas, and waterfowl refuges, and historic sites (45 U.S.C. 1653(f)).* (i) Protected land proposed to be used. Describe any publicily-owned land from a public park, recreation area or wildlife and waterfowl refuge or any land from an historic site or wildlife and waterfowl refuge or any land from an historic site which would be affected or taken by the proposed program or project, including the size of the land proposed to be affected or taken, available activites on the land, use, patronage, unique or irreplaceable qualities, relationship to other similarly used land in the vicinity of the proposed project, and maps, plans, slides, photographs, and drawings in sufficient scale and detail to clearly show proposed project. Include a description of impacts of the proposed project on the land and changes in vehicular or pedestrian access.

(ii) Significant area. Include a statement of the national, State, or local significance of the entire park, recreation area, wildlife or waterfowl refuge, or historic site as determined by the Federal, State or local officials having jurisdiction thereof. In the absence of such a statement, protected land is presumed to be located in an area of national, State or local significance.

Part II: The probable impact of the project on the environment and measures which can be taken to mitigate adverse impacts. The applicant shall (1) assess the positive and negative environmental effects, including primary, secondary, and other foreseeable effects, on each of the areas specified in Part I above, including long-term impacts associated with the increased intensity, if any, of rail operations, and (2) list measures which can be taken to mitigate adverse impacts. Mitigation measures include control of hours of operation, coordination of street blockages with adjacent communities, dust and erosion control mea-

sures, and proposed methods of tie disposal. In addition, the applicant shall provide the following.

(A) Statement of the extent to which any of the impacts of the project represent irreversible or irretrievable commitments of resources. This requires identification of the extent to which implementation of the project irreversibly curtails the range of potential uses of the environment. "Resources" include the natural cultural resources lost of destroyed as a result of the project.

(B) Statement of the relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity. This shall include a brief discussion of the extent to which the proposed action involves trade-off between short-term environmental gains at the expense of long-term losses, or vice versa, and a discussion of the extent to which the proposed action forecloses future options.

(C) Statement of any probable adverse environmental effect which cannot be avoided, such as changes in exposure to noise and changes in level of noise or vibration; water or air pollution; undesirable land use patterns; impacts on public parks and recreation areas, wildlife and waterfowl refuges, or historic sites; damage to life systems; congestion of street traffic in adjacent communities; delays in the provision of essential services (police, fire, ambulance), anticipated changes in accident patterns and other threats to health; and other consequences adverse to the environmental goals set out in section 101(b) of the National Environmental Protection Act, 42 U.S.C. 4331(b). In considering noise levels, applicants should note any conflicts between projected noise levels from rail operations and HUD standards for noise at sensitive sites, such as schools, hospitals, parks and residential locations. (U.S. Department of Housing and Urban Development, "Noise Abatement and Control: Department Policy Implementing Responsibilities and Standards," Departmental Circular 1390.2, Chart; External Noise Exposure Standards for New Construction, April 4, 1971)

(D) Statement of construction impacts, identifying any special problem areas and including: (i) Noise impacts from construction and any specifications setting maximum noise levels.

(ii) Disposal of spoil and effect on borrow areas and disposal sites (include any specifications).

(iii) Measures to minimize effects on traffic and pedestrians.

(iv) Consideration of non-point source pollution such as might result from water runoff.

(E) Statement of any positive or negative impacts on energy supply and natural resource development, including, where applicable, any effect on either the production or consumption of energy or other natural resources. Discuss such effects if they are signigicant.

(F) Discussion of problems and objections raised by other Federal, State or local agencies, and citizens with respect to impact of the project on the environment.

Part III. Discussion of any alternatives to the project that have been considered with respect to impact on the environment. If cost-benefit analyses have been performed, the extent to which environmental costs have been reflected in the analysis should be stated. Underlying studies, reports, and other information obtained and considered in preparing each section of the statement should be identified. For energy comparisons, a possible source is Oak Ridge National Laboratory Report, "Energy Intensiveness of Passenger and Freight Transport Modes" by Dr. Eric Hirst, April, 1973. For analyzing community impacts, the following report may be useful: "The Impacts on Communities of Abandonment of Railroad Service," July, 1975, prepared for the U.S. Railway Association by the Public Interest Economics Center, Washington, D.C. In examining the environmental effects of highway transport as an alternative to rail service, applicants may wish to use the following publication: "A Study of the Environmental Impact of Projected Increases in Intercity Freight Traffic, August, 1971, prepared for the Association of American Railroads by Battelle, Columbus, Ohio."

Subpart B—Standards for Maintenance of Facilities by Recipients of Obligation Guarantees

§ 260.17 Applicability.

This subpart prescribes standards governing the maintenance of facilities, as defined in subpart A of this part, that are being acquired, rehabilitated, improved, or constructed with the proceeds of a guaranteed obligation, by the recipient of such guarantee for the period during which any portion of the principal or interest of such obligation remains unpaid.

§ 260.19 Definitions.

The terms defined in subpart A of this part shall have the same meaning for the purposes of this subpart that such terms are given in § 260.3 of this part.

§ 260.21 Standards.

(a) When the proceeds of an obligation guaranteed by the Administrator are used to acquire, rehabilitate, improve or construct track, roadbed, and related structures, the guarantee recipient shall, as long as any portion of the principal or interest of such obligation remains unpaid, maintain such facilities in at least the highest track Class, as defined by FRA Track Safety Standards in Part 213 of this chapter, as that Class in which the rehabilitated, improved, acquired, or constructed track is to be operated upon completion of the project for which the obligation was guaranteed unless a waiver is granted in accordance with § 260.25.

(b) When the proceeds of an obligation guaranteed by the Administrator are used in facilities, including those mentioned in paragraph (a) of this section, the recipient shall, during the period in which any portion of the principal or interest in such obligation remains unpaid, maintain such facilities in a manner consistent with sound engineering and maintenance practices and in a condition that will permit the level of use that existed upon completion of the acquisition, rehabilitation, improvement or construction of such facilities unless a waiver is granted in accordance with § 260.25.

§ 260.23 Inspection.

(a) The facilities subject to the provisions of this subpart shall be inspected at such regular intervals as the Administrator deems necessary to assure compliance with the standards set forth in § 260.21. Each recipient shall permit representatives of the FRA to enter upon its property to inspect and examine such facilities at reasonable times and in a reasonable manner. Such representatives shall be permitted to use such testing devices as the Administrator deems necessary to insure that the maintenance standards imposed by this subpart are being followed.

(b) Each recipient shall submit to the Administrator annually financial records and other documents detailing the maintenance performed and the inspections conducted which demonstrate that the recipient has complied with the standards in § 260.21.

§ 260.25 Waiver.

Any recipient of a guarantee may petition the Administrator in writing for relief from any or all requirements imposed by this subpart. The Administrator may, for good cause shown, waive or modify any requirements of this part. Good cause may include, but is not limited to, insufficient capital resources of the recipient to comply with these maintenance standards or changes in the level of service required for any facility subject to this subpart.

§ 260.27 Impact on other laws.

Standards issued under this subpart shall not be construed to relieve the recipient of any obligation to comply with any other Federal, State, or local law or regulation.

§ 260.29 Penalties.

If the Administrator finds that a guarantee recipient has violated the requirements of this subpart, such recipient will be subject to civil action for injunction to cease activities which violate this subpart and for any other appropriate civil or criminal relief, including termination, suspension, and punitive damages.

Subpart C—Procedures for Computing the Internal Rate of Return on Projects

§ 260.31 Applicability.

This subpart prescribes the procedures to be followed and the format to be utilized in computing the IRR under paragraph (a)(7)(i) of § 260.7 of subpart A of this part.

§ 260.33 Definitions.

As used in this subpart—

(a) Investment means any substantial non-recurring expenditure even if expensed for accounting purposes.

(b) IRR means the estimated internal rate of return on a project for which an application for financial assistance is filed pursuant to this part.

(c) IRS means the Internal Revenue Service.

§ 260.35 Procedures to be followed and format to be utilized.

(a) A narrative discussion of the IRR computation for the project consisting of the following five parts shall be prepared and provided:

(1) *A detailed description of the project.* This description must present the following: the objectives of the project; what assets will be improved, rehabilitated, acquired or constructed; where they will be located; and how they will be used. It must also describe any other work to be done as a part of the project, and any operating changes, including retirement of assets, which will accompany the investment. For these purposes, the project shall be deemed to include all expenditures (including those for which no Federal assistance is requested) necessary to carry out its objectives.

(2) *A detailed description of the base case.* The base case is the most favorable alternative action the applicant could take with little or no investment. The description must be comparable in scope to the description of the project. In some cases, the most favorable alternative action may be to do nothing, i.e., making no change in the current situation. In other cases, the applicant may have other alternative actions such as rerouting traffic, changing operating practices (perhaps with an increase in operating costs), or relying more heavily on facilities or equipment belonging to others. If the applicant has considered more than one alternative action (requiring little or no investment) to the project, the applicant must describe each of the actions considered and give the rationale for the selection of the base case from among those other actions.

(3) *A discussion of key assumptions.* All general assumptions and those relating only to a particulary cash flow impact which substantially affect the IRR should be explained. Assumptions regarding traffic volumes deserve particular attention. The applicant must specify how much traffic is expected if the project and base case are undertaken, and where the difference, if any, between the project and base case is expected to come from (e.g., diverted from truck, diverted from other railroads, generated by the project, etc.). Other key assumptions may relate to actions by third parties, such as regulatory agencies and other railroads.

(4) *A discussion of each cash flow impact resulting from the project or base case.* The applicant must identify all the cash receipts and disbursements resulting from the project but not the base case, and vice-versa. Cash flows which would be the same in either event should not be considered. For each cost and benefit used in the IRR computations, the applicant must explain why the particular cash flow will result from the project or base case, and how the size of the cash flow and the corresponding measure in physical units were estimated. In addition, the applicant must identify and discuss important costs and benefits which it has not been able to quantify. The applicant must note which of the benefit and cost items could be measured to confirm the predictions in the IRR computation, and must suggest how such measurements could be made. Appendix A of this subpart lists the most common cash flow impacts of railroad investment projects and base case alternatives, indicates the kinds of actions likely to involve each type of cash flow, suggests how each might be measured (both in physical and monetary units), and discusses special problems associated with each. Appendix A is not exhaustive; other cash flow items should be included in the analysis as appropriate.

(5) *A discussion of the principal areas of uncertainty.* This discussion must indicate why particular values might be different from those used in the computation, and the range into which each uncertain value could be be expected to fall. It must also indicate the applicant's subjective level of confidence that the computed IRR is a reasonably close prediction of the project's and base case's financial performance. In some circumstances, the applicant must point out where the IRR fails to incorporate certain important features of the project or the base case, or both. Applicant may enhance its discussion by presenting examples of its own prior experiences with IRR, stating, perhaps, that an audit of past computations has shown marked deviations from actual results regardless of the detail of those computations.

(b) For the project (as it relates to its base case alternative), a thorough presentation of all the computations underlying the IRR using the Forms I-V of Appendix B to this subpart shall be prepared and provided. State and local tax impacts need not be included in the computations, unless the applicant has determined that their inclusion substantially affects the IRR. The computation of the IRR must follow the four steps described below. (This procedure cannot be used if the project consists of replacing an asset, usually equipment, which would otherwise remain in service (at high cost) for only a few more years. In that situation, the lifetime of the project (the new asset) is substantially longer than the lifetime of the base case (the old asset), so that it is not possible to get a differential cash flow in every year of the project's life. A possible approach for handling such cases is to determine the discount rate which gives the same average annual cost per unit of output for both the project and the base case. Because it is expected that very few of the applications will involve such replacements, the procedure for handling them will not be detailed here but will be provided upon request.) The foregoing does not apply to the rehabilitation of track or similar replacement of components of an asset which could reasonably be kept in service at high cost for at least 15 years (or the life of the replaced material, if shorter). The IRR on such projects must be computed in accordance with the procedures mandated by this subpart.).

(1) *Step 1: Determination of before-tax case flows.* The applicant must determine, for each year of the project's expected useful life, up to a maximum of 15 years (unless the cash flow impacts of later years would substantially affect the IRR), both the project's and base case's before-tax cash flow impacts (receipts and disbursements). The cash flow estimates must not include the effects of inflation, but rather must be done in constant dollars. The effects of financing must also be excluded; that is the cash flows must be estimated as if the required cash were immediately available at no cost.

The various cash flow impacts for this step 1 must be shown on Forms I through V of Appendix B as explained below. On Forms I through V cash flow impacts occurring in the first year of the project and base case are assigned to and recorded in the time period year 1. Cash flows in subsequent years are all assigned to and recorded in the year in which they occur regardless of whether they occur at the beginning or end of the year. For purposes of assigning and recording cash flow impacts of the project and base case, it will be assumed that the project's starting date and thus the commencement of year 1 begins as of the first of the January following the year in which an application for financial assistance is filed.

(i) Capitalized investments which would occur as a part of the project but not in the base case must be entered in Column 1 of Form I. The capitalized investment includes capitalized engineering work, installation expenditures and other startup costs allowable in reporting to the IRS. The total investment for the project must be divided into portions which are homogeneous with respect to depreciation method (if depreciable), depreciation period (if depreciable), year in which the assets enter service, and

whether the assets qualify for investment tax credit. (If applicant has a considerable tax credit carryforward, the tax credit must be shown only in the year or years it will result in a reduction of tax payments.) A separate form should be completed for each such portion. Similarly, a set of Forms I must be completed for a capitalized investments which would be made as part of the base case but not the project.

(ii) Sales of released assets (as useful assets or as scrap), which would occur as a part of the project or the base case, must be entered in Column 1 of Form II. As was the case for capitalized investments, there must be a separate Form II for each portion of the assets sold, such that each portion is homogeneous with respect to tax treatment and year of sale. Form II must also be completed for retirements of assets, even though the sale price is zero, if the retirement will affect the applicant's income taxes and thereby the applicant's cash flow. The sale or retirement of an asset at the end of the project's life, if the cash flow impact is substantial enough to merit inclusion in the computation, must also appear on one or more Forms II. (If a project would continue an asset already owned in its prior use but the base case would put the asset to an alternative use, and if the cash flow from that alternative use is difficult to determine, the applicant may do the analysis as if the asset were to be sold in the base case at its fair market value when put to the alternative use. Similarly, if the base case would continue an asset in its present use but the project would result in the asset being employed in an alternative use, the anticipated cash flow of which would be difficult to determine, the asset in the project may be treated as a sale at fair market value in the IRR computations. In either event, the market value of the asset otherwise put to an alternative use would be entered in Column 1 of a Form II and the asset in its current use (in either the project or base case, as the case may be) would be recorded, as to continuing depreciation and income tax credit, if any, on Form I and, as to expenses and contribution to profit, on Form III. However, whenever possible, the anticipated cash flow of the alternative use, whether in the project or base case, should be entered on Form III rather than treated as a theoretical sale at fair market value.)

(iii) Expense items or contributions to profit which arise by reason of the project or the base case must be documented on Form III for the respective case, with a separate form being used for each item.

Columns 1 and 2 of Form III must be completed unless the difference of column 3 can be ascertained only through a direct computation (as, e.g., car-day savings resulting from faster movement over rehabilitated track). When practical, expenses and traffic are to be expressed first in physical units (Columns 1, 2 and 3) and then converted to dollars (Column 4). In instances where this is not practical, the applicant may estimate expenses and contribution directly in dollars using only Columns 1, 2, and 4. In Columns 1 and 2, expense items should always be enclosed in parentheses because they represent cash outflows. Thus, positive numbers in Columns 3 and 4 will indicate that the project produces a larger cash inflow (or smaller cash outflow) than the base case.

(2) *Step 2: Determination of after-tax cash flows relating to capital assets.* The applicant must compute the annual cash flows after Federal income tax corresponding to each of the before-tax flows recorded on each Form I and Form II in the previous step. If the applicant expects to pay taxes in some years but not others, the applicant will undoubtedly carry forward (or back) the tax losses and credits from years in which no tax was paid, so as to take full advantage of them. In that case, the applicant must estimate when such tax benefits will actually be received, and include them in the cash flow stream at the appropriate time. The appropriate tax rate for such computations is the applicant's marginal tax rate. This is the rate which would apply to one additional dollar of income earned by the applicant. Normally, the marginal rate will be 48% for Federal taxes except in years in which the applicant does not expect to pay taxes. The average or effective tax rate (found by dividing a firm's actual tax payments by its net income before taxes) is not appropriate for this purpose. If the tax rate assumed is different from 48% or if the computations assume the applicant will not pay taxes in certain years, then those assumptions must be explained in the discussion of key assumptions. The tax-related computations must be shown on the same forms as were used to record the pretax cash flows. Additional working papers should be submitted as necessary to clarify the computations. The computations to be done on the two forms are as follows:

(i) On each Form I, the applicant must indicate in Column 2 the depreciation schedule which it expects to use in reporting to the IRS. In Column 3, the applicant must indicate how much its tax bill will be reduced as a result of the depreciation shown in Column 2. (If the applicant expects to pay taxes every year, Column 3 is simply 48% of Column 2.) In Column 4, the applicant must indicate the tax reduction, if any, it expects from investment tax credit. (The effect of the tax credit must be computed using the flow through method, in which investment credits are generally treated as reductions in income tax expense of the year in which the credits are actually realized, rather than being deferred and amortized over the productive life of the acquired property). Column 5 is the net after-tax cash flow associated with the investment.

(ii) On each Form II, the applicant must indicate in Column 2 the increase (or decrease) in its Federal income tax payments resulting from the difference between the sale price and the book value of assets to be sold by reason of the project or base case. If an asset is released without a sale or a corresponding write down of book value, Form II is not used, but Form I is used to reflect continuing depreciation as before the release. In Column 3, the applicant must record any recapture of investment tax credit by the IRS. (Such recapture can only occur when an asset is disposed of before it has been in service for seven years.) Finally, Column 4 records the net cash flow in or out.

(3) *Step 3: Determination of aggregate after-tax cash flow.* The applicant must determine the project's aggregate after-tax cash flow using Form IV. This shall be done as follows:

(i) For each year, the corresponding after-tax cash flow (Column 5) on the various Forms I on which the "project" box was checked are summed, and the total entered into Column 1 of Form IV. Then the net after-tax cash flows on the base case Forms I are summed and entered into Column 2 of Form IV.

(ii) Similarly, the project and base case Forms II (Column 4) are consolidated and entered into columns 3 and 4, respectively, of Form IV.

(iii) The Forms III (Column 4) are consolidated into Column 5 of Form IV. The corresponding cash flow after Federal income tax is recorded in Column 6. If the applicant expects to pay taxes every year, Column 6 is simply 52% of Column 5. If applicant expects to pay no taxes, the two columns are identical. If applicant expects to pay taxes in some years but not others, the applicant must incorporate the effects of carrying losses forward (or back) into the estimated after-tax cash flow.

(iv) The aggregate net cash flow for the project relative to the base case is then found and entered in Column 7 of Form IV.

(4) *Step 4: Computation of the IRR.* The applicant must determine the discount rate for which the present value of the differential cash flow stream is zero. That is, the applicant must find the value of r which makes the expression

$$\sum_{i=1}^{t} \frac{c_i}{(1+r)^i}$$

equal to zero. In the above expression, r is the discount rate applied to future cash flows; i is an index denoting a particular year of a project's life; n is the number of years in the project's life; and c_i is the differential cash flow in year i. Computer programs for calculating the rate of return are widely available. If a program is utilized, copies of the printout showing input and output data, and a brief explanation of the program function must be included in the application. If the applicant chooses not to use such a computer program to find the IRR, the applicant may use Form V. If the IRR lies off the graph, it is sufficient to report that the IRR is negative or above 50%. If the nature of the cash flow stream is such that a unique IRR cannot be found, the work done to develop the cash flow stream must be submitted with a note that no IRR could be computed.

(c) Copies of all financial analyses which the applicant did on rejected alternatives to the project, including changes in scale or scope. The applicant need not do any such analyses beyond those already done, nor need the format, assumptions, or procedures used in those analyses be changed to conform to the requirements of these regulations.

(d) A reconcilation between the cash flows used in the IRR computations and all forecasted data presented in the application, both before (for the base case) and after (for the project) giving effect to Federal assistance. This reconciliation must indicate what inflation factor or factors were used in developing the forecasted financial statements as compared to the constant dollar figures used in the IRR computations. The reconciliation must also show how each of the individual parts and subparts of the project relates to the applicant's forecasted financial statements.

Appendix A—Selected Cash Flow Impacts

Railroad investments usually affect the investor's cash flow by changing some of the following things:

Use of assets.
Contribution from traffic.
Labor requirements.
Locomotive requirements.
Requirements for cars, trailers, and containers.
Maintenance material consumption.
Energy consumption.
Accident rates and severity.
Expenditures needed to meet legal requirements.
Salvage value.
Installation and start up expenses.

While this list is not exhaustive it does identify the most common cash flow impacts.

Some of the items listed, such as start up expenses, are almost always costs of projects or base cases, rather than benefits. Others, such as salvage value, are usually benefits. Most of the items, however, may be either project or base case benefits or costs, depending on the particular situation.

This appendix briefly discusses each of the eleven factors listed above. The discussions include four parts: a list of the kinds of actions which often involve the particular cash flow impact in question; the physical units in which the impact is generally measured; suggestions for converting the physical units to their monetary equivalent; and notes on special characteristics or problems associated with the particular cash flow impact.

Use of Assets

Characteristic Actions: Assets are often released for sale or altenative uses when they are replaced or made unnecessary by new assets. Examples are pole line materials released when microwave is installed; shop equipment released when similar new equipment is acquired; rail replaced by rail in better condition; and land and track materials released when yards, shops, and terminals are made unnecessary by new facilities elsewhere. Some other types of actions, such as line changes and the installation of centralized traffic control, often permit some track segments to be abandoned, thereby releasing track material for sale or other uses.

On the other hand, some actions involve the use of assets already owned, thereby prohibiting their sale or use for other purposes. Examples are car modifications and projects involving land and buildings already owned.

Physical Units: Feet (or miles) of rail, number of ties, acres of land, etc.

Monetary Value: The value of an asset released by an action depends on what will be done with it. The value of an asset occupied by an action, on the other hand, depends on what would have been done with it in the absence of the action. Regardless of whether it is the action or its alternative which makes the material available, one must first carefully specify what is assumed to happen to the asset both with and without the action, and identify the factors which change the cash flow stream. Depending on the particular circumstances, any of the following might be involved: payment received from selling the asset; a multi-year stream of income produced by the asset in some use; tax paid on the sale of the asset; expenditure for dismantling and/or moving the asset; recapture by the IRS of investment tax credit taken when the asset was purchased (if it had been in use for less than seven years). Also, if the owner of the asset sells or retires it, he would lose the tax reductions he is receiving from depreciating the asset. It is the use of the released asset which values it. Thus, a released asset such as rail which, by cascading, results in the subsequent release of less valuable rail, must be valued in its use and not as the value of subsequently released assets.

In cases in which the asset is transferred to another use which produces income over several years, the effect of releasing the asset extends over several years, and must be expressed as a series of annual cash flows, rather than a lump sum.

Special Features: A common error in project evaluations is to value a used asset at its book value (i.e., purchase price less accumulated depreciation). The book value may be far from the value of the asset on the open market, especially in the case of rail released by track abandonments and land released by the abandonment of facilities in urban areas. The only way the book value of retired assets enters into the cash flow stream is in determining the tax paid on the sale of the asset (or the tax saving if the asset is discarded or sold for less than its book value).

In calculating the tax paid on the sale of a released asset, the ordinary tax rate (48%) should be used, except when the capital gains rate applies.

It is sometimes difficult or impossible to estimate the contribution to profit which a particular asset, such as second hand rail, will produce in an alternative use. In such cases, it is better to do the financial analysis on the assumption that the asset in question would be sold at its fair market value (even though it would in fact be put to an alternative use), rather than leaving the asset out of the computations entirely.

Contribution From Traffic

Characteristic Actions: Actions which affect the availability and attractiveness of the railroad to shippers. The action may involve giving the shipper better access to the railroad (track extensions and terminal improvements) or better service. Line consolidations, on the other hand, may involve abandonments which deprive some shippers of service, or may result in such degradations in service quality that some shippers switch to other carriers. Faster service can result from more power or improvements in track, yards, terminals, signals, and communication. Another component of service quality, reduced loss and damage to lading can be occasionally improved by eliminating accidents (wayside warning devices), using specialized cars, and making improvements to yard and terminal facilities. Service quality can also be enhanced by purchases of additional freight cars and trailers, so as to reduce the likelihood of car shortages. Another aspect of service quality is reliability, which may be affected by improvements in yards, terminals, and communications, as well as the elimination of accidents. Still another component of service quality is the cost to the shipper of packing and loading, which may be affected by investments in specialized cars and terminal facilities.

Physical Units: Car-loads.

Monetary Value: The contribution to profit is found by subtracting the variable cost of moving the traffic from the associated revenue. The variable cost is best estimated by a careful study of the operations and costs of the particular movements involved.

Such a study is not practical for certain traffic. In these cases the best alternative may be to estimate the variable cost using system averges, as is done in the Interstate Commerce Commission's Rail Form A, Carload Cost Scales, and Rail Revenue Contribution studies. Where appropriate, such system average costs should be adjusted to exclude costs not involved in the particular movement, and to reflect the current, not the historical, costs of assets to be purchased in the future.

Special Features: The contribution from new traffic resulting from an improvement is extremely important, but it is also one of the most difficult of all project benefits to estimate. One major problem is estimating the volume of traffic likely to result from a particular improvement, especially if the improvement affects service quality. A second serious problem is estimating the variable cost of particular movements. (These estimates may be facilitated by a six-part FRA cost study currently in progress.)

LABOR REQUIREMENTS

Characteristic Actions: Labor requirements are often reduced by automation, facility consolidation, faster train running times, reductions in switch engine requirements, better communications for operations, and reductions in maintenance needs. On the other hand, actions involving new or expanded yards, terminals, or shop facilities may increase manpower requirements.

Physical Units: Man-hours, number of employees.

Monetary Value: The value of labor depends on the particular situation. If the action results in a change in the number of employees or in overtime hours, the wages and fringe benefits associated with that change directly affect the railroad's cash flow. If an action changes or eliminates work for employees without changing jobs or overtime, the change will affect the railroad's cash flow if either:

The man-hours released or occupied by the change can be used on other profitable tasks which would otherwise not be done, or which would be accomplished by paying overtime or hiring more people; or

The action can be combined with one or more other actions, each of which saves or requires a fraction of an employee, so that the set of actions results in a change in the size of the work force.

In either case, the value of the man-hours released or consumed is the cost of the associated wages and fringe benefits. On the other hand, if the result of the action is simply to give existing employees more (or less) free time on the job, no cash impacts can be attributed to the change in the amount of work.

Special Features: There are several different kinds of labor which a project might affect: road crews, yard crews, maintenance-of-way, shop, inspection, clerical, and other.

Determining the wages and fringe benefits associated with a particular man-hour is often not straightforward because of rules governing employee compensation. The payment of some train crews on a mileage rather than a time basis is an example.

Wage and fringe benefit savings resulting from the elimination of jobs may be at least partially offset by costs incurred as a result of labor protection agreements. Depending on the situation, these costs may be lump-sum or recurring. Determination of employee protection costs is complicated by the fact that the individual who holds a position which is to be eliminated may not be the person who is actually laid off as a result of the elimination. Rather, the person whose job is actually eliminated may displace a person with less seniority holding a similar job. That person may, in turn, displace another employee and so on.

LOCOMOTIVE REQUIREMENTS

Characteristic Actions: Actions reducing train running time (track upgrading, line changes, signal system improvements, etc.), or which permit moving the same traffic with fewer trains (yard consolidations) or with fewer terminal delays (yard and terminal improvements) can all reduce the number of road engines needed. The number of switch engines needed can be reduced by some types of yard and terminal improvements, such as yard consolidations, track changes, and the installation of weigh-in-motion scales. Actions which lead to increased traffic, such as track extensions, may increase the need for both types of locomotives.

Physical Units: Locomotive-years (or locomotive-hours or locomotive-days). Note that one does not have to save 365 locomotive-days to save a locomotive-year, since locomotives are not available for service 365 days per year because of maintenance work. If a railroad's locomotives were available for service 78% of the time, applicant would only have to save 285 locomotive-days to save a locomotive-year.

Monetary Value: One way to estimate the value of a locomotive-year is the following four-step process:

1. Estimate the after-tax cash flow stream resulting from owning a locomotive. The components of this stream would be: the investment expenditure; investment tax credit; tax savings from depreciation; normal maintenance; overhauls; and salvage value. The cash flow stream must be in constant dollars of the same base year as would be used in the rest of the IRR computation.

2. Calculate the net present value of the cash flow stream, using the yield on 180-day United States treasury bills as the discount rate.

3. Find a stream of equal annual outlays which produces the same net present value as was found in Step 2. The anual outlay may be found by multiplying the net present value by

$$\frac{r(1+r)^a}{(1+r)^a-1}$$

where r is the yield in Step 2, and n is the number of equal annual outlays.

4. Find the pre-tax equivalent of the after-tax annual payment found in Step 3, by dividing the after-tax figure by one minus the railroad's marginal tax rate. This is the pre-tax value of a locomotive year, expressed in dollars of the base year chosen in Step 1.

The procedures set forth above for valuing estimated savings or costs from locomotive requirements on a locomotive-year basis may be used only where it is not practical to associate particular future locomotive purchases with the project. Where practical, changes in locomotive requirements (except for locomotives belonging to other railroads) must be treated as capital investments that would have to be made in the base case but not in the project or vice versa, with due recognition given to those fixed charges associated with ownership of locomotives that would be incurred if such locomotives were purchased. This also applies to Requirements for Cars, Trailers, and Containers, which follows.

Increased locomotive productivity is somewhat analogous to increased labor productivity (see Labor Requirements) in that it may not always lead to significant cash savings. This is especially true with switch engines, since a decrease in car movements may not reduce the number of engines required if the number of locations which the switch fleet must serve does not also change. On the other hand, reducing the number of locations covered (by consolidating yards, for example) may decrease switch engine requirements. As in the case of increased labor productivity, increased locomotive productivity affects a railroad's cash flow only if a locomotive can be sold (or a purchase avoided) or if the locomotive is able to do other profitable work which would not be done otherwise.

Special Features: The locomotive values computed using the procedure above include maintenance and overhaul expense, but not fuel or other labor expense. Therefore any concomitant change in fuel or labor (except maintenance) should be estimated separately. Care should be taken to exclude changes in locomotive maintenance costs from any other estimates of charges in maintenance costs resulting from the investment project.

REQUIREMENTS FOR CARS, TRAILERS, AND CONTAINERS

Characteristic Actions: Actions which change train running time (such as track upgrading, purchase of additional power, line changes and signal improvements); actions which change the time cars spend in yards, or permit bypassing yards altogether (yard improvements and improved communication systems); actions which change the time cars are out of service for maintenance (shop facilities, car modifications, track upgrading); and actions which affect the turnaround time for cars in terminals.

Physical Units: Car-days.

Monetary Value: The procedure for finding the value of a locomotive-year or day is equally applicable to cars. (See Locomotive Requirements).

Another acceptable approach is to use per diem costs (including incentive per diem) since those charges approximate the cost of ownership. Although incentive per diem is in addition to car ownership costs, its inclusion in the car-day value is justified because it reflects, to some degree, the fact that a railroad sometimes loses business during short peaks in demand, because it is not immediately able to buy or hire the cars necessary to take advantage of a particular business opportunity.

Over the long run, however, a railroad need not continually lose traffic, so long as it is willing to incur the cost of owning a sufficient number of cars. Therefore, it is not appropriate to use the investing railroad's average contribution per car-day to value improved car utilization in IRR calculations. Given that per diem is a satisfactory approximation to the cost of car ownership, there is no need to distinguish between foreign car-days saved and investor car-days saved by an action.

Special features: The valuation of improved car utilization is complicated by the fact that some projects, such as improvements in classification yards, may affect the entire car fleet, while other projects may affect only certain kinds of cars. For example, it may be that all the cars affected by a particular terminal improvement are refrigerator cars. The car-day value to be used is therefore not necessarily the same in all projects. Rather, it depends on the type of cars involved.

MAINTENANCE MATERIAL CONSUMPTION

Characteristic Actions: Since nearly all assets require maintenance, almost any action involving the acquisition of new assets will lead to expenditures for maintenance materials. On the other hand, actions which involve taking assets out of service, such as replacements, eliminate the need to maintain the retired assets. Improving track conditions may decrease equipment maintenance, while decreasing traffic volumes may decrease track maintenance needs.

Primary Units: List of materials involved (and quantities).

Monetary value: The value of maintenance materials is the price of those materials (plus freight in and labor added, if any). Where a direct relationship exists between

maintenance labor and materials, it may be more convenient to first estimate man-hours and then compute material costs in proportion to the man hours.

Special Features: The material costs (or savings) associated with changes in maintenance may include work equipment, as well as the materials consumed during maintenance.

Usually the best basis for predicting maintenance costs is the maintenance history of similar assests in similar service. Manufacturers can also sometimes provide projections of maintenance expense. To the extent practical, care should be taken to specifically reflect cyclical maintenance (overhauls) by assigning the maintenance cost (or savings) to the years in which they will actually occur, rather than normalizing, or smoothing out, the cash flow stream.

Assets which permit maintenance savings often involve maintenance costs which partially offset those savings.

ENERGY CONSUMPTION

Characteristic Actions: Actions changing locomotive activity or locomotive efficiency. Line changes and locomotive replacements may reduce fuel consumption by road engines. Improvements in yards and terminals, as well as locomotive replacements, may reduce the fuel consumed by switch engines. Improvements in buildings and structures can cut heating costs.

Physical Units: Gallons, kilowatt-hours, etc.

Monetary Value: Found by multiplying the fuel or electricity by the current price per unit.

Special Features: Road engine energy consumption generally varies with gross ton-miles and speed. Yard engines are frequently idling, consuming energy, even when not in use. Thus, energy consumption may vary with the number of switch engine crew shifts rather than the amount of work done. Care should be taken not to count changes in locomotive energy consumption twice, once as a change in locomotive requirements and once as a change in energy consumption.

ACCIDENT RATES AND SEVERITY

Characteristic Actions: Accidents may be reduced by wayside warning detectors (hot box detectors, grade crossing protection, dragging equipment detectors, etc.), lading protection devices, some specially equipped cars, some yard and terminal improvements, and track upgrading.

Physical Units: Accidents (of several different types) per year.

Monetary Value: Only the monetary cost likely to be borne by the railroad would be relevant to the IRR computation. This would include damage to equipment, roadway and lading, and the cost of wreckage removal as well as injury to people. The expected cost of an accident varies drastically, depending on the particular situation.

Special Features: Accidents delay trains and yard and terminal operations. Thus, actions which reduce accidents may also improve car and locomotive productivity. Care should be exercised that such benefits are counted only once.

EXPENDITURES NEEDED TO MEET LEGAL REQUIREMENTS

Characteristic Actions: Actions permitting abandonment of old facilities or equipment may reduce the need for such expenditures. New facilities may make some such expenditures necessary.

Physical Units: List of actions, such as grade crossing protection, water treatment facilities, or the installation of retention toilets, which would be required to bring the facilities or equipment in question up to legal standards.

Monetary Value: The total cost of the improvements including engineering (except engineering work already done), capital expenditure, maintenance, and operation. These expenditures should be offset by the appropriate tax reductions (resulting from depreciation and investment tax credit) which would result from those improvements.

SALVAGE VALUE

Characteristic Actions: Acquisition of new assets or disposal of existing assets.

Physical Units: List of the particular assets involved (such as tamping machine, 500' of 112# rail, etc.)

Monetary Value: The cash flow resulting from disposing of the assets or using them elsewhere. (See Use of Assets).

Special Features: The salvage value of most assets declines as the asset ages. The value of land often remains roughly constant, as does the value of materials in well maintained track. The salvage value of assets which cannot be used for other purposes, such as a culvert, is zero.

When salvage values are small relative to other benefits and costs, and when they are heavily discounted (because they occur far in the future), their impact on the IRR is likely to be negligible. In such cases, the salvage value can be safely ignored.

INSTALLATION AND START-UP EXPENSES

Characteristic Actions: Most fixed facilities.

Physical Units: Man-hours, list of materials required.

Monetary Value: As noted in the discussion of labor requirements the value of the labor depends on the particular situation. The value of the materials would normally be their market price.

Special Features: Often all or part of the expenditures needed to get a new asset in place and operating is capitalized. In such a case, the capitalized portion of the expenditure should be included as part of the investment cost, but not counted again as a start-up expense.

Applicant: .....
Project: .....
Date: .....
Sheet No. ..... of .....

FORM I

ANALYSIS OF CAPITALIZED INVESTMENT

(CONSTANT DOLLARS)

Portion of Investment Covered by this Sheet: .....
Depreciation Method Used: ..... Depreciation Period: .....
This Investment Would Occur in the ☐ Project ☐ Base Case (Check One)

Year	(1) Amount Capitalized	(2) Depreciation	(3) Tax Reduction From Depreciation	(4) Tax Reduction From Investment Tax Credit	(5) Net Cash Flow In (Out)
1					
2					
3					
4					
5					
6					
7					
8					
9					
10					
11					
12					
13					
14					
15					
TOTALS					

INSTRUCTIONS:

- Use separate forms for portions of the investment which would receive different tax treatment or which would enter service in different years.
- Estimate amounts in columns 1–4 as would be done in reporting to IRS.
- Column 5 equals column 3 plus column 4 minus column 1.

Applicant: .....
Project: .....
Date: .....
Sheet No. ..... of .....

FORM II

ANALYSIS OF SALE OR RETIREMENT OF ASSETS

(CONSTANT DOLLARS)

Assets Covered by this Sheet: .....
Depreciation Method Used: ..... Depreciation Period: .....
Book Value of Assets at Time of Sale: .....
This Sale Would Occur in the ☐ Project ☐ Base Case (Check One)

Year	(1) Sale Price	(2) Tax On Gain (Or Tax Saving on Loss) From Disposal	(3) Tax Credit Recapture	(4) Net Cash Flow In (Out)
1				
2				
3				
4				
5				
6				
7				
8				
9				
10				
11				
12				
13				
14				
15				
TOTALS				

INSTRUCTIONS:

- Use a separate form for each portion of the assets which would receive different tax treatment or be disposed of at different times.
- Estimate amounts in columns 1–3 as would be done in reporting to the IRS.
- Column 4 equals column 1 minus column 2 (plus column 2 if a tax saving occurs) minus column 3.

Applicant: .....
Project: .....
Date: .....
Sheet No. ..... of .....

FORM III

ANALYSIS OF EXPENSES AND CONTRIBUTION TO PROFIT

(CONSTANT DOLLARS)

Expense or Contribution: .....
Physical Units Used: ..... Monetary Value per Physical Unit: .....

Year	Physical Units			(4)
	(1) Project	(2) Base Case	(3) Difference	Cash Difference (in Before-Tax Constant Dollars)
1				
2				
3				
4				
5				
6				
7				
8				
9				
10				
11				
12				
13				
14				
15				
TOTALS				

INSTRUCTIONS:

- This form applies to all cash flow impacts except capitalized investments and sales or retirements of assets. Use a separate form for each type of expense or contribution to profit.
- Column 3 equals column 1 minus column 2.
- Column 4 equals column 3 times Monetary Value per Physical Unit.

Applicant: .....
Project: .....
Date: .....
Sheet No. ..... of .....

FORM IV

CONSOLIDATION OF CASH FLOWS

(CONSTANT DOLLARS)

Year	Form II Totals				Form III		(7)
	(1) Project	(2) Base Case	(3) Project	(4) Base Case	(5) Before Tax Totals	(6) After Tax	Net Cash Flow In (Out)
1							
2							
3							
4							
5							
6							
7							
8							
9							
10							
11							
12							
13							
14							
15							
TOTALS							

INSTRUCTIONS:

- Columns 1 through 5 are found by summing the rightmost columns on the indicated Forms I–III.
- Column 6 equals column 5 times (1 minus marginal tax rate) unless taxes will be paid in some years but not others.
- Column 7 equals column 1 plus column 3 plus column 6 minus column 2 minus column 4. The subtracting of a (Net Cash Flow Out) results in the addition of a positive number.

Date: _____

_____

Sheet No. _____ of _____

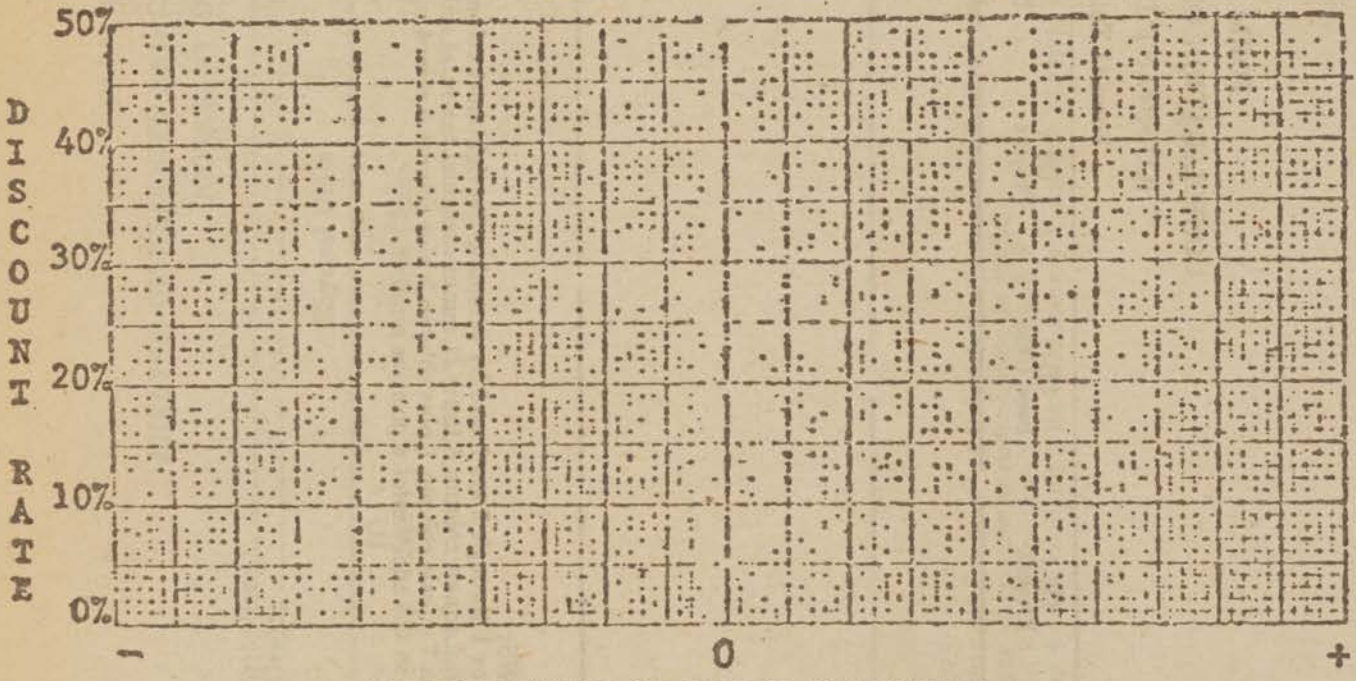
FORM V

COMPUTATION OF IRR

(CONSTANT DOLLARS)

		PRESENT VALUE					
		at 10%		at 25%		at 40%	
YEAR	(1) CASH FLOW	(2) FACTOR	VALUE	(3) FACTOR	VALUE	(4) FACTOR	VALUE
1		.909		.800		.714	
2		.826		.640		.510	
3		.751		.512		.364	
4		.683		.410		.260	
5		.621		.328		.186	
6		.564		.262		.133	
7		.513		.210		.095	
8		.467		.168		.068	
9		.424		.134		.048	
10		.386		.107		.035	
11		.350		.086		.025	
12		.319		.069		.018	
13		.290		.055		.013	
14		.263		.044		.009	
15	_____	.239	_____	.035	_____	.066	_____
TOTAL							

INTERPOLATION CHART



PRESENT VALUE OF CASH FLOW STREAM

IRR=_____

INSTRUCTIONS:

1. Column 1 is brought from Form IV, column 7.
2. Columns 2, 3, and 4 are found by multiplying column 1 each time by the indicated factor.
3. Plot totals of columns 1, 2, 3, and 4 against discount rate used (0%, 10%, 25%, and 40% respectively). Applicant must indicate scale on horizontal axis of chart and connect the points in a column (1–4) sequence.
4. IRR is the discount rate corresponding to the point at which the graphical presentation intersects the zero present value ordinate.

[FR Doc. 78-9058 Filed 4-6-78; 8:45 am]

federal register

FRIDAY, APRIL 7, 1978
PART IV

DEPARTMENT OF LABOR

Office of Federal Contract Compliance Programs

■

GOALS AND TIMETABLES FOR FEMALE AND MINORITY PARTICIPATION IN THE CONSTRUCTION INDUSTRY

Affirmative Action Requirements

[4510-27]

Title 41—Public Contract and Property Management

CHAPTER 60—OFFICE OF FEDERAL CONTRACT COMPLIANCE PROGRAMS, EQUAL EMPLOYMENT OPPORTUNITY, DEPARTMENT OF LABOR

PART 60-4—CONSTRUCTION CONTRACTORS—AFFIRMATIVE ACTION REQUIREMENTS

AGENCY: Office of Federal Contract Compliance Programs, Labor.

ACTION: Final rule.

SUMMARY: The regulations published today establish specific affirmative action standards for women in construction and consolidate and standardize requirements for construction contractors and subcontractors subject to Executive Order 11246, as amended to promote equal employment opportunity in the construction industry. In addition, this document deletes certain regulations which are superseded.

EFFECTIVE DATE: These regulations shall take effect May 8, 1979.

FOR FURTHER INFORMATION CONTACT: William Raymond, Associate Director, OFCCP. Phone, 202-523-9447.

SUPPLEMENTARY INFORMATION: On August 16, 1977, the Office of Federal Contract Compliance Programs (OFCCP), U.S. Department of Labor, published in the FEDERAL REGISTER (42 FR 41378) a proposal to establish a new Part 41 CFR 60-4. The proposal set out specific regulations for the construction industry pursuant to Executive Order 11246, as amended. (30 FR 12319, 32 FR 14303) Comments from interested parties were received until October 15, 1977.

Over 510 separate written comments, presenting a broad spectrum of views, were submitted by individuals and groups. Over 235 comment letters were submitted by individuals on behalf of themselves; 61 by contractors; 56 by contractor associations; 48 by women's groups; 10 by law firms and consultant organizations; 42 by Federal, state, and local government agencies; and 32 by other organizations. Additional comments were received which were postmarked after October 15, 1977. These latter comments were analyzed and considered but they were not included in the count set forth above. Each submission has been thoroughly reviewed and each specific criticism and suggestion has been given careful consideration.

The majority of the comments were general in nature and contained no specific suggestion; rather they either expressed support for or opposition to the proposed rules. Two hundred forty three of the comment letters, primarily from individuals, expressed general support and urged the Department of Labor to adopt the proposal as final regulations. Twenty-seven of the comments, primarily from contractors and unions, urged the Department of Labor either to delay the issuance of final regulations or to withdraw the proposal in its entirety. A small number of the comment letters requested that the Department of Labor delay final rulemaking and hold public hearings on the proposal.

SUMMARY OF COMMENTS

1. Other comments, primarily from contractors, expressed the view that the Department of Labor should withhold its decision on final regulations until the U.S. Supreme Court has rendered its decision in *The Regents of the University of California* v. *Allen Bakke*. These comments maintained that the Department's final regulation for the construction compliance program, particularly goal achievement level, would have to be consistent with the Supreme Court's decision in *Bakke*.

2. The obligation of federally involved construction contractors to take affirmative action to ensure equal employment opportunity, particularly for women, was a major issue treated by almost all the comments. In general, those comments received from contractors, contractor associations and unions, while recognizing that the industry's legal obligation to take affirmative action, expressed concern about the nature of the required actions. These comments characterize the goal levels as quotas and state that the goals would require contractors to hire unqualified persons, that qualified women craft workers are not available, that contractors would be required to displace other workers with women because of high unemployment in the industry, and that the required actions, particularly the recordkeeping requirements, placed an additional cost burden on contractors which would be difficult for small contractors to absorb.

3. Comments received from most women's organizations, community groups, and most of the Federal, state and local government agencies praised the proposal. These groups stated that without the specified affirmative action steps, particularly the goals and timetables, very little would be done to increase the participation of women in the construction industry. However, many of the comments from these groups stated that the specified goal levels were too low and achievement of them would constitute no real improvement of the position of women craft workers in the industry.

4. A number of comments from the construction industry (contractors and contractor associations) expressed the opinion that the obligation to take affirmative action to advance employment opportunity for minorities and females should be shared equally by contractors and their unions. Additionally, these comments stated that the effect of paragraphs 4 and 7d of the specifications in § 60-4.3(a) would be to require contractors to violate the exclusive referral provision in collective bargaining agreements with the unions, which, they say, would subject them to litigation under the National Labor Relations Act.

5. Construction industry comments also expressed concern about the extension of coverage of the affirmative action requirements to all federally involved construction contracts in excess of $10,000. These comments pointed out that in the regulations for supply and service contractors, written affirmative action program requirements attach only to contracts of $50,000 or more. Women's organizations, community groups, and some Government agencies felt that this coverage was needed to provide equal employment opportunities for minorities and women.

6. A number of the construction industry comments raised two concerns about paragraph 12 of the Standard Federal Equal Employment Opportunity Construction Contract Specifications (hereinafter, Specifications) which is set forth in § 60-4.3(a). They were concerned about obtaining an up-to-date list of debarred contractors and whether the prohibition extended to the contractor's non-Federal work.

7. Construction industry comments also expressed an inability to comply with the antiharassment provision in paragraph 7a of the Specifications which would require the contractor to ensure and maintain a working environment free of harassment, intimidation and coercion.

8. Women's organizations and a few Government agencies were concerned about the problems of double counting minority women. Women's organizations want minority women to be counted exclusively toward the achievement of the female goal level.

9. Construction industry comments expressed the view that paragraph 7o of the Specifications, which requires the contractor to document and maintain a record of all solicitations of offers from minority and female construction contractors and suppliers, constitutes a requirement to subcontract with minority and female companies, and questioned the authority of the Department of Labor to impose such a requirement under the Executive Order.

10. The different requirements imposed on construction contractors by Federal, state and local laws was a concern of the construction industry. They suggested that the rules be revised to provide that the Federal EEO

requirements would supersede all others. Women's organizations expressed concern that the proposal contained requirements, particularly goal levels, less rigorous than local statutes. They suggested that the more stringent of the two, particularly the higher goal levels, be required.

11. A few construction industry comments pointed out that the proposal apparently was a vehicle for establishing a nationwide program of specific affirmative action requirements for all covered construction. A few community organizations and women's groups applauded the Department's intention to establish this nationwide construction compliance program, expressing, however, concerns about the Department's ability to enforce such requirements.

12. Construction industry commentors also expressed concern about expanding the coverage of the construction compliance provisions to the contractor's entire work force rather than restricting it to federally involved projects.

13. In addition to specific suggestions, comments and views expressed on the provisions of the proposal, two alternative approaches to achieving equal employment opportunity in the construction industry were suggested. The AFL–CIO Building and Construction Trades Department submitted an alternative set of regulations patterned after the affirmative action requirements under section 503 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 793). These alternative regulations provided for outreach, recruitment, and training, as well as analysis of job skill requirements and the dissemination of EEO policies, but did not include goals and timetables for the employment of minorities and women. The other approach, suggested by other unions and contractors, would emphasize outreach, recruitment and apprenticeship training as the means for advancing equal employment opportunity for women and minorities in the construction industry.

14. Hometown plans and voluntary efforts to advance equal employment opportunity were a specific concern of about 25 comments. The construction industry was concerned about the possibility that the proposal would have a chilling effect on voluntary joint labor, management and community efforts to increase the participation of women and minorities in the industry. Community organizations, Government agencies, and women's groups were concerned about the effectiveness of the current Hometown Plan structure. Specifically, they believe that these plans are being used by contractors and unions to shirk their obligations under the Executive Order.

15. Many comments were received from women's organizations, contractor associations and contracting and compliance agencies which requested that greater specificity be provided in the regulations regarding the time frame for notification to compliance agencies by contracting agencies and the notification by construction contractors to the compliance agency or the OFCCP of contractors and subcontracts awarded. Also, comments were received from several contracting agencies which indicated that the use of the term "offers" as opposed to "bidders" is inconsistent with the contracting terminology of those agencies.

16. Comments from women's groups as well as from some contractors expressed concern that the provision of paragraph 7a of the specifications that two or more women be assigned to a project may prevent one woman from obtaining a job if another woman is not available for employment at the project.

17. A number of comments were received from contractors and contractor associations requesting that an accommodation be made in the regulations to make less burdensome the recordkeeping requirement of construction contractors and subcontractors, particularly small contractors.

18. Comments were received from women's groups which requested that the requirements be structured to prevent the hiring of one group to the exclusion of another, e.g. the hiring of white women to the exclusion of minority women or vice-versa.

19. Over the years, the OFCCP has responded to numerous requests from compliance and contracting agencies concerning the appropriate regulations applicable to construction contracts or subcontracts which are necessary, in whole or in part, to the performance of nonconstruction contracts. That is, a nonconstruction contractor must undertake construction work in order to perform its nonconstruction contract.

In the Discussion section below we will take up each of the issues treated in the comments as we analyze the regulations on a section-by section basis.

Background

Executive Order 11246, as amended, prohibits covered Federal contractors and subcontractors from discriminating against any employee or applicant for employment based on race, color, religion, sex, or national origin. In addition, contractors and subcontractors are required to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex or national origin. Section 201 of the Order provides that the Secretary of Labor shall adopt rules, regulations and orders as he deems necessary and appropriate to achieve the purposes of the Order. The regulations adopted today apply to Federal and federally assisted construction contractors and subcontractors.

Presently, all nonexempt Federal and federally assisted construction contractors are required to comply with the Equal Opportunity clause published at 41 CFR 60–1.4 (a) and (b). (Executive Order 11246, § 301.) In addition, to implement the affirmative action obligation of construction contractors and subcontractors set forth in § 202 of the Executive Order, the Office of Federal Contract Compliance Programs (OFCCP) has developed three different types of affirmative action programs. The programs include Imposed Plans, Hometown Plans, and Special Bid Conditions.

Imposed Plans for the most part cover major metropolitan areas where there is substantial Federal or federally assisted construction, and apply only to those projects which are in excess of $500,000. These areas include Philadelphia, Washington, D.C., San Francisco, St. Louis, Atlanta, Camden, and Chicago. Imposed Plans generally have been published in 41 CFR Chapter 60 but the Philadelphia Imposed Plan has not been codified in the Code of Federal Regulations.

Hometown Plans are tripartite agreements among the contractors and the unions in a local area and the local minority community. The three groups develop a plan for compliance with the Executive Order and present it to the OFCCP for approval. If the plan is approved, it constitutes the contractors' obligations under the Executive Order and so long as they comply with the plan they also are in compliance with the Order. Presently, there are 33 Hometown Plans in operation.

Special Bid Conditions apply to contractors working on certain high impact projects which are being constructed in an area which is not covered by a Hometown or Imposed Plan.

These three types of affirmative action plans are not implemented through a regulatory scheme. Rather they are included in the solicitations which precede the award of contracts. One of the problems with this process is that substantial Federal or federally assisted construction is being conducted without benefit of specific affirmative action requirements. Also, contracting officers are confused by the different types of affirmative action plans and sometimes do not know which ones cover specific geographical areas or projects. In addition, some contracting agencies do not adhere to the different notices and formats developed by OFCCP. The imposed plans present a special problem because a number of contractors sometimes fail to sign the certification

which appears in the appendix of Imposed Plans. Failure to sign the certification frequently has been unrelated to the contractors' commitment to the affirmative action requirements. However, the certification has been held to be a material part of the bid and those bids which have not contained a signed certification have been rejected as nonresponsive. A number of these rejected bids have been the low bids, and the result has been to increase the cost of construction to the Government.

Another deficiency in the present scheme is that no specific affirmative action standards are applicable to women in the construction industry.

Under present procedures, compliance agencies develop Special Bid Conditions for high impact projects for which they have compliance responsibility. OFCCP approves the Bid Conditions, which have application only to the project for which they were approved. Accordingly, if a compliance agency fails to develop Special Bid Conditions for a project for which it has compliance responsibility, the project is not covered by an affirmative action plan (i.e., if the project is not in an area covered by a Hometown or an Imposed Plan). This would be true even though another project in the same labor market area may be covered by Special Bid Conditions developed by another compliance agency. The Special Bid Conditions do apply, however, to a covered contractor's entire workforce working in the labor market area where the covered project is located although some employees may not work on the project.

To correct these deficiencies, the Department of Labor today is adopting regulations which discontinue and terminate the use of certain practices and formats and which establish a new 41 CFR Part 60-4 covering construction contractors and subcontractors. This new Part 60-4, however, will not relieve contractors of the obligations they may have under state or local affirmative action or equal employment opportunity programs. Similarly, this Part 60-4 will not relieve the contractors of local resident hiring requirements such as those in the Public Works Employment Act of 1977 and the Community Development Block Grant Program.

Specifically, Parts 60-5 through 60-8 and Parts 60-10 through 60-11 (the published Imposed Plans) and the Philadelphia Plan are hereby deleted. Although Hometown Plans will be continued, signatories to those plans are required to submit goals and timetables for the utilization of women to the Director of OFCCP within 45 days from the effective date of the regulations, which goals shall not be less than those contained in the Notice published elsewhere in the FEDERAL REGISTER today which establishes goals for women in the construction industry.

Imposed plans and Special Bid Conditions are discontinued as a means of complying with the Executive Order. In addition, the New Form for Federal Equal Employment Opportunity Bid Conditions for Federal and Federally Assisted Construction (41 FR 32482), commonly known as the Model Federal EEO Bid Conditions, is discontinued.

The new Part 60-4 applies to all Federal and federally assisted construction contractors and subcontractors holding Federal or federally assisted construction contracts or subcontracts in excess of $10,000. Procedures also are established which all Federal contracting officers and applicants shall follow in awarding Federal or federally assisted construction contracts. The regulations also establish procedures administering agencies shall follow in making grants which result in the award of federally assisted construction contracts.

DISCUSSION

Section 60-4.1. This section establishes the scope and application of Part 60-4. By the terms of this section, Part 60-4 applies to all contractors and subcontractors who have a Federal or federally assisted construction contract or subcontract in excess of $10,000.

1. Contractors opposed the extension of coverage to contracts in excess of $10,000 (see item 5 in the Summary Comments). The Department of Labor's view is that it is appropriate to extend coverage to those contracts in excess of $10,000. This view is based on the point that contracts in excess of $10,000 represents a substantial expenditure of Federal dollars.

It also represents the level at which regulations implementing the Executive Order establish coverage for nonconstruction contractors (see 41 CFR 60-1.5(a)). Prior to the regulations published today, coverage was based on the value of the construction project and any contractor working on a project whose value was $500,000 or more was covered regardless of the value of the contract held by an individual contractor or subcontractor. We believe, however, that coverage is based more appropriately on the amount of the contract held by the individual contractor and this position is consistent with coverage of nonconstruction contracts. We also believe that the in excess of $10,000 volume is reasonable and promotes uniformity among contractors by treating construction contractors and nonconstruction contractors equally (see 41 CFR 60-1.5(a)).

2. This section also codifies an OFCCP policy of covering construction work performed by construction contractors for nonconstruction contractors which is necessary in whole or in part to the performance of a nonconstruction contract in excess of $10,000. Although this provision was not contained in the August 16, 1977, proposal, it does not establish new requirements. Rather publication in these regulations simply codifies an existing policy and practice.

Section 60-4.2. This section creates a new notice to be included in all solicitations for offers and bids on all Federal and federally assisted construction contracts and subcontracts.

1. The notice is required to be included in the solicitation for Federal or federally assisted construction contracts in excess of $10,000.

2. Nonconstruction contractors who contract with construction contractors for construction work which is necessary in whole or in part to the performance of a covered nonconstruction contractor must also include the notice in such contracts.

3. The notice will be included in all bid documents to put the contractor on notice that the prospective contract (in excess of $10,000) is subject to the Executive Order. The notice also informs the bidder or offeror of the applicable goals and other requirements to which any contract resulting from the solicitation will be subject. Also, the word "bidders" has been added to the notice to accommodate those compliance agencies whose contract terminology does not include the word "offeror." (See item 15 in the Summary of Comments.)

4. The notice also requires the successful bidder to provide notice to the appropriate compliance agency and the OFCCP within 10 working days of the award of a subcontract under the contract. No specific notice form is required but the notice must be in writing and it must contain the name, address, and telephone number of the subcontractor; the dollar amount of the subcontract; and the geographical area in which the contract is to be performed.

Section 60-4.3. This section establishes the Standard Federal Equal Employment Opportunity Construction Contract Specifications. The specifications, in addition to the standard equal opportunity clauses, will be included in all federal and federally assisted construction contracts. The specifications also will be included in construction contracts let by nonconstruction contractors which are necessary in whole or in part to the performance of a Federal nonconstruction contract. The specifications and the notice provided for in § 60-4.2(d) are designed to serve the same purposes which the Bid Conditions now serve. The specifications, however, establish specific and minimum affirmative

action obligations. These affirmative action obligations, in large measure, are the good faith steps contained in the present Bid Conditions. Some of the good faith steps were modified before being adopted as required affirmative action obligations and other affirmative action obligations are entirely new.

1. Paragraph 7 and its subparagraphs establish the affirmative action obligations. Comments from contractor groups objected to the antiharassment provision in paragraph 7a. During the time it has considered extending specific affirmative action coverage to women in the construction industry, however, the Department of Labor has learned of many egregious examples of harassment of female workers. The comments do not challenge the existence of such conduct. The need to discourage harassment, intimidation and coercion is particularly important in an industry such as construction where the safety of workers may depend on a fellow worker. The contractor is in the best position to discourage such conduct and to ensure fair treatment of all employees.

Objections also were raised to the provision which states that where possible the contractor will assign two or more women to each construction project. The Department is fully aware that the very nature of construction work, such as the use of small workforces in certain trades, would not always accommodate the assignment of two or more women by a single contractor. However, where large workforces are being employed it is reasonable to assume that two or more women would be assigned to a construction project. Such a practice also should help to eliminate harassment and intimidation. Moreover, a contractor should not feel that is has met its affirmative action obligation simply by placing a token woman on the project and at the same time should not refuse to assign a woman to a project because there are not two openings.

2. Contractor groups also expressed objections to what they perceived as recordkeeping requirements. In fact no specific recordkeeping formats have been established. It will be necessary for contractors to maintain documentation of some of the specific actions they have taken such as a list of their minority and female recruitment sources (see Specification subparagraph 7b) and the names, addresses and telephone numbers of minority and female off-the-street applicants (7c). Such documentation is essential in order for the contract compliance program to be able to assess whether the contractor is taking the required action. Moreover, it is fair to presume that contractors already have in place some recordkeeping system for these types of activities and where adequate records do exist the contractor is not obligated to establish new procedures.

3. Contractors also contended that paragraph 4 and subparagraph 7d of the Specifications would require them to violate the exclusive referral provisions of their collective bargaining agreements.

These arguments are unpersuasive and have been rejected in various court decisions upholding the principle that a contractor's noncompliance with its affirmative action obligations cannot be justified by the contractor's reliance on a collective bargaining agreement, and that the contractor must go outside of the terms of the agreement if that is the only way to maintain compliance with the Executive Order and the implementing rules, regulations and orders. See *Contractors Assn. of Eastern Pa.* v. *Secretary of Labor*, 442 F.2d 159 (3rd Cir. 1971), *cert. denied*, 404 U.S. 854 (1971); *Southern Illinois Builders Assn.* v. *Ogilivie*, 471 F.2d 680 (7th Cir. 1974); *Joyce* v. *McCrane*, 320 F.Supp. 1284 (D.NJ. 1970); *Associated General Contractors of Massachusetts* v. *Altschuler*, 490 F.2d 9 (1st Cir. 1973), *cert. denied*, 416 U.S. 957 (1974); *Equal Employment Opportunity Commission* v. *American Telephone & Telegraph Co.* 556 F.2d 167 (3rd Cir. 1977); *Savannah Printing Specialties & Paper Products Local Union 604* v. *Union Camp Corp.*, 350 F.Supp. 632 (S.D. Ga. 1972).

It should be emphasized that the Department's position has not precluded and will not preclude enforcement actions against labor organizations for impeding the nondiscrimination/affirmative action obligations of federally-involved construction contractors and subcontractors under E.O. 11246. Such actions are specifically authorized under sections 209(a)(2) and (3) of the Order. See, e.g., *U.S.* v. *Carpenters Local 169*, 457 F. 2d 210 (7th Cir. 1972), *cert. denied*, 409 U.S. 851 (1972); *U.S.* v. *Papermakers Local 189*, 282 F. Supp. 30 (E.D. La. 1968), aff'd 416 F. 2d 980 (5th Cir. 1969), *cert. denied*, 397 U.S. 912 (1970); *U.S.* v. *Operating Engineers Local 701*, —F. Supp. —, 14 FEP Cases 1400 (D. Ore. 1977). Therefore, in order to facilitate enforcement efforts against labor organizations for interfering with the nondiscrimination/affirmative action obligations of federally-involved construction contractors, paragraph 7d of the specifications requires covered contractors and subcontractors to provide immediate written notification to the responsible compliance agency and to OFCCP when the union or unions with which the contractor has a collective bargaining agreement has not referred to the contractor a minority person or woman sent by the contractor, or when the contractor has other information that the union referral process has impeded the contractor's efforts to meet its obligations.

4. Paragraph 9 of the Specifications has been rewritten to address the concerns of the Deputy Comptroller General of the United States. The Deputy Comptroller General commented as follows:

> This provision [paragraph 9] would require, in effect, the renegotiation of goals after the contract has been awarded rather than specifying separate goals and timetables which must be met by contractors in categories determined to be employing "particular groups" in a "substantially disparate manner."

Paragraph 9 has been rewritten to eliminate the requirement to establish separate goals. However, the section also makes it clear that the goals include all groups and that the contractor may not be in compliance if it has achieved its goal levels generally but employs certain groups in a substantially disparate manner. The minority goal, for example, includes blacks, American Indians, Hispanics, Asian and Pacific Islanders, and a contractor may not be in compliance if it meets its goal by employing one group and totally ignores another.

5. Paragraph 12 prohibits the contractor from entering into contracts with debarred contractors. Contractors were concerned about receiving notice of debarred contractors and whether the contracting prohibition applied to nonfederal contracts as well. The OFCCP maintains a list of debarred contractors which may be secured from that agency. In addition, all debarments effected under Executive Order 11246 are published in the FEDERAL REGISTER. Finally, paragraph 12 is not intended to cover contracts awarded by a Federal contractor for work to be performed on a project which is neither Federal nor federally assisted.

6. Some comments suggested that Federal EEO requirements should preempt state and local EEO requirements. Other comments suggested that the more stringent standards, whether Federal or state or local, should apply. The Federal Government, of course, may not pre-empt state and local government regulation of the construction industry (*Associated General Contractors of Mass.* v. *Altshuler*, 490 F. 2d 9 (1st cir. 1973)). The OFCCP has attempted to apply uniform standards to contractors and to provide the greatest protection to the greatest number of people under the Executive Order.

Section 60-4.4 and 60-4.5. The major change made in these two sections is the proviso in § 60-4.5 which requires that each contractor participating in the plan make a good faith effort to achieve its goals and that the overall good performance by other contractors does not excuse any contractor. This change was made in response to those comments to the effect that

some contractors were using the plans (and the accomplishments of other contractors in the plan area) to shirk their obligations under the Order. This change also is consistent with the Executive Order which imposes the nondiscrimination and affirmative action requirements on each contractor.

Section 60-4.6. This section requires the Director of OFCCP to issue goals and timetables for minority and female utilization which shall be based on appropriate workforce, demographic or other relevant data. The goals shall cover specific construction projects or construction contracts performed in specific geographical areas. Published elsewhere in the FEDERAL REGISTER today are goals for female utilization on construction projects. It is anticipated that within the very near future OFCCP will propose standards and goals for minority utilization pursuant to 41 CFR 60-4.6 of the regulations published today. Until those goals are published in final form the goals and timetables applicable under existing OFCCP requirements will continue to be effective.

A number of comments addressed the issue of goals and timetables. Contractors recognized the construction industry's obligation to take affirmative action but expressed concern about the nature of the required action. They characterized "goals" as quotas, stated that the goals requirement would require contractors to hire unqualified persons, stated that qualified female craft workers are not available and that contractors would be required to displace other workers with women because of high unemployment in the industry.

1. Section 201 of Executive Order 11246, as amended, mandates the Secretary of Labor to "adopt such rules and regulations and issue such orders as he deems necessary and appropriate to achieve the purposes * * *" of the Executive Order. Section 202 of the Executive Order requires every nonexempt Federal contractor or subcontractor, including Federal and federally assisted construction contractors and subcontractors (see § 301 of the Order), to take affirmative action.

The Department of Labor's experience with affirmative action has demonstrated that goals and timetables are the most concrete and effective system for implementing the affirmative action obligation contained in the Executive Order. Since goals and timetables were implemented as an affirmative action requirement, all Federal contractors and subcontractors except construction contractors have been required to establish goals and timetables for women. Construction contractors, on the other hand, have been required to establish goals for minority workers, and then, only if the construction contract was being performed in a geographical area covered by a Hometown Plan or an Imposed Plan or if the contract was awarded subject to Special Bid Conditions. These were the three methods by which the Department of Labor specifically implemented the affirmative action obligation imposed on Government contractors and subcontractors. Unlike nonconstruction contractors, who were and are required to develop detailed affirmative action programs (which include goals and timetables for women and minorities), the only implemented affirmative action obligation imposed on construction contractors has been the goals and timetables established in the Hometown Plans, Imposed Plans or Special Bid Conditions. Nevertheless, all Government contractors and subcontractors, including construction contractors and subcontractors, agree in every contract to "* * * take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex or national origin." (Section 202, cl. 1, Executive Order 11246, as amended.)

In the past, as stated above, the OFCCP has used a number of methods to implement the affirmative action requirement of the Executive Order in the construction industry. These methods have included Hometown Plans, Imposed Plans and Special Bid Conditions. The basic affirmative action feature under each of these methods has been goals and timetables. Goals and timetables in large measure have been limited to minority utilization although the word "minority" was defined to include minority women. In the construction industry, however, goals and timetables generally have not been established for women. The notice published elsewhere in the FEDERAL REGISTER today, however, will establish goals and timetables for female utilization for construction contractors and subcontractors who are subject to Executive Order 11246, as amended.

A number of methods and procedures for establishing goals and timetables for the construction industry have been considered, and the OFCCP has concluded that this Notice form is the most reasonable and efficient way to inform construction contractors of their obligations and to protect workers under the Executive Order. First, the Hometown Plan concept contemplates that contractors, unions and the local community voluntarily will agree to an affirmative action plan, submit it to the OFCCP for approval and, if approved, compliance with the plan will constitute compliance with the Executive Order. This process is time consuming and does not always guarantee agreement. Indeed, under this process only 62 Hometown Plans have been developed and approved and only 33 presently exist. These plans cover only a small fraction of the cities in the country and only a small portion of Federal and federally assisted construction. Similarly, the Imposed Plans require long and drawn-out proceedings before they are implemented. These proceedings include public hearings in each area where the plan is imposed and subsequent publication in the FEDERAL REGISTER and codification in the Code of Federal Regulations. Moreover, the hearing process did not always produce reliable data upon which reasonable goals could be based thereby making it necessary for the OFCCP to develop the goals using Census Bureau prepared data. Through this process, seven plans have been imposed.

In order to cover some of the major Federal and federally assisted construction contracts being performed outside of Hometown and Imposed Plan areas, Special Bid Conditions were designed. Under this concept the compliance agencies establish goals and timetables for construction contracts for which they have compliance responsibility and submit the Special Bid Conditions to the OFCCP for approval prior to the time the bids or offers were solicited. Special Bid Conditions unlike Hometown and Imposed Plans, however, are limited to the project for which they were designed. Accordingly, two projects being in close proximity would require separate Bid Conditions if the projects involved were assigned to different agencies for compliance purposes, or no Bid Conditions at all if the compliance agency did not act prior to the solicitation.

The three affirmative action methods previously used do not allow for an efficient system which provides a fair degree of protection for construction employees. The notice system, on the other hand, allows for the use of the best data available, which was not always forthcoming in hearings, and an efficient and prompt implementation of the goals which result from that data.

A review of the status of women in the construction industry shows that unless specific affirmative action steps are prescribed, construction employment opportunities will not reach the female workforce of this country. For example, when these regulations were proposed last August, the preamble contained the following statement (42 FR 41379):

> According to the 1970 Census of Population, women constituted 37 percent of the experienced civilian labor force, and 19 percent of all persons 18 years or older with vocational training in trades or crafts. At the same time, however, women constituted only 5 percent of the experienced labor force in craft and kindred occupations, and

only 1.2 percent of the experienced construction labor force. The gross disparity between the percentage of women in the labor force and the percentage of women in the construction trades undoubtedly will continue until positive action is taken to ensure that construction jobs are made available to women. A system of goals and timetables for women in construction will, based on prior experience, help to rectify the near total exclusion of female representation in the construction trades.

The interest of women in the construction trades and their availability for employment has been clearly demonstrated. In October, 1975, for example, the OFCCP conducted fact-finding hearings in Baltimore, Md., specifically relating to equal employment opportunity in the construction industry. Representatives from EEOC, various women's organizations, and academic institutions testified that discrimination and not the lack of available and interested female applicants is keeping the percentage of women in the construction trades at such a low level. Typical situations described in that testimony involved women trained as construction workers who gained membership in a union local but who were not hired although they stood at the front of the hall or at the top of the referral list, and who were subsequently told at a job site that they would never be hired because they were women. In another typical case a woman gained employment in a craft in which her husband already worked; subsequently both were laid off and after numerous attempts to find work the man was informed that he would not find a job until his wife left the craft.

Further evidence of the interest of and discrimination against women in the construction industry was presented at recent hearings held in California and Washington on the amendments of their State laws to include goals and timetables for women in apprenticeships. The growing number of organizations across the country whose purpose is the placement of women in the construction trades illustrates the high degree of interest and the large number of women interested in pursuing careers in the construction trades.

The longstanding reputation of the trades for excluding women discourages many women from applying for construction jobs. Thus, although many women are inclined toward jobs in the trades, far fewer actually apply. A study by two Stanford University psychologists demonstrates that the number of women applying for jobs in the construction trades would substantially increase were there goals for women. In that study, two groups of female job seekers were given three detailed job descriptions and were asked to rate their interest in the jobs on a scale of 1 to 5, from "not interested" to "extremely interested." Two of the three jobs described were traditionally female jobs and one was a construction job. Half of the booklets contained the following statement under the title of the construction jobs: "Equal Opportunity for Women, Note: Federal Law Now Requires That Companies Train and Hire A Certain Percentage of Women for the Job of [carpenter] Each Year." The other half of the booklets contained no statement about affirmative action. In the affirmative action group 33 percent of the women indicated a strong interest in the construction job, twice the percentage indicating a strong interest in the other group. Seventy percent of the women in the affirmative action group expressed some degree of positive interest in construction jobs, one and one half as many as the other group. Clearly, there exists an available pool of women interested in applying for construction jobs.

The Maritime Administration which oversees enforcement of the Executive Order in the shipbuilding industry has provided the Department with some very useful documentation on both the availability of women for construction-related jobs and the postive impact of goals and timetables on the employment of women in those jobs. A number of the jobs in the shipbuilding industry are comparable to jobs in construction; the Maritime experience therefore is particularly useful. In the early 1972 the Maritime Administration began requiring goals and timetables for women by shipbuilding contractors. There experience was that as more women were employed, more women applied. Once women knew that they would be hired without regard to sex, they applied in large numbers. In at least one shipyard the applicant flow is now running at the rate of the normal workforce rate of women in that area. Unquestionably, the key reason for the increase of women in that industry is goals and timetables.

The results achieved in locations where goals for women have been set have been dramatic. In Seattle, Wash., since the imposition of goals for women in city construction, nearly every city construction project has had at least one woman working on the construction site. In California, the imposition of goals has resulted in the placement of 50 percent more women in construction jobs by Women in Apprenticeship, an outreach program operating in San Francisco designed to help place women in the skilled trades. Similarly, although there were only two women in Madison, Wis., construction jobs in 1975, there were, in 1976, after the imposition of goals, 15 women in those jobs.

The exclusion of women from well-paying jobs in the construction industry exists despite persistent effort among women to break into construction work. Although women have made substantial gains in other nontraditional jobs, the above statistics demonstrate that the exclusion of women from construction work will not be corrected and that the objectives of the Executive Order will not be realized unless positive steps are taken to bring together the female worker and the construction job. Accordingly, it is necessary to establish specific standards of affirmative action for women in the construction industry under Executive Order 11246, as amended. Therefore, the specific affirmative action requirements incorporated into these proposed regulations include specific requirements for ensuring equal employment opportunities for women as well as for minorities.

These factors show that women are available for construction and that they are not being utilized. Moreover, if women are to assume a fair number of construction jobs it is necessary to establish specific affirmative action requirements. The time has come to do that.

2. The Department of Labor recognizes the distinction between permissible affirmative action goals and timetables and impermissible quotas. In a March 23, 1973, memorandum the Departments of Justice and Labor and the Equal Employment Opportunity Commission and the Civil Service Commission distinguished goals and timetables:

> • • • Quota systems in the past have been used in other contexts as a quantified limitation, the purpose of which is exclusion, but this is not its sole definition. A quota system, applied in the employment context, would impose a fixed number or percentage which must be attained, or which cannot be exceeded; the crucial consideration would be whether the mandatory numbers of persons have been hired or promoted. Under such a quota system, that number would be fixed to reflect the population in the area, or some other numerical base, regardless of the number of potential applicants who meet necessary qualifications. If the employer failed, he would be subject to sanction. It would be no defense that the quota may have been unrealistic to start with, that he had insufficient vacancies, or that there were not enough qualified applicants, although he tried in good faith to obtain them through appropriate recruitment methods.
>
> Any system which requires that considerations of relative abilities and qualifications be subordinated to considerations of race, religion, sex, or national origin in determining who is to be hired, promoted, etc., in order to achieve a certain numerical position has the attributes of a quota system which is deemed to be impermissible under the standards set forth herein.
>
> A goal, on the other hand, is a numerical objective, fixed realistically in terms of the number of vacancies expected, and the number of qualified applicants available in the relevant job market. Thus, if through no fault of the employer, he has fewer vacancies than expected, he is not subject to sanction, because he is not expected to displace existing employees or to hire unneeded employees to meet his goal. Similarly, if he has demonstrated every good faith effort to include persons from the group which was the object of discrimination into the group being considered for selection, but has been unable to do so in sufficient numbers to meet his goal, he is not subject to sanction.

The Department of Labor continues to recognize the distinction between affirmative goals and impermissible quotas, and also follows the policy enunciated in the memorandum quoted above.

The Congress and the courts also have recognized and acquiesced in the affirmative action programs (including goals and timetables) required under Executive Order 11246. When Congress considered the Equal Employment Opportunity Act of 1972 (Pub. L. 92-261), Senator Saxbe made the following statement in support of his amendment to strike a provision which would have transferred the Executive Order program to the EEOC. (118 Cong. Rec. 1385):

> The OFCC[P]'s affirmative action programs have tremendous impact and require that 260,000 Government contractors in all industries adopt positive programs to seek out minorities and women for new employment opportunities. To accomplish this objective, the OFCC[P] has utilized the proven business technique of establishing

"goals and timetables" to insure the success of the Executive Order program. It has been the "goals and timetables" approach which is unique to the OFCC[P]'s efforts in equal employment, coupled with extensive reporting and monitoring procedures that has given the promise of equal employment opportunity a new credibility.

The Executive Order program should not be confused with the judicial remedies for proven discrimination which unfold on a limited and expensive case-by-case basis. Rather, affirmative action means that all Government contractors must develop programs to insure that all share equally in the jobs generated by the Federal Government's spending. Proof of overt discrimination is not required.

Senator Saxbe's proposed amendment was adopted. 118 Cong. Rec. 1387-1398 (1972). In addition, 2 days after hearing the comments of Senator Saxbe, quoted above, Congress rejected an amendment offered by Senator Ervin which would have proscribed the adoption of goals by Government contractors. 118 Cong. Rec. 1676. In speaking against this amendment, Senator Javits had the Third Circuit's prior approval of affirmative action goals in *Contractors Ass'n. of Eastern Pa.* v. *Shultz*, 442 F.2d 159 (3d Cir. 1971), cert. denied, 404 U.S. 854 (1971), reprinted in the Congressional Record (118 Cong. Rec. 1665). Moreover, he argued that what the Ervin amendment sought to reach was:

[T]he whole concept of "affirmative action" as it has been developed under Executive Order 11246 and as a remedial concept under Title VII.

Philadelphia-type plans are based on the Federal Government's power to require its own contractors or contractors on projects to which it contributes—for example, State projects with a Federal contribution—to take affirmative action to enlarge the labor pool to the maximum extent by promoting full utilization of minority-group employees, and by making certain requirements for those who hire to seek out minority employees * * * 118 Cong. Rec. 1664 (1972).

Section 60-4.7. This section simply indicates that regulations in other parts of 41 CFR Chapter 60 applicable to construction contractors and subcontractors remain applicable. Specific examples are listed.

Section 60-4.8. This section establishes a show cause procedure to be followed when an investigation or compliance review has revealed a violation. The show cause notice, however, is not required if the matter is to be referred to the Department of Justice under Section 209(a)(2) of the Executive Order. In other words, the show cause notice is required if administrative rather than judicial proceedings are contemplated. In addition, the show cause notice must itemize the sections of the Order and regulations which the investigation revealed have been violated, the corrective actions necessary to achieve compliance, a request for a written response and a suggested date for the conciliation conference (see 41 CFR 60-2.2(c)(1) (i)-(iv)).

Section 60-4.9. This section provides that by operation of the Executive Order, the equal opportunity clause (41 CFR 60-1.4), the Notice of Requirement for Affirmative Action to Ensure Equal Employment Opportunity (Executive Order 11246) contained in § 60-4.2 of the regulations adopted today and the Standard Federal Equal Employment Opportunity Specification contained in § 60-4.3 of the regulations adopted today shall be deemed to be included, as applicable, in every solicitation, contract and subcontract, required by the Order and the regulations in this chapter to include such clauses, whether or not they are physically included and whether or not the contract is written. This provision is consistent with case law. See *United States* v. *New Orleans Public Service, Inc.*, 553 F. 2d 459 (5th Cir. 1977), *reh'g. denied*, 559 F. 2d 30, *pet. for cert. pending*, No. 77-497 and *United States* v. *Mississippi Power and Light Co.*, 553 F. 2d 480 (5th Cir. 1977), *reh'g denied*, 559 F. 2d 29, *pet. for cert. pending*, No. 77-605.

Other Comments

1. Some comments expressed the view that the Department of Labor should withhold a decision until the Supreme Court has ruled in *The Regents of the University of California* v. *Bakke* case. It, of course, is always difficult to predict with precision how the Supreme Court will rule in a specific case. However, it is not likely that a ruling in that case, a university admissions case, would have the type of impact on these regulations that they should be held in abeyance until the Supreme Court has ruled.

2. Some contractor comments took the position that the obligation to take affirmative action should be shared equally by contractors and their unions. The Department of Labor does not disagree with the concept of a union taking affirmative action. However, coverage under the Executive Order is limited to Federal contractors and subcontractors. Unless the union is a contractor or subcontractor, in which case it is covered, the Executive Order authority over the union is limited.

3. Some comments objected to maintaining a record of solicitation of offers from minority and female contractors and suppliers. This provision is not intended to compel the contractor to contract with any specific group. It has been the Department of Labor's experience, however, that these contractors generally employ persons protected under the Executive Order. Thus, federally generated dollars are helping to increase employment opportunities for minorities and women. This provision, ultimately though, is intended to help to evaluate the contractor's good faith efforts.

In consideration of the foregoing, 41 CFR Chapter 60 is amended by adding a new Part 60-4 as set forth below, and by deleting Parts 60-5; 60-6; 60-7; 60-8; 60-10; and 60-11. In addition, The Philadelphia Plan and the New Form for Federal Equal Employment Opportunity Bid Conditions for Federal and Federally Assisted Construction (41 FR 32482), commonly known as the Model Federal EEO Bid Conditions, hereby are terminated and discontinued.

Dated: March 28, 1978.

RAY MARSHALL,
Secretary of Labor.

DONALD ELISBURG,
Assistant Secretary, Employment Standards Administration.

WELDON J. ROUGEAU,
Director, OFCCP.

Sec.
60-4.1 Scope and application.
60-4.2 Solicitations.
60-4.3 Equal opportunity clauses.
60-4.4 Affirmative action requirements.
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60-4.6 Goals and timetables.
60-4.7 Effect on other regulations.
60-4.8 Show cause notice.
60-4.9 Incorporation by operation of the Order.

AUTHORITY: Secs. 201, 202, 205, 211, 301, 302, and 303 of E.O. 11246, as amended, 30 FR 12319; 32 FR 14303.

§ 60-4.1 Scope and application.

This part applies to all contractors and subcontractors which hold any Federal or federally assisted construction contract in excess of $10,000. The regulations in this part are applicable to all of a construction contractor's or subcontractor's construction employees who are engaged in on site construction including those construction employees who work on a non-Federal or non-federally assisted construction site. This part also establishes procedures which all Federal contracting officers and all applicants, as applicable, shall follow in soliciting for and awarding Federal or federally assisted construction contracts. Procedures also are established which administering agencies shall follow in making any grant, contract, loan, insurance, or guarantee involving federally assisted construction which is not exempt from the requirements of Executive Order 11246, as amended.

In addition, this part applies to construction work performed by construction contractors and subcontractors for Federal nonconstruction contractors and subcontractors if the construction work is necessary in whole or in part to the performance of a nonconstruction contract or subcontract.

§ 60–4.2 Solicitations.

(a) All Federal contracting officers and all applicants shall include the notice set forth in paragraph (d) of this section and the Standard Federal Equal Employment Opportunity Construction Contract Specifications set forth in § 60–4.3 of this part in all solicitations for offers and bids on all Federal and federally assisted construction contracts or subcontracts to be performed in geographical areas designated by the Director pursuant to § 60–4.6 of this part. Administering agencies shall require the inclusion of the notice set forth in paragraph (d) of this section and the specifications set forth in § 60–4.3 of this part as a condition of any grant, contract, subcontract, loan insurance or guarantee involving federally assisted construction covered by this part 60–4.

(b) All nonconstruction contractors covered by Executive Order 11246 and the implementing regulations shall include the notice in paragraph (d) of this section in all construction agreements which are necessary in whole or in part to the performance of the covered nonconstruction contract.

(c) Contracting officers, applicants and nonconstruction contractors shall give written notice to the Director within 10 working days of award of a contract subject to these provisions. The notification shall include the name, address and telephone number of the contractor; employer identification number; dollar amount of the contract, estimated starting and completion dates of the contract; the contract number; and geographical area in which the contract is to be performed.

(d) The following notice shall be included in, and shall be a part of, all solicitations for offers and bids on all Federal and federally assisted construction contracts or subcontracts in excess of $10,000 to be performed in geographical areas designated by the Director pursuant to § 60–4.6 of this part (see 41 CFR 60–4.2(a)):

NOTICE OF REQUIREMENT FOR AFFIRMATIVE ACTION TO ENSURE EQUAL EMPLOYMENT OPPORTUNITY (EXECUTIVE ORDER 11246)

1. The Offeror's or Bidder's attention is called to the "Equal Opportunity Clause" and the "Standard Federal Equal Employment Opportunity Construction Contract Specifications" set forth herein.

2. The goals and timetables for minority and female participation, expressed in percentage terms for the Contractor's aggregate workforce in each trade on all construction work in the covered area, are as follows:

Timetables	Goals for minority participation for each trade	Goals for female participation in each trade
	Insert goals for each year.	Insert goals for each year.

These goals are applicable to all the Contractor's construction work (whether or not it is Federal or federally assisted) performed in the covered area.

The Contractor's compliance with the Executive Order and the regulations in 41 CFR Part 60–4 shall be based on its implementation of the Equal Opportunity Clause, specific affirmative action obligations required by the specifications set forth in 41 CFR 60–4.3(a), and its efforts to meet the goals established for the geographical area where the contract resulting from this solicitation is to be performed. The hours of minority and female employment and training must be substantially uniform throughout the length of the contract, and in each trade, and the constractor shall make a good faith effort to employ minorities and women evenly on each of its projects. The transfer of minority or female employees or trainees from Contractor to Contractor or from project to project for the sole purpose of meeting the Contractor's goals shall be a violation of the contract, the Executive Order and the regulations in 41 CFR Part 60–4. Compliance with the goals will be measured against the total work hours performed.

3. The Contractor shall provide written notification to the Director of the Office of Federal Contract Compliance Programs within 10 working days of award of any construction subcontract in excess of $10,000 at any tier for construction work under the contract resulting from this solicitation. The notification shall list the name, address and telephone number of the subcontractor; employer identification number; estimated dollar amount of the subcontract; estimated starting and completion dates of the subcontract; and the geographical area in which the contract is to be performed.

4. As used in this Notice, and in the contract resulting from this solicitation, the "covered area" is (insert description of the geographical areas where the contract is to be performed giving the state, county and city, if any).

§ 60–4.3 Equal opportunity clauses.

(a) The equal opportunity clause published at 41 CFR 60–1.4(a) of this chapter is required to be included in, and is part of, all nonexempt Federal contracts and subcontracts, including construction contracts and subcontracts. The equal opportunity clause published at 41 CFR 60–1.4(b) is required to be included in, and is a part of, all nonexempt federally assisted construction contracts and subcontracts. In addition to the clauses described above, all Federal contracting officers, all applicants and all nonconstruction contractors, as applicable, shall include the specifications set forth in this section in all Federal and federally assisted construction contracts in excess of $10,000 to be performed in geographical areas designated by the Director pursuant to § 60–4.6 of this part and in construction subcontracts in excess of $10,000 necessary in whole or in part to the performance of nonconstruction Federal contracts and subcontracts covered under the Executive Order.

STANDARD FEDERAL EQUAL EMPLOYMENT OPPORTUNITY CONSTRUCTION CONTRACT SPECIFICATIONS (EXECUTIVE ORDER 11246)

1. As used in these specifications:

a. "Covered area" means the geographical area described in the solicitation from which this contract resulted;

b. "Director" means Director, Office of Federal Contract Compliance Programs, United States Department of Labor, or any person to whom the Director delegates authority;

c. "Employer identification number" means the Federal Social Security number used on the Employer's Quarterly Federal Tax Return, U.S. Treasury Department Form 941.

d. "Minority" includes:

(i) Black (all persons having origins in any of the Black African racial groups not of Hispanic origin);

(ii) Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish Culture or origin, regardless of race);

(iii) Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands); and

(iv) American Indian or Alaskan Native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification).

2. Whenever the Contractor, or any Subcontractor at any tier, subcontracts a portion of the work involving any construction trade, it shall physically include in each subcontract in excess of $10,000 the provisions of these specifications and the Notice which contains the applicable goals for minority and female participation and which is set forth in the solicitations from which this contract resulted.

3. If the Contractor is participating (pursuant to 41 CFR 60–4.5) in a Hometown Plan approved by the U.S. Department of Labor in the covered area either individually or through an association, its affirmative action obligations on all work in the Plan area (including goals and timetables) shall be in accordance with that Plan for those trades which have unions participating in the Plan. Contractors must be able to demonstrate their participation in and compliance with the provisions of any such Hometown Plan. Each Contractor or Subcontractor participating in an approved Plan is individually required to comply with its obligations under the EEO clause, and to make a good faith effort to achieve each goal under the Plan in each trade in which it has employees. The overall good faith performance by other Contractors or Subcontractors toward a goal in an approved Plan does not excuse any covered Contractor's or Subcontractor's failure to take good faith efforts to achieve the Plan goals and timetables.

4. The Contractor shall implement the specific affirmative action standards provided in paragraphs 7a through p of these specifications. The goals set forth in the solicitation from which this contract resulted are expressed as percentages of the total hours of employment and training of minority and female utilization the Contractor should reasonably be able to achieve in each construction trade in which it has employees in the covered area. The Contractor is expected to make substantially uniform progress toward its goals in each craft during the period specified.

5. Neither the provisions of any collective bargaining agreement, nor the failure by a union with whom the Contractor has a collective bargaining agreement, to refer either minorities or women shall excuse the Contractor's obligations under these specifications, Executive Order 11246, or the regulations promulgated pursuant thereto.

6. In order for the nonworking training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees must be employed by the Contractor during the training period, and the Contractor must have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees must be trained pursuant to training programs approved by the U.S. Department of Labor.

7. The Contractor shall take specific affirmative actions to ensure equal employment opportunity. The evaluation of the Contractor's compliance with these specifications shall be based upon its effort to achieve maximum results from its actions. The Contractor shall document these efforts fully, and shall implement affirmative action steps at least as extensive as the following:

a. Ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites, and in all facilities at which the Contractor's employees are assigned to work. The Contractor, where possible, will assign two or more women to each construction project. The Contractor shall specifically ensure that all foremen, superintendents, and other on-site supervisory personnel are aware of and carry out the Contractor's obligation to maintain such a working environment, with specific attention to minority or female individuals working at such sites or in such facilities.

b. Establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when the Contractor or its unions have employment opportunities available, and maintain a record of the organizations' responses.

c. Maintain a current file of the names, addresses and telephone numbers of each minority and female off-the-street applicant and minority or female referral from a union, a recruitment source or community organization and of what action was taken with respect to each such individual. If such individual was sent to the union hiring hall for referral and was not referred back to the Contractor by the union or, if referred, not employed by the Contractor, this shall be documented in the file with the reason therefor, along with whatever additional actions the Contractor may have taken.

d. Provide immediate written notification to the Director when the union or unions with which the Contractor has a collective bargaining agreement has not referred to the Contractor a minority person or woman sent by the Contractor, or when the Contractor has other information that the union referral process has impeded the Contractor's efforts to meet its obligations.

e. Develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the Contractor's employment needs, especially those programs funded or approved by the Department of Labor. The Contractor shall provide notice of these programs to the sources complied under 7b above.

f. Disseminate the Contractor's EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the Contractor in meeting its EEO obligations; by including it in any policy manual and collective bargaining agreement; by publicizing it in the company newspaper, annual report, etc.; by specific review of the policy with all management personnel and with all minority and female employees at least once a year; and by posting the company EEO policy on bulletin boards accessible to all employees at each location where construction work is performed.

g. Review, at least annually, the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, layoff, termination or other employment decisions including specific review of these items with onsite supervisory personnel such as Superintendents, General Foremen, etc., prior to the initiation of construction work at any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.

h. Disseminate the Contractor's EEO policy externally by including it in any advertising in the news media, specifically including minority and female news media, and providing written notification to and discussing the Contractor's EEO policy with other Contractors and Subcontractors with whom the Contractor does or anticipates doing business.

i. Direct its recruitment efforts, both oral and written, to minority, female and community organizations, to schools with minority and female students and to minority and female recruitment and training organizations serving the Contractor's recruitment area and employment needs. Not later than one month prior to the date for the acceptance of applications for apprenticeship or other training by any recruitment source, the Contractor shall send written notification to organizations such as the above, describing the openings, screening procedures, and tests to be used in the selection process.

j. Encourage present minority and female employees to recruit other minority persons and women and, where reasonable, provide after school, summer and vacation employment to minority and female youth both on the site and in other areas of a Contractor's workforce.

k. Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR Part 60-3.

l. Conduct, at least annually, an inventory and evaluation at least of all minority and female personnel for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.

m. Ensure that seniority practices, job classifications, work assignments and other personnel practices, do not have a discriminatory effect by continually monitoring all personnel and employment related activites to ensure that the EEO policy and the Contractor's obligations under these specifications are being carried out.

n. Ensure that all facilities and company activities are nonsegregated except that separate or single-user toilet and necessary changing facilites shall be provided to assure privacy between the sexes.

o. Document and maintain a record of all solicitations of offers for subcontracts from minority and female construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations.

p. Conduct a review, at least annually, of all supervisors' adherence to and performance under the Contractor's EEO policies and affirmative action obligations.

8. Contractors are encouraged to participate in voluntary associations which assist in fulfilling one or more of their affirmative action obligations (7a through p). The efforts of a contractor association, joint contractor-union, contractor-community, or other similar group of which the contractor is a member and participant, may be asserted as fulfilling any one or more of its obligations under 7a through p of these Specifications provided that the contractor actively participates in the group, makes every effort to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected in the Contractor's minority and female workforce participation, makes a good faith effort to meet its individual goals and timetables, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the Contractor. The obligation to comply, however, is the Contractor's and failure of such a group to fulfill an obligation shall not be a defense for the Contractor's noncompliance.

9. A single goal for minorities and a separate single goal for women have been established. The Contractor, however, is required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and non-minority. Consequently, the Contractor may be in violation of the Executive Order if a particular group is employed in a substantially disparate manner (for example, even though the Contractor has achieved its goals for women generally, the Contractor may be in violation of the Executive Order if a specific minority group of women is underutilized).

10. The Contractor shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion, sex, or national origin.

11. The Contractor shall not enter into any Subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246.

12. The Contractor shall carry out such sanctions and penalties for violation of these specifications and of the Equal Opportunity Clause, including suspension, termination and cancellation of existing subcontracts as may be imposed or ordered pursuant to Executive Order 11246, as amended, and its implementing regulations, by the Office of Federal Contract Compliance Programs. Any Contractor who fails to carry out such sanctions and penalties shall be in violation of these specifications and Executive Order 11246, as amended.

13. The Contractor, in fulfilling its obligations under these specifications, shall implement specific affirmative action steps, at least as extensive as those standards prescribed in paragraph 7 of these specifications, so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the Contractor fails to comply with the requirements of the Execu-

tive Order, the implementing regulations, or these specifications, the Director shall proceed in accordance with 41 CFR 60-4.8.

14. The Contractor shall designate a responsible official to monitor all employment related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required by the Government and to keep records. Records shall at least include for each employee the name, address, telephone numbers, construction trade, union affiliation if any, employee identification number when assigned, social security number, race, sex, status (e.g., mechanic, apprentice, trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, contractors shall not be required to maintain separate records.

15. Nothing herein provided shall be construed as a limitation upon the application of other laws which establish different standards of compliance or upon the application of requirements for the hiring of local or other area residents (e.g., those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).

(b) The notice set forth in 41 CFR 60-4.2 and the specifications set forth in 41 CFR 60-4.3 replace the New Form for Federal Equal Employment Opportunity Bid Conditions for Federal and Federally Assisted Construction published at 41 FR 32482 and commonly known as the Model Federal EEO Bid Conditions, and the New Form shall not be used after the regulations in 41 CFR part 60-4 become effective.

§ 60-4.4 Affirmative action requirements.

(a) To implement the affirmative action requirements of Executive Order 11246 in the construction industry, the Office of Federal Contract Compliance Programs previously has approved affirmative action programs commonly referred to as "Hometown Plans," has promulgated affirmative action plans referred to as "Imposed Plans" and has approved "Special Bid Conditions" for high impact projects constructed in areas not covered by a Hometown or an Imposed Plan. All solicitations for construction contracts made after the effective date of the regulations in this part shall include the notice specified in § 60-4.2 of this part and the specifications in § 60-4.3 of this part in lieu of the Hometown and Imposed Plans including the Philadelphia Plan and Special Bid Conditions. Until the Director has issued an order pursuant to § 60-4.6 of this part establishing goals and timetables for minorities in the appropriate geographical areas or for a project covered by Special Bid Conditions, the goals and timetables for minorities to be inserted in the Notice require by 41 CFR 60-4.2 shall be the goals and timetables contained in the Hometown Plan, Imposed Plan or Special Bid Conditions presently covering the respective geographical area or project involved.

(b) Signatories to a Hometown Plan (including heavy highway affirmative action plans) shall have 45 days from the effective date of the regulations in this part to submit under such a Plan (for the Director's approval) goals and timetables for women and to include female representation on the Hometown Plan Administrative Committee. Such goals for female representation shall be at least as high as the goals established for female representation in the Notice issued pursuant to 41 CFR 60-4.6. Failure of the signatories, within the 45-day period, to include female representation and to submit goals for women or a new plan, as appropriate, shall result in an automatic termination of the Office of Federal Contract Compliance Program's approval of the Hometown Plan. At any time the Office of Federal Contract Compliance Programs terminates or withdraws its approval of a Hometown Plan, or when the Plan expires and another Plan is not approved, the contractors signatory to the Plan shall be covered automatically by the Specifications set forth in § 60-4.3 of this part and by the goals and timetables established for that geographical area pursuant to § 60-4.6 of this part.

§ 60-4.5 Hometown plans.

(a) A contractor participating, either individually or through an association, in an approved Hometown Plan (including heavy highway affirmative action plans) shall comply with its affirmative action obligations under Executive Order 11246 by complying with its obligations under the Plan: *Provided,* That each contractor or subcontractor participating in an approved Plan is individually required to comply with the equal opportunity clause set forth in 41 CFR 60-1.4; to make a good faith effort to achieve the goals for each trade participating in the Plan in which it has employees; and that the overall good performance by other contractors or subcontractors toward a goal in an approved Plan does not excuse any covered contractor's or subcontractor's failure to take good faith efforts to achieve the Plan's goals and timetables. If a contractor is not participating in an approved Hometown Plan it shall comply with the Specifications set forth in § 60-4.3 of this part and with the goals and timetables for the appropriate area as listed in the Notice required by 41 CFR 60-4.2 with regard to that trade. For the purposes of this part 60-4, a contractor is not participating in a Hometown Plan for a particular trade if it:

(1) Ceases to be signatory to a Hometown Plan covering that trade;

(2) Is signatory to a Hometown Plan for that trade but is not party to a collective bargaining agreement for that trade;

(3) Is signatory to a Hometown Plan for that trade but is party to a collective bargaining agreement with labor organizations which are not or cease to be signatories to the same Hometown Plan for that trade;

(4) Is signatory to a Hometown Plan for that trade and is party to a collective bargaining agreement with a labor organization for that trade but the two have not jointly executed a specific commitment to minority and female goals and timetables and incorporated the commitment in the Hometown Plan for that trade;

(5) Is participating in a Hometown Plan for that Trade which is no longer acceptable to the Office of Federal Contract Compliance Programs;

(6) Is signatory to a Hometown Plan for that trade but is party to a collective bargaining agreement with a labor organization for that trade and the labor organization and the contractor have failed to make a good faith effort to comply with their obligations under the Hometown Plan for that trade.

(b) Contractors participating in Hometown Plans must be able to demonstrate their participation and document their compliance with the provisions of the Hometown Plan.

§ 60-4.6 Goals and timetables.

The Director, from time to time, shall issue goals and timetables for minority and female utilization which shall be based on appropriate workforce, demographic or other relevant data and which shall cover construction projects, or construction contracts performed in specific geographical areas. The goals shall be applicable to each construction trade in a covered contractor's or subcontractor's entire workforce which is working in the area covered by the goals and timetables, shall be published as notices the FEDERAL REGISTER, and shall be inserted by the contracting officers and applicants, as applicable, in the Notice required by 41 CFR 60-4.2.

§ 60-4.7 Effect on other regulations.

The regulations in this part are in addition to the regulations contained in this chapter which apply to construction contractors and subcontractors generally. See particularly, 41 CFR 60-1.4 (a), (b), (c), (d), and (e); 60-1.5; 60-1.7; 60-1.8; 60-1.26; 60-1.29; 60-1.30; 60-1.32; 60-1.41; 60-1.42; 60-1.43; and 41 CFR part 60-3; part 60-20; part 60-30; part 60-40; and part 60-50.

§ 60-4.8 Show cause notice.

If an investigation or compliance review reveals that a construction contractor or subcontractor has violated the Executive Order, any contract

clause, specifications or the regulations in this chapter and if administrative enforcement is contemplated, the Director shall issue to the contractor or subcontractor a notice to show cause which shall contain the items specified in (i)–(iv) of 41 CFR 60–2.2(c)(1). If the Contractor does not show good cause within 30 days, or in the alternative, fails to enter an acceptable conciliation agreement which includes where appropriate, make up goals and timetables, back pay, and seniority relief for affected class members, the compliance agency shall follow the procedure in 41 CFR 60–1.26(b): *Provided,* That where a conciliation agreement has been violated, no show cause notice is required prior to the initiation of enforcement proceedings.

§ 60–4.9 Incorporation by operation of the Order.

By operation of the Order, the equal opportunity clause contained in § 60–1.4, the Notice of Requirement for Affirmative Action to Ensure Equal Employment Opportunity (Executive Order 11246) contained in § 60–4.2, and the Standard Federal Equal Employment Opportunity Construction Contract Specifications (Executive Order 11246) contained in § 60–4.3 shall be deemed to be a part of every solicitation or of every contract and subcontract, as appropriate, required by the Order and the regulations in this chapter to include such clauses whether or not they are physically incorporated in such solicitation or contract and whether or not the contract is written.

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[4510-27]

DEPARTMENT OF LABOR

Office of Federal Contract Compliance Programs

WOMEN AND MINORITIES IN CONSTRUCTION

Goals and Timetables for Female and Minority Participation in the Construction Industry

Regulations (41 CFR 60-4.6) published by the Department of Labor in the FEDERAL REGISTER today require the Director of the Office of Federal Contract Compliance Programs (OFCCP) to issue goals and timetables for minority and female utilization for Federal and federally assisted construction contractors and subcontractors. The regulations require that the goals be based on workforce, demographic or other relevant data.

The regulations also require that the goals and timetables be published in the FEDERAL REGISTER in a notice of general information to the public but not for public comment. However, last August when the Department of Labor proposed a new Part 60-4 to 41 CFR Chapter 60, a notice proposing to establish goals and timetables for women in the construction industry was published for public comment because the OFCCP previously had not required goals for women in the construction industry under the Executive Order program, and because of the general interest in this subject (42 FR 41383). The comments have been reviewed and analyzed.

This notice is issued pursuant to 41 CFR 60-4.6 and establishes goals and timetables for women and minorities under Executive Order 11246, as amended (3 CFR Part 169 (1974)), in the construction industry. The goals for female utilization are expressed in terms of hours of training and employment as a proportion of the total number of hours to be worked by the contractor's aggregate work force, which includes all supervisory personnel, in each trade on all projects (both Federal and non-Federal).

GOALS FOR FEMALE UTILIZATION

A review of statistics relating to women in the construction industry shows an almost total exclusion of women from employment. Continued reliance by contractors on established hiring practices may reasonably be expected to result in a continuation of almost total female exclusion. Indeed, the female representation level in the construction industry is so low that the data packages prepared by the Bureau of the Census pursuant to contract with OFCCP are of little or no value as a source for computing goals for women on a Standard Metropolitan Statistical Area (SMSA) or local basis. To implement the affirmative action requirement of Executive Order 11246, as amended, and to achieve a program of equal employment opportunity for women, in the construction industry, goals and timetables are established in this Notice for female participation.

OFCCP has examined and considered a number of approaches for developing affirmative action goals for women. Methods, including the female workforce, different proportions of the female workforce, and female representation in apprenticeship positions were examined.

Thought also had been given to establishing a pilot program for the purpose of developing a data base on which female goals could be developed. Each of these methods, however, suffers from certain deficiencies such as a tendency toward initial goals either so high or so low that the result would be meaningless. This Notice considers the relevant characteristics of the construction industry as they relate to developing goals and timetables for women and the need to establish effective implementation of the Executive Order.

The goals for women in construction are established for a period of three years. The goals are 3.1 percent, 5 percent, and 6.9 percent for the first, second, and third year, respectively. These goals are developed using two sets of statistics. First, according to the 1970 census, ("Table 229 Selected Occupations by Major Industry of the Experienced Civilian Labor Force," Detailed Characteristics United States Summary, VS.PC(1)D1, U.S. Census—1970), the female workforce currently classified as craftsmen and kindred workers in the construction industry is 1.2 percent. By extrapolating from Census data (using the categories of craftsmen and kindred workers and operatives in the construction industry), the female participation rate is remarkably similar—1.3 percent. The category, operatives, includes workers who frequently are considered construction craftsmen (e.g. drywall installers and lathers, asbestos and insulation workers, and welders). In addition, according to the 1970 Census ("Table 224 Occupations of Experienced Civilian Labor Force by Race and Sex, and Weeks Worked in 1969 and Experienced Workers not in Labor Force by Sex," Detailed Characteristics United States Summary, Vol. PC(1)DL, U.S. Census, 1970), women constitute 5 percent of all craft and kindred workers. This occupation group includes apparel craftsmen and upholsterers, bakers, cabinetmakers, construction craftsmen, foremen, linemen and servicemen—telephone and power, locomotive engineers and firemen, mechanics and repairmen, metal craftsmen (except mechanics), printing craftsmen, stationary engineers and power station operators, and other craftsmen and kindred workers. This group consists of workers in occupations with working conditions similar to those found in the construction industry. These occupations require skills and abilities comparable to those required of employees working in the construction industry. These nonconstruction occupations are closely related to construction craft work, and demonstrate a comparatively higher female participation rate which also demonstrates a willingness on the part of women to undertake the types of work which include the occupation of construction craftsmen.

It is reasonable to expect therefore that within a two-year period the construction industry, by undertaking affirmative action, could achieve a 5 percent female participation goal. This same effort would raise the goal to 6.9 percent in the third year. The statistics on which these goals are based are national in scope. Such statistics are not available on an SMSA or county basis. Moreover, the female population is distributed evenly throughout the country.

The female goal is nation-wide, applies to all construction contractors and subcontractors who hold a Federal or federally assisted construction contract or subcontract in excess of $10,000, and the goal applies to such contractor's entire workforce. Also, under the regulation governing construction contractors under Executive Order 11246 published today in the FEDERAL REGISTER, Hometown Plans are required to submit goals for women to the Director for approval. No goals lower than those established herein will be approved. If the Hometown Plans do not submit female affirmative action goals within the specified period and receive approval, the Department's approval of the plan will be withdrawn automatically and the goals established herein shall be applicable in those Hometown areas.

These initial goals are intended to provide immediate equal employment opportunity for women in the construction industry.

In order to develop goals and timetables for women in construction on a more permanent basis, a working committee will be established to make recommendations to the Director, OFCCP, on the total involvement of women in the construction industry. The exact structure and composition of the committee has not been determined.

Contractors are advised, however, that where higher state, local or other jurisdictional goals for women are in effect, compliance with the goals, and timetables proposed herein would not relieve the contractor of its obligation to comply with the higher local goal. Similarly, this Notice does not affect or limit in any way the application of

requirements providing for the employment of local residents such as those contained in the Community Development Block Grant and the Public Work Employment Act grant programs.

GOALS FOR MINORITIES

The preamble to regulations establishing a new part 60-4 to 41 CFR chapter 60 published elsewhere in the FEDERAL REGISTER today, states that OFCCP contemplates proposing standards and goals for minorities within the very near future. Until that notice has been proposed and final action taken, construction contractors and subcontractors will continue to be subject to the goals and timetables for minority utilization on Federal and federally assisted construction existing now under Executive order 11246. Such goals are published in appendix B.

Now, therefore, based on the foregoing and 41 CFR part 60-4, each contracting agency, each applicant, and each contractor shall include the appropriate goal set forth in appendix A and appendix B in all invitations for bids or other solicitations for federally involved construction contracts in excess of $10,000. The goals in appendix A hereby are established on a nationwide basis as the standards for female utilization for all trades.

Appendix B established the goals for minority utilization which shall be applicable for the respective areas set forth in appendix B.

Appendix A and Appendix B shall be effective with respect to transactions for which the invitations for bids or other solicitations or amendments thereto are sent on or after May 8, 1978.

WELDON J. ROUGEAU,
Director, OFCCP.

MARCH 28, 1978.

APPENDIX A

The following goals and timetables for female utilization shall be included in all Federal and federally assisted construction contracts and subcontracts in excess of $10,000. The goals are applicable to the contractor's aggregate on-site construction workforce whether or not part of that workforce is performing work on a Federal or federally assisted construction contract or subcontract.

AREA COVERED

Goals for Women apply nationwide.

GOALS AND TIMETABLES

Timetable	*Goals (percent)*
From Apr. 1, 1978 until Mar. 31, 1979	3.1
From Apr. 1, 1979 until Mar. 31, 1980	5.1
From Apr. 1, 1980 until Mar. 31, 1981	6.9

APPENDIX B

Until further notice, the following goals and timetables for minority utilization shall be included in all Federal or federally-assisted construction contracts and subcontracts in excess of $10,000 to be performed in the respective covered areas. The goals are applicable to the contractor's aggregate on-site construction workforce whether or not part of that workforce is performing work on a Federal or federally-assisted construction contract or subcontract.

REGION [1]

BOSTON, MASS. AREA

Area covered—Arlington, Boston, Belmont, Brookline, Burlington, Cambridge, Canton, Chelsea, Dedham, Everett, Malden, Medford, Wakefield, Westwood, Winthrop, Winchester, Woburn, and the Islands of Boston Harbor, Mass.

GOALS AND TIMETABLES

Timetable	Trade	Goal (percent)
Until further notice.	Asbestos workers	10.8 to 10.12.
	Boilermakers	9.6 to 12.0.
	Bricklayers	8.0 to 10.0.
	Carpenters	11.6 to 14.5.
	Cement masons	25.5 to 27.5.
	Electricians	6.0 to 7.0.
	Elevator constructors.	9.5 to 11.4.
	Glaziers	8.8 to 11.0.
	Ironworkers	5.9 to 6.9.
	Lathers	6.9 to 8.9.
	Operating engineers.	14.1 to 15.0.
	Painters	9.1 to 11.1.
	Pipefitters	11.0 to 12.1.
	Plasterers	20.5 to 22.5.
	Plumbers	9.8 to 11.8.
	Roofers	8.4 to 10.5.
	Sheetmetal workers.	10.1 to 12.1.
	Sprinkler fitters	12.3 to 15.6.
	All other trades	10.3 to 12.3

[1] Region refers to the 10 regions in which the U.S. Department of Labor has offices. These Regions are headquartered in Boston, New York, Philadelphia, Atlanta, Chicago, Dallas, Kansas City, Denver, San Francisco, and Seattle, which are numbers I through X respectively.

STATE OF RHODE ISLAND AREA

Area Covered—Statewide.

GOALS AND TIMETABLES

Timetable	Trade	Goal (percent)
Until further notice.	All	5.0.

REGION II

BUFFALO, N.Y. AREA

Area Covered—Erie County and Buffalo, N.Y.

GOALS AND TIMETABLES

Timetable	Trade	Goal (percent)
Until further notice.	All	10.6 to 13.2.

CAMDEN, N.J. AREA

Area Covered: Camden, N.J., area of Camden, Salem, and Gloucester Counties.

GOALS AND TIMETABLES

Timetable	Trade	Goal (percent)
Until further notice.	Asbestos workers	11.6 to 14.5.
	Boilermakers	10.8 to 13.5.
	Bricklayers	17.8 to 20.0.
	Carpenters	11.2 to 13.0.
	Cement masons	12.0 to 15.0.
	Electricians	14.9 to 17.8.
	Elevator constructors.	10.8 to 13.5.
	Glaziers	16.0 to 20.0.
	Lathers	10.8 to 13.5.
	Operating Engineers.	10.0 to 12.5.
	Painters/ Decorators/ Paperhangers.	8.8 to 12.8.
	Plasterers	17.0 to 19.0.
	Plumbers/ Pipefitters/ Steamfitters.	8.4 to 10.5.
	Roofers	8.4 to 10.5.
	Sheetmetal Workers.	11.2 to 14.0.
	Sprinkler Fitters	10.8 to 13.5.
	Structural Metal Workers.	12.9 to 15.3.
	Wharf 7 Dock Builders.	10.8 to 13.5.

ELMIRA, N.Y. AREA

Area Covered: Chemung, Steuben, Schuyler, Tioga, and Yates Counties, N.Y.

GOALS AND TIMETABLES

Timetable	Trade	Goal (percent)
Until further notice.	All	4.0 to 5.0.

LONG ISLAND, N.Y. AREA

Area Covered: Nassau and Suffolk Counties, N.Y.

GOALS AND TIMETABLES

Timetable	Trade	Goal (percent)
Until further notice.	All	6.0 to 8.0.

WESTCHESTER, N.Y. AREA

Area covered—Westchester County, N.Y.

GOALS AND TIMETABLES

Timetable	Trade	Goal (percent)
Until further notice.	All	11 to 13.

REGION III

STATE OF DELAWARE AREA

Area covered—State of Delaware.

GOALS AND TIMETABLES

Timetable	Trade	Goal (percent)
Until further notice.	All	11 to 13.

PHILADELPHIA, PA., AREA

Area covered—Bucks, Chester, Delaware, Montgomery, and Philadelphia Counties, Pa.

GOALS AND TIMETABLES

Timetable	Trade	Goal (percent)
Until further notice.	Ironworkers	22 to 26.
	Plumbers and pipefitters.	20 to 24.
	Steamfitters	20 to 24.
	Sheetmetal workers.	19 to 23.
	Electrical workers	19 to 23
	Elevator construction workers.	19 to 23.

PITTSBURGH, PA., AREA

Area covered—Allegheny County, Pa.

GOALS AND TIMETABLES

Timetable	Trade	Goal (percent)
Until further notice.	Asbestos workers	24.3 to 27.8.
	Boilermakers	33.8 to 37.7.
	Bricklayers	11.9 to 13.0.
	Carpenters	11.8 to 12.9.
	Cement masons	16.3 to 18.1.
	Electricians	17.0 to 20.3.
	Glaziers	26.9 to 30.4.
	Ironworkers	25.5 to 29.9.
	Lathers	12.7 to 13.8.
	Operating engineers.	44.2 to 48.3.
	Painters	16.4 to 17.9.
	Plasterers	34.3 to 38.0.
	Plumbers	7.8 to 9.2.
	Roofers	47.1 to 50.1.
	Sheetmetal workers.	26.0 to 26.9.
	Steamfitters	10.1 to 12.9.
	Tile setters	13.6 to 16.0.
	All other	27.6 to 31.5.

WASHINGTON, D.C. AREA

Area Covered.—District of Columbia; the Virginia cities of Alexandria, Fairfax, and Falls Church; the Virginia counties of Arlington, Fairfax, Loudoun, and Prince William; and the Maryland counties of Montgomery and Prince Georges.

GOALS AND TIMETABLES

Timetables	Trade	Goal (percent)
Until further notice.	Electricians	28.0 to 34.0.
	Painters and paperhangers.	35.0 to 42.0.
	Plumbers, pipefitters and steamfitters.	25.0 to 30.0.
	Iron workers	35.0 to 43.0.
Until further notice.	Sheetmetal workers.	25.0 to 31.0.
	Elevator constructors.	34.0 to 40.0.
	Asbestos workers	26.0 to 32.0.
	Lathers	34.0 to 40.0.

GOALS AND TIMETABLES—Continued

Timetables	Trade	Goal (percent)
	Boilermakers	24.0 to 30.0.
	Tile and terrazzo workers.	28.0 to 34.0.
	Glaziers	28.0 to 34.0.

REGION IV

ATLANTA, GEORGIA AREA

Area Covered.—Atlanta, Ga., Standard Metropolitan Statistical Area which includes Fulton, DeKalb, Cobb, Clayton and Gwinnett Counties.

GOALS AND TIMETABLES

Timetable	Trade	Goal (percent)
Until further notice.	Asbestos workers	8.6 to 10.3.
	Bricklayers	16.3 to 18.2.
	Carpenters	11.0 to 12.8.
	Electricians	10.9 to 12.2.
	Glaziers	10.2 to 12.2.
	Ironworkers	14.0 to 16.0.
	Metal Lathers	10.0 to 12.0.
	Painters	10.3 to 12.0.
	Plumbers	9.4 to 10.9.
	Pipefitters	9.4 to 10.9.
	Plasters	24.4 to 25.8.
	Roofers	18.0 to 20.0.
	Sheetmetal	9.5 to 11.3.
	Sprinkler fitters	8.3 to 9.9.
	Operating engineers.	24.0 to 27.7.
	Elevator installers.	9.6 to 11.5.

BIRMINGHAM, ALA. AREA

Area covered—Jefferson, Shelby, and Walker Counties, Ala.

GOALS AND TIMETABLES

Timetable	Trade	Goal (percent)
Until further notice.	All	20 to 24.

CHARLOTTE, N.C. AREA

Area covered—Mecklenburg and Union Counties, N.C.

GOALS AND TIMETABLES

Timetable	Trade	Goal (percent)
Until further notice.	All	24 to 30.

JACKSONVILLE, FLA. AREA

Area covered—Drival County, Fla.

GOALS AND TIMETABLES

Timetable	Trade	Goal (percent)
Until further notice.	All	20 to 23.

LOUISVILLE, KY. AREA

Area covered—Adair, Barren, Bullitt, Carrol, Edmundson, Grayson, Green, Hardin, Hart, Henry, Jefferson, Larue, Meade, Nelson, Oldham, Shelby, Spencer, Taylor, Trimble, Warren, Washington Counties, Kentucky; and Clark, Floyd, and Harrison Counties, Ind.

GOALS AND TIMETABLES

Timetable	Trade	Goal (percent)
Until further notice.	All	12.0 to 16.0.

MIAMI, FLA., AREA

Area covered—Dade County, Fla.

GOALS AND TIMETABLES

Timetable	Trade	Goal (percent)
Until further notice.	All	20.0 to 40.0.

NASHVILLE, TENN., AREA

Area covered—City of Nashville, Tenn.

GOALS AND TIMETABLES

Timetable	Trade	Goal (percent)
Until further notice.	All	16.0 to 20.0.

REGION V

AKRON, OHIO, AREA

Area covered—Summit, Portage and Medina Counties, Ohio.

GOALS AND TIMETABLES

Timetable	Trade	Goal (percent)
Until further notice.	All	10.0 to 12.5.

CANTON, OHIO, AREA

Area covered—Carroll, Holmes, Stark, Tuscarawas, and Wayne Counties, Ohio.

GOALS AND TIMETABLES

Timetable	Trade	Goal (percent)
Until further notice.	All	7.0 to 8.4.

CHICAGO, ILL., AREA

Area covered—Cook, DuPage, Kane, Lake, McHenry, and Will Counties.

GOALS AND TIMETABLES

Timetable	Trade	Goal (percent)
Until further notice.	Asbestos workers..	08.6 to 10.3
	Bricklayers	16.3 to 8.2.
	Carpenters	11.0 to 12.8.
	Electricians	10.9 to 12.2.
	Elevator installers.	09.6 to 11.5.
	Glaziers	10.2 to 12.2.
	Ironworkers	14.0 to 16.0.
	Metal lathers	10.0 to 12.0.
	Painters	10.3 to 12.1.
	Plumbers	09.4 to 10.9.
	Pipe fitters	09.4 to 10.9.
	Plasterers	24.4 to 25.8.
	Roofers	18.0 to 20.0.
	Sheetmetal workers.	09.5 to 11.3.
	Sprinkler fitters	08.3 to 09.9.
	Operating engineers.	15.7 and above.

CINCINNATI, OHIO, AREA

Area covered—Ohio counties of Clermont, Hamilton, and Warren and in the Kentucky counties of Boone, Campbell, and Kenton, and in the Indiana county of Dearborn.

GOALS AND TIMETABLES

Timetable	Trade	Goals (percent)
Until further notice.	Asbestos workers..	09.3 to 12.2.
	Boilermakers	08.0 to 08.4.
	Carpenters	09.0 to 10.7.
	Elevator constructors.	10.2 to 12.7.
	Engineers (stationary).	26.9 to 28.4.
	Floor layers	09.0 to 10.5.
	Glaziers	09.1 to 11.1.
	Lathers	09.3 to 10.6.
	Marble, tile and terrazzo workers and helpers.	08.3 to 09.9.
	Millwrights	09.1 to 10.3.
	Painters	11.0 to 13.5.
	Pipefitters	10.0 to 12.0.
	Plasterers	08.7 to 09.6.
	Plumbers	10.0 to 12.7.
	Sheetmetal workers.	10.1 to 11.3.
	All other	11.0 to 11.8.

CLEVELAND, OHIO, AREA

Area covered—Ashland, Ashtabula, Crawford, Cuyahoga, Erie, Geauga, Huron, Lake, Lorain, Sandusky, and Seneca Counties, Ohio.

GOALS AND TIMETABLES

Timetable	Trade	Goal (percent)
Until further notice.	Art glass workers.	25.4 to 28.6.
	Asbestos workers..	20.9 to 23.9.
	Boilermakers	16.3 to 18.9.
	Bricklayers	28.8 to 29.5.
	Carpenters	08.0 to 08.6.
	Cement masons	41.1 to 42.2.
	Electricians	15.1 to 18.1.
	Elevator constructors.	28.9 to 32.5.
	Glaziers	35.8 to 40.0.
	Ironworkers	11.4 to 13.2.
	Painters	17.7 to 18.4.
	Pipefitters	15.7 to 17.9.
	Plasterers	21.6 to 23.2.
	Plumbers	20.8 to 23.4.
	Roofers	28.9 to 31.8.

GOALS AND TIMETABLES—Continued

Timetable	Trade	Goal (percent)
	All other	17.0 to 18.8.

DAYTON, OHIO, AREA

Area covered.—Greene, Miami, Montgomery, and Preble Counties, Ohio.

GOALS AND TIMETABLES

Timetable	Trade	Goal (percent)
Until further notice.	All	10.6 to 11.8.

DETROIT, MICH., AREA

Area covered.—Wayne, Oakland, and Macomb Counties, Mich.

GOALS AND TIMETABLES

Timetable	Trade	Goal (percent)
Until further notice.	Electricians	17.0 to 19.0.
	Operating engineers.	16.9 to 18.0.
	Lathers	18.6 to 19.6.
	Painters	15.0 to 17.7.
	Riggers	16.8 to 17.7.
	Roofers	15.3 to 16.6.
	Tile, terrazzo marble workers.	15.0 to 17.8.
	Tile and marble helpers.	16.0 to 18.5.
	Terrazzo helpers	17.8 to 19.5
	All other	18.6 to 20.4.

EVANSVILLE, IND., AREA

Area covered.—Vanderburgh County, Ind.

GOALS AND TIMETABLES

Timetable	Trade	Goal (percent)
Until further notice.	All	6.3 to 7.6.

FORT WAYNE, IND., AREA

Area covered.—Adams, Allen, DeKalb, Huntington, LaGrange, Noble, Steuben, Wells, and Whitley Counties, Ind.

GOALS AND TIMETABLES

Timetable	Trade	Goal (percent)
Until further notice.	Plumbers	05.2 to 05.5.
	Steamfitters	05.2 to 05.5.
	Carpenters	05.7 to 05.2.
	Bricklayers	09.3 to 10.4.
	Electricians	05.2 to 05.9.
	Sheetmetal	04.4 to 05.2.
	Ironworkers	07.3 to 08.4.
	Operating engineers.	05.2 to 06.0.
	Painters	11.0 to 12.0.
	All other	07.1 to 08.0.

INDIANAPOLIS, IND., AREA

Area covered. Marion County, Ind.

GOALS AND TIMETABLES

Timetable	Trade	Goal (percent)
Until further notice.	Asbestos workers..	32.2 to 37.7.
	Bricklayers	17.4 to 19.5.
	Electricians	06.6 to 07.8.
	Elevator constructors.	15.5 to 18.0.
	Glaziers	25.2 to 28.6.
	Ironworkers	11.6 to 14.0.
	Lathers	21.1 to 22.0.
	Operating engineers.	07.7 to 08.8.
	Painters	22.4 to 25.0.
	Plasterers	27.5 to 30.4.
	Plumbers	26.5 to 30.0.
	Roofers	15.9 to 18.1.
	Sheetmetal workers.	09.3 to 10.9.
	Steamfitters	14.9 to 17.1.
	All other	14.1 to 16.2.

PEORIA, ILL., AREA

Area covered.—Peoria, Fulton, Tazewell, Woodford, Knox, Stark, Marshall, Hancock, Mason, McLean, McDonough, Henderson, Warren, Livingston, Bureau, Henry, and Putnam Counties, Ill.

GOALS AND TIMETABLES

Timetable	Trade	Goal (percent)
Until further notice.	All	5.0 to 6.0.

ROCKFORD, ILL., AREA

Area covered.—Boone, Winnebago, Stephenson, De Kalb, Ogle, Lee, and Jo Daviess Counties; Cherry Grove, Shannon, Rock Creek, Lima, Wysox, and Elkhorn Townships in Carroll County; Genesee, Jordan, Hopkins, Sterling, Hume, Montmorency, Tampico, and Hahnaman Townships in Whiteside County, Ill.

GOALS AND TIMETABLES

Timetable	Trade	Goal (percent)
Until further notice.	All	10.0 to 12.0.

SOUTH BEND, IND., AREA

Area Covered.—St. Joseph, County, Ind.

GOALS AND TIMETABLES

Timetable	Trade	Goal (percent)
Until further notice.	All	8.0 to 10.0.

TOLEDO, OHIO, AREA

Area covered.—Defiance, Fulton, Hancock, Henry, Lusas, Ottawa, Williams, and Wood Couties, Ohio.

GOALS AND TIMETABLES

Timetable	Trade	Goal (percent)
Until further notice.	All	10.7 to 12.3.

YOUNGSTOWN, OHIO, AREA

Area Covered.—Columbiana, Mahoning, and Trumbull Counties, Ohio; and Lawrence and Mercer Counties, Pa.

GOALS AND TIMETABLES

Timetable	Trade	Goal (percent)
Until further notice.	All	6.0 to 7.1

REGION VI

EL PASO, TEX., AREA

Area covered—El Paso County, Tex.

GOALS AND TIMETABLES

Timetable	Trade	Goal (percent)
Until further notice.	All	55.1 to 66.2.

LAWTON, OKLA., AREA

Area covered—Commanche County, Okla.

GOALS AND TIMETABLES

Timetable	Trade	Goal (percent)
Until further notice.	All	15.8 to 16.8.

LITTLE ROCK, ARK., AREA

Area covered—Pulaski County, Ark.

GOALS AND TIMETABLES:

Timetable	Trade	Goal (percent)
Until further notice.	All	25.6 to 30.6

NEW ORLEANS, LA.

Area covered—Parishes of Orleans, Jefferson, St. Bernard, St. Tammany, St. Charles, St. John, Lafourche, Plaquemines, Washington, Terrebonne, Tangipahoa,[1] Livingston,[2] and St. James.[3]

[1]Area covered is east of the Illinois Central RR.

[2]Area covered is southeast of the line from a point off the Livingston and Tangipahoa Parish line adjacent from New Orleans and Baton Rouge.

[3]Area covered is southeast of a line drawn from the town of Gramercy to the point of intersection of St. James, Lafourche, and Assumption Parishes.

GOALS AND TIMETABLES

Timetable	Trade	Goal (percent)
Until further notice.	All	20 to 23.

TULSA, OKLA.

Area covered—Tulsa, Creek, Mayes, Rogers, Okfuskee, Washington, Nowata, Craig, Ottawa, Delaware, Okmulgee (northern half), dividing line Highway 16; Osage (eastern half), dividing line Highway 18; Pawnee (eastern half), and Payne (eastern half) Counties, Okla.

GOALS AND TIMETABLES

Timetable	Trade	Goal (percent)
Until further notice.	Bricklayers	24.0 to 25.0.
	Carpenters	17.0 to 18.0.
	Cement masons	21.5 to 22.5.
	Floor covers	12.0 to 14.0.
	Glaziers, glass workers.	14.7 to 17.3.
	Operating engineers.	22.0 to 24.0.
	Painters	18.0 to 20.0.
	Pipefitters	10.0 to 12.0.
	Plumbers	11.6 to 13.2.
	Roofers	12.0 to 14.0.
	Sheetmetal workers.	08.0 to 10.0.
	All other trades	12.0 to 14.4.

REGION VII

KANSAS CITY (KANS.) AND (MO.)

Area covered—Clay, Platte, Jackson, Bates, Carroll, Lafayette, Ray, Johnson, Henry, and Cass Counties, Mo., and Wyandotte, Johnson, and Miami Counties, Kans.

GOALS AND TIMETABLES

Timetable	Trade	Goal (percent)
Until further notice.	Asbestos workers	10.3 to 11.7.
	Boilermakers	05.9 to 06.4.
	Bricklayers	19.4 to 20.7.
	Carpenters	05.9 to 06.9.
	Carpet, linoleum and resilient floor decorators.	05.5 to 06.4.
	Cement masons	25.5 to 26.5.
	Elevator constructors.	09.2 to 10.7.
	Electricians	08.0 to 09.4.
	Glaziers	09.8 to 10.5.
	Lathers	14.5 to 15.6.
	Marble masons, tile layers and terrazzo workers.	07.5 to 09.0.
	Marble and tile helpers.	04.8 to 05.6.
	Operating engineers.	09.0 to 10.9.
	Painters	14.3 to 15.0.
	Pipefitters	06.9 to 07.7.
	Plasterers	19.0 to 20.4.
	Plumbers	08.3 to 09.3.
	Roofers	14.0 to 15.0.
	Sheetmetal workers.	07.0 to 08.0.
	Teamsters	25.0 to 26.0.
	All other trades	11.4 to 12.5.

OMAHA, NEBR.

Area covered—Sharpy and Douglas Counties, Nebr., Council Bluffs, Iowa (city limits only).

GOALS AND TIMETABLES

Timetable	Trade	Goal (percent)
Until further notice.	All	9.0 to 10.0

ST. LOUIS, MO.

Area covered.—City of St. Louis, Mo., and St. Louis County, Mo.

GOALS AND TIMETABLES

Timetable	Trade	Goal (percent)
Until further notice.	Asbestos workers	05.2 to 05.7.
	Boilermakers	34.0 to 37.7.
	Bricklayers	12.6 to 14.2.
	Carpenters	08.2 to 08.9.
	Cement and concrete finishers.	13.3 to 16.6.
	Electricians	13.6 to 16.1.
	Elevator constructors.	08.7 to 09.3.
	Glaziers	28.7 to 34.5.
	Ironworkers	09.0 to 10.4.
	Lathers and plasterers.	24.2 to 29.7.
	Operating engineers.	13.2 to 15.7.
	Painters and paperhangers.	25.1 to 29.3.
	Plumbers and pipefitters.	13.2 to 15.4.
	Roofers and slaters.	17.1 to 19.6.
	Sheetmetal workers.	22.5 to 27.0.
	Tilesetters and terrazzo workers.	08.8 to 10.4.

TOPEKA, KANS.

Area covered.—Shawnee County, Kans.

GOALS AND TIMETABLES

Timetable	Trade	Goal (percent)
Until further notice.	All	08.8 to 10.5.

REGION VIII

COLORADO

Area covered—State of Colorado.

GOALS AND TIMETABLES

Timetable	Trade	Goal (percent)
Until further notice.	All	13 to 14.

REGION IX

ALAMAEDA COUNTY, CALIF., AREA

Area covered.—Alameda County, Calif.

GOALS AND TIMETABLES

Timetable	Trade	Goal (percent)
Until further notice.	All	28.5 to 33.0.

ARIZONA

Area covered—State of Arizona.

GOALS AND TIMETABLES

Timetable	Trade	Goal (percent)
Until further notice.	All	25.0–30.0

CONTRA COSTA COUNTY, CALIF.

Area covered: Contra Costa County, Calif.

GOALS AND TIMETABLES

Timetable	Trade	Goal (percent)
Until further notice.	All	17.0 to 19.5.

FRESNO COUNTY, CALIF.

Area covered.—Fresno, Madera, Kings, and Tulare Counties, Calif.

GOALS AND TIMETABLES

Timetable	Trade	Goal (percent)
Until further notice.	All	20.0 to 27.0.

LAS VEGAS, NEV.

Area covered.—Area of jurisdiction of the Building & Construction Trades Council of Clark, Lincoln, Nye and Esmeralda Counties, Nev.

GOALS AND TIMETABLES

Timetable	Trade	Goal (percent)
Until further notice.	Asbestos workers	17.7 to 20.2.
	Bricklayers	18.8 to 21.3.
	Carpenters	16.2 to 17.5.
	Glaziers, floorcoverers, painters, tapers and wallcoverers.	16.3 to 17.7.
	Plasterers	24.6 to 27.2.
	Plumbers and pipefitters.	15.2 to 16.2.
	Sheet metal workers.	16.2 to 17.7.
	Wood, wire and metal lathers.	18.1 to 19.3.
	All other trades	18.0 to 19.5.

LOS ANGELES COUNTY, CALIF.

Area covered.—Area of jurisdiction of the Los Angeles Building & Construction Trades Council.

GOALS AND TIMETABLES

Timetable	Trade	Goal (percent)
Until further notice.	All	21.7 to 25.1

MONTEREY, CALIF.

Area covered.—Monterey County, Calif., and within the jurisdiction of the Monterey County Building & Construction Trades Council, AFL–CIO.

GOALS AND TIMETABLES

Timetable	Trade	Goal (percent)
Until further notice.	All	27.0 to 29.8.

NORTH BAY, CALIF.

Area covered—Solano, Napa, Lake, Marin, Mendocino, and Sonoma Counties.

GOALS AND TIMETABLES

Timetable	Trade	Goal (percent)
Until further notice.	All	10.5 to 12.6.

SACRAMENTO, CALIF.

Area covered—Sacramento, Yolo, Amador, Placer, El Dorado, Nevada, and Sierra Counties, Calif.

GOALS AND TIMETABLES

Timetable	Trade	Goal (percent)
Until further notice.	All	17.5 to 20.0.

SAN DIEGO COUNTY, CALIF.

Area covered—San Diego County, Calif.

GOALS AND TIMETABLES

Timetable	Trade	Goal (percent)
Until further notice.	All	24.0 to 30.0.

SAN FRANCISCO CITY AND COUNTY, CALIF.

Area covered—City and County of San Francisco, Calif.

GOALS AND TIMETABLES

Timetable	Trade	Goal (percent)
Until further notice.	Electricians	17.0.
	Plumbers, pipefitters and steamfitters.	14.0.
	Structural metal workers.	20.0.
	Sheet metal workers.	19.0

GOALS AND TIMETABLES—Continued

Timetable	Trade	Goal (percent)
	Asbestos Workers	40.0.

SAN MATEO COUNTY, CALIF.

Area covered—San Mateo County, Calif.

GOALS AND TIMETABLES

Timetable	Trade	Goal (percent)
Until further notice.	All	12.0 to 14.0.

SANTA CLARA COUNTY, CALIF.

Area covered—Santa Clara County, Calif.

GOALS AND TIMETABLES

Timetable	Trade	Goal (percent)
Until further notice.	All	18.0 to 21.7.

SANTA CRUZ COUNTY, CALIF.

Area Covered—Santa Cruz County, Calif.

GOALS AND TIMETABLES

Timetable	Trade	Goal (percent)
Until further notice.	All	17.0 to 20.4.

REGION X

ALASKA

Area covered—State of Alaska.

GOALS AND TIMETABLES

Timetable	Trade	Goal (percent)
Until further notice.	Asbestos workers	26.4 to 28.0.
	Carpenters	25.7 to 28.0.
	Electricians	25.7 to 28.0.
	Ironworkers	25.7 to 28.0.
	Operating engineers.	26.1 to 28.0.
	Painters	25.8 to 28.0.
	Pile drivers	25.1 to 28.0.
	Plumbers and steamfitters.	25.4 to 28.0.
	Roofers	27.6 to 28.0.
	Sheetmetal workers.	25.6 to 28.0.
	Teamsters	25.6 to 28.0.
	All other	26.1 to 28.1.

PASCO, WASH.

Area covered—The area of jurisdiction of the Southeastern Washington Building & Construction Trades Council as follows: all of Benton, Franklin, and Walla Walla Counties, Grant County to Highway 2 and the southwest corner of Adams County, Wash.

GOALS AND TIMETABLES

Timetable	Trade	Goal (percent)
Until further notice.	Boilermakers	12.5 to 15.0.
	Bricklayers	11.0 to 13.5.
	Carpenters	09.8 to 12.3.
	Cement finishers	11.5 to 14.0.
	Electricians	10.0 to 12.5.
	Ironworkers	10.0 to 12.5.
	Operating engineers.	10.2 to 12.7.
	Painters	10.0 to 12.5.
	Plumbers and fitters.	09.9 to 12.4.
	Sheetmetal workers.	10.8 to 13.3.
	Laborers	09.5 to 12.0.
	All other	10.0 to 12.5.

PORTLAND, OREG.

Area covered—Multnomah, Clackamas, and Washington Counties, Oreg.

GOALS AND TIMETABLES

Timetable	Trade	Goal (percent)
Until further notice.	All	5.5 to 6.5.

SEATTLE, WASH.

Area covered—King County, Wash.

GOALS AND TIMETABLES

Timetable	Trade	Goal (percent)
Until further notice.	All	8.8 to 11.5.

SPOKANE, WASH.

Area covered—Washington Counties: Spokane, Whitman, Lincoln, Adams, Stevens, Pend Oreille, Columbia, Garfield, Asotin, Ferry, Okanogan, Chelan, Douglas and Grant (north of Highway 2), and in connection with Indian employment, parts of any other counties included in reservations incorporating portions of the above area; Idaho: Boundary, Bonner, Kootenai, Shoshone, Benewah, Latah, Clearwater, Nez Perce, Lewis, and Idaho, and in connection with Indian employment, any other territory included in reservations, part of which are in the above counties.

GOALS AND TIMETABLES

Timetable	Trade	Goal (percent)
Until further notice.	All	2.0 and above.

TACOMA, WASH.

Area covered—Pierce, Thurston, Mason, Lewis, Grays Harbor, and Pacific Counties, Wash.

GOALS AND TIMETABLES

Timetable	Trade	Goal (percent)
Until further notice.	All	12.2 to 15.0.

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federal register

FRIDAY, APRIL 7, 1978
PART V

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service

■

CUMULATIVE LIST OF QUALIFIED HEALTH MAINTENANCE ORGANIZATIONS

[4110-85]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service

CUMULATIVE LIST OF QUALIFIED HEALTH MAINTENANCE ORGANIZATIONS

Regulations issued under title XIII of the Public Health Service Act, "Health Maintenance Organizations" (42 CFR 110.605(b)), require annual publication of a cumulative list of all qualified health maintenance organizations. Notice is hereby given that, through December 31, 1977, the following entities have been determined to be qualified health maintenance organizations under section 1310(d) of the Public Health Service Act (42 U.S.C. 300e-9(d)).

In order to provide the public with comprehensive information about qualified health maintenance organizations, the following is presented alphabetically in three formats: (A) A listing by organizational model; (B) A listing by States in which the health maintenance organizations do business. (Note that some health maintenance organizations do business in more than one State); (C) A listing by name, address, service area, and date of qualification.

Additional information with respect to qualified HMOs is available for public inspection between the hours of 8:30 a.m. and 5 p.m., Monday through Friday at the Office of Health Maintenance Organizations, Division of Health Maintenance Organizations Qualification and Compliance, Assistant Secretary for Health, Department of Health, Education, and Welfare, Parklawn Building, Room 16A-08, 5600 Fishers Lane, Rockville, Md. 20857.

A. Listing by Organizational Model

STAFF/MEDICAL GROUP MODEL

STAFF

Anchor Organization for Health Maintenance.
California Medical Group Health Plan, Inc.
Capital Area Community Health Plan, Inc.
Central Essex Health Plan.
Community Group Health Plan, Inc.
Connecticut Health Plan, Inc.
Family Health Program, Inc.
Florida Health Care Plan, Inc.
Georgetown University Community Health Plan, Inc.
Group Health Association, Inc.
Group Health Cooperative of So. Central Wisconsin.
Group Health Plan of New Jersey, Inc.
Group Health Plan of Southeast Michigan.
Harvard Community Health Plan.
Health Care of Louisville, Inc.
Health Central, Inc.
Manhattan Health Plan, Inc.
Metropolitan Health Council of Indianapolis, Inc.
Piedmont Health Care Corporation.
Rhode Island Group Health Association, Inc.
Rutgers Community Health Plan.
SHARE.
Sound Health Association.
Westchester Community Health Plan.

MEDICAL GROUP

American Health Plan, Inc.
Community Health Care Center Plan, Inc.
Cooperative Health Plan of Greater Spokane.
Gem Health Association, Inc.
Genesee Valley Group Health Association.
Health Alliance of Northern California, Inc.
Health Service Plan of Pennsylvania.
Kaiser Foundation Health Plan, Inc. (Northern California), (Southern California), (Hawaii Region).
Kaiser Foundation Health Plan of Oregon.
Kaiser Community Health Foundation.
Kaiser Foundation Health Plan of Colorado.
North Communities Health Plan, Inc.
Penn Group Health Plan, Inc.
Prudential Health Care Plan, Inc.

INDIVIDUAL PRACTICE ASSOCIATION MODEL

AV-MED, Inc.
Choice Care Health Services, Inc.
Colorado Health Care Services, Inc.
Family Health Services, Inc.
Foundation Health Plan.
Health Care Plan of New Jersey, Inc.
The Health Maintenance Organization of Pennsylvania.
HMO Illinois, Inc.
Intergroup Prepaid Health Services, Inc.
Marion Health Foundation, Inc.
Maxi-Care.
Portland Metro Health, Inc.
Rocky Mountain Health Maintenance Organization, Inc.

B. Listing by States

ALABAMA

None.

ALASKA

None.

ARIZONA

None.

ARKANSAS

None.

CALIFORNIA

California Medical Group Health Plan, Inc.
Family Health Program, Inc.
Family Health Services, Inc.
Foundation Health Plan.
Health Alliance of Northern California.
Kaiser Foundation Health Plan, Inc.
Maxi-Care.

COLORADO

ChoiceCare Health Services, Inc.
Colorado Health Care Services.
Kaiser Foundation Health Plan of Colorado, Inc.
Rocky Mountain Health Maintenance Organization, Inc.

CONNECTICUT

Comunity Health Care Center Plan, Inc.
Connecticut Health Plan, Inc.

DISTRICT OF COLUMBIA

Georgetown University Community Health Plan, Inc.
Group Health Association, Inc.

DELAWARE

None.

FLORIDA

American Health Plan, Inc.
AV-MED Inc.
Florida Health Care Plan, Inc.

GEORGIA

None.

HAWAII

Kaiser Foundation Health Plan, Inc.

IDAHO

Gem Health Association, Inc.

ILLINOIS

Anchor Organization for Health Maintenance.
HMO Illinois, Inc.
Intergroup Prepaid Health Services.
North Communities Health Plan.

INDIANA

Metropolitan Health Council of Indianapolis, Inc.
Health Care of Louisville.[1]
Intergroup Prepaid Health Services.[1]

IOWA

None.

KANSAS

Community Group Health Plan.[1]

KENTUCKY

HealthCare of Louisville.

LOUISIANA

None.

MAINE

None.

MARYLAND

Georgetown University Community Health Plan.[1]
Group Health Association.[1]

MASSACHUSETTS

Harvard Community Health Plan.
Rhode Island Group Health Association.[1]

MICHIGAN

Group Health Plan of Southeast Michigan.
Health Central, Inc.

MINNESOTA

SHARE.

MISSISSIPPI

None.

MISSOURI

Community Group Health Plan.

MONTANA

None.

NEBRASKA

None.

NEVADA

None.

[1]Indicates a service area, but not the primary location for the HMO.

NEW HAMPSHIRE

None.

NEW JERSEY

Central Essex Health Plan.
Group Health Plan of New Jersey, Inc.
Health Care Plan of New Jersey, Inc.
Rutgers Community Health Plan.

NEW MEXICO

None.

NEW YORK

Capital Area Community Health Plan, Inc.
Genesee Valley Group Health Association.
Manhattan Health Plan, Inc.
Westchester Community Health Plan.

NORTH CAROLINA

None.

NORTH DAKOTA

None.

OHIO

Kaiser Community Health Foundation.
Marion Health Foundation, Inc.

OKLAHOMA

None.

OREGON

Kaiser Foundation Health Plan of Oregon.
Portland Metro Health, Inc.

PENNSYLVANIA

The Health Maintenance Organization of Pennsylvania.
Health Service Plan of Pennsylvania.
Penn Group Health Plan, Inc.

RHODE ISLAND

Rhode Island Group Health Association, Inc.

SOUTH CAROLINA

Piedmont Health Care Corporation.

SOUTH DAKOTA

None.

TENNESSEE

None.

TEXAS

Prudential Health Care Plan, Inc.

UTAH

Family Health Program, Inc.[2]

VERMONT

None.

VIRGINIA

Georgetown University Community Health Plan.[1]
Group Health Associations.[1]

WASHINGTON

Cooperative Health Plan of Greater Spokane.
Sound Health Association.
Kaiser Foundation Health Plan of Oregon.
Portland Metro Health, Inc.

[1]Indicates a service area, but not the primary location for the HMO.
[2]Regional component of HMO.

WEST VIRGINIA

None.

WISCONSIN

Group Health Cooperative of South Central Wisconsin.

WYOMING

None.

GUAM

Family Health Program, Inc.[2]

PUERTO RICO

None

VIRGIN ISLANDS

None.

C. Listing by name, address, service area, and date of qualification

1. American Health Plan, Inc., 1701 Northeast 164th Street, North Miami Beach, Fla. 33162. Service area: Dade and Broward Counties in the State of Florida. Date of qualification: Transitionally qualified—July 29, 1977.

* * * * *

2. Anchor Organization for Health Maintenance, 1725 West Harrison Street, Chicago, Ill. 60612. Service area: The following zip codes in the city of Chicago and suburban areas:

City of Chicago

60601, 60602, 60603, 60604, 60605, 60606, 60607, 60608, 60609, 60610, 60611, 60612, 60613, 60614, 60615, 60616, 60618, 60621, 60622, 60623, 60624, 60625, 60626, 60629, 60630, 60631, 60632, 60634, 60635, 60636, 60637, 60638, 60639, 60640, 60641, 60644, 60645, 60646, 60647, 60648, 60650, 60651, 60653, 60654, 60656, 60657, 60659, 60660, 60666, 60670, 60671, 60675, 60684, 60685, 60693.

Suburban Areas

60004, 60005, 60006, 60007, 60008, 60010, 60015, 60016, 60017, 60018, 60023, 60025, 60026, 60029, 60035, 60043, 60047, 60053, 60056, 60060, 60062, 60067, 60068, 60069, 60076, 60090, 60091, 60093, 60101, 60103, 60104, 60106, 60108, 60130, 60131, 60143, 60153, 60160, 60162, 60163, 60164, 60165, 60171, 60172, 60176, 60191, 60201, 60202, 60203, 60204, 60301, 60302, 60303, 60304, 60305, 60401, 60402, 60406, 60409, 60411, 60417, 60419, 60422, 60423, 60425, 60426, 60429, 60430, 60438, 60443, 60445, 60448, 60449, 60452, 60459, 60461, 60462, 60466, 60468, 60469, 60471, 60472, 60473, 60475, 60476, 60477, 60513, 60525, 60534, 60558.

Date of qualification: Transitionally qualified—December 20, 1977.

* * * * *

3. AV-MED, Inc., 9300 South Dadeland Boulevard, Miami, Fla. 33156. Service area: Dade County, Fla. Date of qualification: Operationally qualified—October 7, 1977. (Achieved preoperational qualification on September 9, 1977.)

* * * * *

4. California Medical Group Health Plan, Inc., 1880 Century Park East, Suite 1500, Los Angeles, Calif. 90067. Service area.—the zip codes included in the area are as follows:

Los Angeles County, Calif.

90001, 90002, 90003, 90004, 90005, 90006, 90007, 90008, 90010, 90011, 90012, 90013, 90014, 90015, 90016, 90017, 90018, 90019, 90020, 90021, 90022, 90024, 90025, 90026, 90027, 90028, 90029, 90031, 90032, 90033, 90034, 90035, 90036, 90037, 90038, 90039, 90040, 90041, 90042, 90043, 90044, 90045, 90046, 90047, 90048, 90049, 90056, 90057, 90058, 90059, 90061, 90062, 90063, 90064, 90065, 90066, 90067, 90068, 90069, 90071, 90201, 90210, 90211, 90212, 90220, 90221, 90222, 90230, 90240, 90241, 90242, 90245, 90247, 90248, 90249, 90250, 90254, 90255, 90260, 90262, 90265, 90266, 90270, 90272, 90274, 90277, 90278, 90280, 90290, 90291, 90301, 90302, 90303, 90304, 90305, 90401, 90402, 90403, 90404, 90405, 90501, 90502, 90503, 90504, 90505, 90506, 90601, 90602, 90603, 90604, 90605, 90606, 90638, 90640, 90650, 90660, 90670, 90701, 90706, 90710, 90712, 90713, 90715, 90716, 90717, 90723, 90731, 90732, 90744, 90745, 90746, 90747, 90801, 90802, 90803, 90804, 90805, 90806, 90807, 90808, 90810, 90812, 90813, 90814, 90815, 90840, 91001, 91006, 91010, 91011, 91016, 91020, 91024, 91030, 91040, 91042, 91046, 91101, 91103, 91104, 91105, 91106, 91107, 91108, 91201, 91301, 91302, 91303, 91304, 91306, 91307, 91310, 91311, 91316, 91321, 91324, 91331, 91335, 91340, 91342, 91343, 91344, 91350, 91351, 91352, 91355, 91364, 91401, 91402, 91403, 91405, 91406, 91411, 91423, 91436, 91501, 91502, 91504, 91505, 91506, 91601, 91602, 91604, 91605, 91606, 91607, 91608, 91702, 91706, 91711, 91722, 91723, 91724, 91731, 91732, 91733, 91738, 91740, 91744, 91745, 91746, 91750, 91754, 91765, 91766, 91767, 91768, 91770, 91773, 91775, 91776, 91780, 91789, 91790, 91791, 91792, 91801, 91803, 93510, 93532, 93534, 93543, 93544, 93550, 93553, 93563.

Orange County, Calif.

90620, 90621, 90623, 90630, 90631, 90720, 90740, 90742, 90743, 92621, 92624, 92625, 92626, 92627, 92629, 92630, 92631, 92632, 92633, 92640, 92641, 92643, 92644, 92643, 92646, 92647, 92648, 92649, 92650, 92651, 92653, 92655, 92660, 92661, 92662, 92664, 92665, 92666, 92667, 92668, 92669, 92670, 92672, 92675, 92676, 92677, 92678, 92680, 92683, 92686, 92687, 92701, 92703, 92704, 92705, 92706, 92707, 92708, 92709, 92801, 92802, 92804, 92805, 92806, 92807.

Riverside County, Calif.[3]

91720, 91752, 91760, 92330, 92370, 92388, 92501, 92503, 92504, 92505, 92506, 92507, 92508, 92509.

Santa Barbara County, Calif.

93013, 93017, 93067, 93101, 93103, 93105, 93108, 93109, 93110, 93111, 93427, 93441, 93460, 93463.

San Bernardino County, Calif.

91701, 91710, 91730, 91739, 91743, 91761, 91762, 91763, 91764, 91786, 92316, 92318, 92324, 92335, 92346, 92354, 92369, 92373, 92376, 92401, 92404, 92405, 92407, 92408, 92409, 92410, 92411.

San Diego County, Calif.

92001, 92002, 92007, 92008, 92010, 92011, 92014, 92017, 92020, 92021, 92024, 92025, 92027, 92032, 92035, 92037, 92040, 92041,

[2]Regional component of HMO.

[3]Zip codes included a 30 mile radius of the health center.

92045, 92050, 92064, 92065, 92067, 92079, 92071, 92073, 92075, 92077, 92078, 92101, 92102, 92103, 92104, 92105, 92106, 92107, 92108, 92109, 92110, 92111, 92113, 92114, 92115, 92116, 92117, 92118, 92119, 92120, 92121, 92122, 92123, 92124, 92125, 92126, 92127, 92128, 92129, 92131, 92133, 92135, 92137, 92139, 92140, 92145, 92154, 92155, 92162.

Ventura County, Calif.

91320, 91360, 91361, 91362, 93010, 93015, 93021, 93040, 93042, 93063, 93065.

Date of qualification: Transitionally qualified—July 19, 1977.

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5. Capital Area Community Health Plan, Inc., 1201 Troy Schenectady Road, Latham, N.Y. 12110. Service area as follows:

Albany County

Albany City, Berne Town, Bethlehem Town, Coeymans Town, Cohoes City, Colonie Town, Green Island Town, Guilderland Town, Knox Town, New Scotland Town, Rensselaerville Town, Watervliet City, Westerlo Town.

Rensselaer County

Brunswick Town, East Greenbush Town, Grafton Town, Nassau Town, North Greenbush Town, Pittstown Town, Poestenkill Town, Rensselaer City, Sand Lake Town, Schaghticoke Town, Schodack Town, Troy City.

Saratoga County

Ballston Town, Charlton Town, Clifton Park Town, Galway Town, Halfmoon Town, Malta Town, Mechanicville City, Milton Town, Saratoga Town, Saratoga Springs City, Stillwater Town, Waterford Town.

Schenectady County

Duanesburg Town, Glenville Town, Niskayuna Town, Princetown Town, Rotterdam Town, Schenectady City.

Date of qualification: Operationally qualified—January 1, 1977. (Achieved preoperational qualification on December 6, 1976.)

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6. Central Essex Health Plan, P.O. Box 371, Orange, N.J. 07051. Service area.—Essex County communities of: Belleville, Bloomfield, Caldwell, Cedar Grove, East Orange, Essex Fells Fairfield, Glen Ridge, Irvington, Livingston, Maplewood, Millburn, Montclair, North Caldwell, Nutley, Orange, Roseland, South Orange, Verona, West Caldwell, West Orange.

Date of qualification: Operationally qualified—January 1, 1977. (Achieved preoperational qualification on December 28, 1976.)

* * * * *

7. Choice Care Health Services, 2120 South College Avenue, Fort Collins, Colo. 80521. Service area: Larimer County, Colo. Date of qualification: Transitionally qualified—August 12, 1976.

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8. Colorado Health Care Services, Inc., 2040 South Oneida Street, Denver, Colo. 80206. Service area.—The following counties: Adams, Arapahoe, Boulder, Denver, Douglas, and Jefferson, all located in the State of Colorado. Date of qualification: Transitionally qualified—August 20, 1976.

* * * * *

9. Community Group Health Plan, Inc., d.b.a. Prime Health 373, West 101st Terrace, Kansas City, Mo. 64114. Service area.—The zip codes included in the area are as follows:

State of Missouri

64012, 64030, 64031, 64034, 64050, 64052, 64053, 64054, 64055, 64062, 64063, 64065, 64078, 64083, 64101, 64102, 64105, 64106, 64108, 64109, 64110, 64111, 64112, 64113, 64114, 64120, 64123, 64124, 64125, 64126, 64127, 64128, 64129, 64130, 64131, 64132, 64133, 64134, 64136, 64137, 64138, 64139, 64145, 64146, 64147, 64149, 64701, 64702.

State of Kansas

66030, 66061, 66083, 66084, 66085, 66130, 66202, 66203, 66204, 66205, 66206, 66207, 66208, 66209, 66210, 66211, 66212, 66213, 66214, 66215, 66216, 66217, 66218, 66219, 66220, 66221, 66223, 66224.

Date of qualification: Operationally qualified—November 26, 1976.

* * * * *

10. Community Health Care Center Plan, Inc., 150 Sargent Drive, New Haven, Conn. 06511. Service area.—Greater New Haven area, and includes the following cities and towns: Ansonia, Beacon Falls, Bethany, Branford, Cheshire, Derby, East Haven, Guilford, Hamden, Madison, Milford, New Haven, North Branford, North Haven, Orange, Seymour, Shelton, Wallingford, West Haven, and Woodbridge. Date of qualification: Transitionally qualified—October 31, 1975.

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11. Connecticut Health Plan, Inc., 4000 Park Avenue, Bridgeport, Conn. 06604. Service area.—State of Connecticut, the following counties: Fairfield County—Bridgeport, Easton, Fairfield, Monroe, Shelton, Stratford, and Trumbull. New Haven County—Milford. Date of qualification: Operationally qualified: March 15, 1977.

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12. Cooperative Health Plan of Spokane, North 120 Stevens, Spokane, Wash. 99201. Service area.—Spokane County. Date of qualification: Operationally qualified—August 30, 1977.

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13. Family Health Program, Inc., 2925 North Palo Verde Avenue, Long Beach, Calif. 90815. Service area as follows.—Orange County, Calif., and that portion of Los Angeles County, California South of Firestone Boulevard (Manchester Boulevard). Salt Lake County and Davis County, Utah, and those portions of Utah, Tooele, and Summit Counties, Utah, within a thirty (30) mile radius of the FHP/Utah Medical Centers. The Island of Guam. Zip codes in the service area are as follows:

Los Angeles County, Calif.

90059, 90061, 90220, 90221, 90222, 90240, 90241, 90242, 90245, 90247, 90248, 90249, 90262, 90280, 90501, 90502, 90503, 90504, 90505, 90506, 90602, 90603, 90604, 90605, 90631, 90638, 90650, 90670, 90701, 90706, 90710, 90712, 90713, 90715, 90716, 90717, 90723, 90731, 90732, 90744, 90745, 90746, 90747, 90748, 90749, 90801, 90802, 90803, 90804, 90805, 90806, 90807, 90808, 90810, 90812, 90813, 90814, 90815, 91320, 91360.

Orange, County,, Calif.,

90620, 90621, 90622, 90623, 90630, 90631, 90680, 90720, 90740, 90742, 90743, 92621, 92625, 92626, 92627, 92630, 92631, 92632, 92633, 92635, 92638, 92640, 92641, 92643, 92644, 92645, 92646, 92647, 92648, 92649, 92650, 92651, 92653, 92655, 92660, 92661, 92662, 92663, 92664, 92665, 92666, 92667, 92668, 92669, 92670, 92675, 92677, 92680, 92683, 92686, 92701, 92703, 92704, 92705, 92706, 92707, 92708, 92709, 92713, 92714, 92715, 92717, 92801, 92802, 92803, 92804, 92805, 92806, 92807.

Salt Lake, Davis, Utah, Tooele, and Summit Counties, Utah[4]

84003, 84006, 84010, 84014, 84020, 84025, 84032, 84043, 84044, 84047, 84054, 84057, 84060, 84062, 84070, 84084, 84087, 84101, 84102, 84103, 84104, 84105, 84106, 84107, 84108, 84109, 84111, 84112, 84113, 84114, 84115, 84116, 84117, 84118, 84119, 84120, 84121.

Date of qualification: Transitionally qualified—July 29, 1977.

14. Family Health Services, Inc., d.b.a. General Medical Centers Health Plan, 300 South Park, Pomona, Calif. 91766. Service area.—Eastern Los Angeles County known as the San Gabriel and Pomona Valley area and the western part of San Bernardino County. All of this area lies within a 7 mile radius of a GMCHP medical office. The zip codes encompassed by the service area are as follows:

Los Angeles County

90601, 90602, 90606, 90660, 91006, 91010, 91016, 91702, 91706, 91711, 91722, 91723, 91724, 91731, 91732, 91733, 91740, 91744, 91745, 91746, 91748, 91750, 91765, 91766, 91767, 71768, 91770, 91773, 91780, 91789, 91790, 91791, 91792.

San Bernardino County

91701, 91710, 91730, 91761, 91762, 91763, 91764, 91786.

Date of qualification: Transitionally qualified—December 14, 1976.

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15. Florida Health Care Plan, Inc., 350 North Clyde Morris Boulevard, Daytona Beach, Fla. 32014. Service area.—Volusia County, Fla. Date of qualification: Operationally qualified—August 20, 1976.

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16. Foundation Health Plan, 650 University Avenue, Sacramento, Calif. 95825. Service area.—Counties: El Dorado, Nevada, Placer, Sacramento, and Yolo. Date of qualification: Preoperationally qualified—December 22, 1977.

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[4]Several zip code areas may stradle the 30 mile radius from Family Health Plan medical centers. Individuals in the areas immediately outside the limit may enroll but must use the Family Health Plan physicians and the facilities of the medical centers.

17. Gem Health Association, Inc., 6565 Emerald Street, Boise, Idaho 83704. Service area.—Northern half of Ada County including the city of Boise. The Southern boundary line is Kuna-Mora Road. Date of qualification: Operationally qualified—June 27, 1977.

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18. Genesee Valley Group Health Association, 41 Chestnut Street, Rochester, N.Y. 14647. Service area.—City of Rochester, and county of Monroe, N.Y. Date of qualification: Transitionally qualified—January 30, 1976.

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19. Georgetown University Community Health Plan, Inc., Suite 300, 5125 MacArthur Boulevard NW., Washington, D.C. 20016. Service area.—Washington, D.C.; Arlington County, Fairfax County, Prince William County, Loudoun County, Falls Church, Fairfax, Alexandria, Manassas, and Manassas Park, Va.; Montgomery County and Prince Georges County, Md. Date of qualification: Transitionally qualified—May 26, 1976.

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20. Group Health Association, Inc., 2121 Pennsylvania Avenue NW., Washington, D.C. 20037. Service area.—The geographical area encompassing the District of Columbia and the counties of Howard, Montgomery, and Prince Georges in the State of Maryland, and the counties of Arlington, Loudoun, Prince William, and Fairfax, and all incorporated communities therein including, but not limited to, the cities of Alexandria, Falls Church, and Fairfax in the State of Virginia. Date of qualification: Transitionally qualified—July 18, 1977.

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21. Group Health Cooperative of South Central Wisconsin, 1 South Park Street, Madison, Wis. 53715. Service area.—Dane County (includes Metropolitan Madison area); Rock County, Evansville Township; Sauk County, Sauk City and Prarie Du Sac Townships; and Columbia County, Lodi, Arlington, and Poynette Townships. Date of qualification: Operationally qualified—June 27, 1977.

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22. Group Health Plan of New Jersey, Inc., 501 70th Street, Guttenberg, N.J. 07093. Service area as follows:

Cliffside Park—07010; Edgewater—07020; Fairview—07020; Fort Lee—07024; East Newark—07024; Harrison—07024; Hoboken—07030; Kearny—07032; North Arlington—07032; North Bergen—07047; Lyndhurst—07071; Carlstadt—07072; East Rutherford—07073; Moonachie—07074; Union City—07087; Weehawken—07087; Guttenberg—07093; West New York—07093; Secaucus—07094; Jersey City—07302, 07304, 07306, 07307; Teterboro—07608; Little Ferry—07643; Palisades Park—07650; Ridgefield—07657.

Date of qualification: Operationally qualified—July 1, 1977. (Achieved preoperational qualification on June 27, 1977.)

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23. Group Health Plan of Southeast Michigan, 21000 Mound Road, Warren, Mich. 48091. Service area.—The following zip codes in the city of Detroit, Mich.: 48201,48202, 48203, 48205, 48207, 48211, 48212, 48213, 48214, 48215, 48224, 48226, and 48234; and the cities of Hamtramch, Highland Park, Harper Woods, Oak Park, Ferndale, Pleasant Ridge, Berkley, Huntington Woods, Royal Oak, Hazel Park, Center Line, Warren, East Detroit, Madison Heights, and Roseville. Date of qualification: Operationally qualified—September 20, 1977. (Achieved preoperational qualification on September 1, 1977.)

• • • • •

24. Harvard Community Health Plan, 80 Brighton Avenue, Allston, Mass. 02134. Service area.—The following cities and towns in Massachusetts: Acton, Arlington, Bedford, Belmont, Billerica, Boston, Braintree, Brookline, Burlington, Cambridge, Canton, Carlisle, Chelsea, Concord, Dedham, Dover, Everett, Framingham, Lexington, Lincoln, Lynn, Lynnfield, Malden, Maynard, Marblehead, Medford, Melrose, Milton, Nahant, Natick, Needham, Newton, North Reading, Norwood, Peabody, Quincy, Randolph, Reading, Revere, Salem, Saugus, Somerville, Stoneham, Sudbury, Swampscott, Wakefield, Waltham, Watertown, Wayland, Wellesley, Weston, Westwood, Weymouth, Wilmington, Winchester, Winthrop, Woburn.

Date of qualification: Transitionally qualified—September 1, 1977.

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25. Health Alliance of Northern California, Inc., 377 South Daniel Way, San Jose, Calif. 95128. Service area.—Bounded by the Santa Clara County line on the north, west, and east of the county. The southern boundary is contiguous with the south limits of the cities of Los Gatos and San Jose. This boundary in roughly delineated by streets in a line running from west to east along Highway 17, Main Street, Los Gatos Boulevard, Shannon-Hicks Road, McKean Road, Bailey Avenue, Monterey Highway, Metcalf Road, San Felipe Road, White Road, Alum Rock Avenue, Mt. Hamilton Road, to the east county boundary. Date of qualification: Transitionally qualified—November 29, 1976.

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26. Health Care of Louisville, Inc., 1809 Standard Avenue, Louisville, Ky. 40210. Service area.—Jefferson County, Ky., and any portion of adjacent counties located in Kentucky and Indiana which lie within a radius of 25 air miles of the Family Health Center, 1809 Standard Avenue, Louisville, Ky. Date of qualification: Transitionally qualified—April 2, 1976.

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27. Health Care Plan of New Jersey, Inc., 123 North Church Street, Moorestown, N.J. 08057. Service area.—Burlington County and adjacent municipalities within Camden County. The zip codes included in the area are as follows:

Burlington County

08011, 08015, 08016, 08019, 08022, 08036, 08041, 08042, 08046, 08048, 08053, 08054, 08055, 08057, 08060, 08064, 08065, 08068, 08073, 08075, 08088, 08215, 08224, 08505, 08511, 08515, 08518, 08534, 08562, 08620.

Camden County

08003, 08004, 08007, 08009, 08021, 08026, 08033, 08034, 08035, 08045, 08049, 08078, 08083, 08084, 08091, 08106, 08107, 08108.

Date of qualification: Operationally qualified—June 1, 1976. (Achieved preoperational qualification on May 27, 1976.)

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28. Health Central, Inc., 2316 South Cedar, Lansing, Mich. 48910. Service area.—Townships in the following counties—Ionia County: Portland and Danby. Eaton County: Oneida, Delta, and Windsor. Clinton County: Westphalia, Eagle, Watertown, DeWitt, and Bath. Shiawassee County: Woodhull and Perry. Ingham County: Lansing, Meridan, Williamston, Locke, Delhi, Alaiedon, Wheatfield, Leroy, Aurelius, Vevay, Ingham, and White Oak. Date of qualification: Operationally qualified—December 19, 1977. (Achieved preoperational qualification on December 6, 1977.)

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29. HMO Illinois, Inc., 233 North Michigan Avenue, Suite 1323, Chicago, Ill. 60601. Service area.—The zip codes include in the area are as follows:

46303, 46307, 46311, 46312, 46319, 46320, 46321, 46322, 46323, 46324, 46326, 46327, 46342, 46373, 46375, 46394, 46402, 46404, 46406, 46407, 46408, 46409, 46410, 60004, 60005, 60007, 60008, 60010, 60015, 60016, 60018, 60022, 60025, 60026, 60029, 60043, 60053, 60056, 60062, 60067, 60068, 60069, 60070, 60076, 60082, 60090, 60091, 60093, 60101, 60103, 60104, 60106, 60108, 60120, 60126, 60130, 60131, 60137, 60141, 60143, 60148, 60153, 60157, 60160, 60162, 60163, 60164, 60165, 60170, 60171, 60172, 60176, 60181, 60185, 60187, 60191, 60193, 60194, 60195, 60201, 60202, 60203, 60301, 60302, 60304, 60305, 60401, 60402, 60406, 60409, 60411, 60415, 60417, 60419, 60422, 60423, 60425, 60426, 60429, 60430, 60432, 60438, 60439, 60441, 60442, 60443, 60445, 60448, 60449, 60451, 60452, 60453, 60455, 60456, 60457, 60458, 60459, 60461, 60462, 60463, 60464, 60465, 60466, 60468, 60469, 60471, 60472, 60473, 60475, 60476, 60477, 60480, 60482, 60501, 60513, 60514, 60515, 60521, 60525, 60534, 60546, 60558, 60559, 60601, 60602, 60603, 60604, 60605, 60606, 60607, 60608, 60609, 60610, 60611, 60612, 60613, 60614, 60615, 60616, 60617, 60618, 60619, 60620, 60621, 60622, 60623, 60624, 60625, 60626, 60627, 60628, 60629, 60630, 60631, 60632, 60633, 60634, 60635, 60636, 60637, 60638, 60639, 60640, 60641, 60642, 60643, 60644, 60645, 60646, 60647, 60648, 60649, 60650, 60651, 60652, 60653, 60654, 60655, 60656, 60657, 60658, 60659, 60660, 60666.

Date of qualification: Transitionally qualified—June 15, 1977 (inadvertently listed as operationally qualified—42 FR 38649-50).

30. Health Service Plan of Pennsylvania, 917 Schaff Building, 1505 Race Street, Philadelphia, Pa. 19102. Service area.—Philadelphia, Delaware, Montgomery, Bucks, and Chester Counties located in the State of Pennsylvania. Date of qualification: Operationally qualified—April 26, 1976.

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31. The Health Maintenance Organization of Pennsylvania, 2500 Maryland Road,

Willow Grove, Pa. 19090. Service area.—Five counties in and around Philadelphia: Bucks County, Chester County, Delaware County, Montgomery County, and Philadelphia County. Date of qualification: Operationally qualified—June 17, 1977.

* * * * *

32. Intergroup Prepaid Health Services, Inc., CNA Plaza, Chicago, Ill. 60685. Service area.—Illinois, counties of: Champaign, Cook, DuPage, Grundy, Kane, Kendall, Lake, McHenry, Peoria, Tazewell, Will, and Woodford. Indiana, counties of: Lake and Porter. Date of qualification: Transitionally qualified—April 18, 1977.

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33a. Kaiser Foundation Health Plan, Inc. (Northern California Region), 1924 Broadway, Oakland, Calif. 94612. Service area.—A radius of 30 miles of any Kaiser Foundation Hospital or Northern California Permanente Medical Office including the entire counties of: Alameda, Contra Costa, Marin, Sacramento, San Francisco, San Mateo, Santa Clara, Solana, and cities and towns in the following counties:

Amador County

Carbondale, Forest Home, Ione, Nashville.

El Dorado County

Brandon, Brela, Cameron Park, Clarksville, Cool, Cothrin, Dugan, El Dorado, El Dorado Hills, Lake Hills Estates, Latrobe, Lotus, Pilot Hill, Rescue, Shingle Springs.

Napa County

Aetna Springs, Angwin, Calistoga, Deer Park, Franklin, Kellogg, Napa, Oakville, Pope Valley, Rutherford Sanitarium, St. Helena, Yountville.

Placer County

Auburn, Bowman, Hidden Valley, Lincoln, Loomis, Newcastle, Ophir, Penryn, Rocklin, Roseville, Sheridan, Sunset Whitney Branch, Thermolands.

Sonoma County

Bloomfield, Boyes Springs, Catati, El Verano, Eldridge, Freestone, Fulton, Glen Ellen, Kenwood, Penngrove, Petaluma, Rohnert Park, Santa Rosa, Sebastopol, Sonoma, Valley Ford, Vineburg.

Sutter County

Chandler, East Nicolaus, Kirkville, Nicolaus, Pleasant Grove, Rio Oso, Robbins, Trowbridge, Verona.

Yolo County

Broderick, Bryte, Capay, Clarksburg, Davis, Dixon, El Macaro, Knights Landing, Madison, Tremont, West Sacramento, Winders, Woodland, Yolo, Zamora.

Yuba County

Wheatland.

Date of qualification: Transitionally qualified—October 27, 1977.

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33b. Kaiser Foundation Health Plan, Inc. (Southern California Region), 1515 North Vermont, Los Angeles, Calif. 90027. Service area.—A radius of 30 miles of any Kaiser Foundation Hospital or Southern California Medical Office. Kern County and Mexico are excluded from the service area. The following zip codes located in Los Angeles, Orange, Riverside, San Bernardino, San Diego, and Ventura Counties are included:

90000-90099, 90101, 90200-90299, 90300-90399, 90400-90499, 90500-90599, 90600-90699, 90700-90799,[4] 90800-90899, 91000-91099, 91100-91199, 91200-91299, 91300-91399, 91400-91499, 91500-91599, 91600-91699, 91700-91799, 91800-91899, 92100-92199, 92400-92499, 92500-92599, 92600-92699,[5] 92700-92799, 92800-92899, 92001, 92002, 92007, 92008, 92010, 92011, 92012, 92014, 92016, 92017, 92020, 92021, 92022, 92024, 92025, 92026, 92027, 92031, 92032, 92035, 92037, 92040, 92041, 92045, 92047, 92048, 92050, 92053, 92054, 92062, 92063, 92064, 92065, 92067, 92069, 92070, 92071, 92073, 92075, 92077, 92078, 92080, 92082, 92083, 92220, 92223, 92305, 92307, 92314, 92315, 92316, 92317, 92318, 92320, 92321, 92322, 92324, 92325, 92326, 92329, 92330, 92333, 92335, 92339, 92340, 92341, 92343, 92345, 92346, 92348, 92352, 92353, 92354, 92356, 92358, 92359, 92360, 92362, 92367, 92369, 92370, 92371, 92372, 92373, 92376, 92378, 92380, 92381, 92382, 92385, 92386, 92388, 92391, 92392, 92395, 92396, 92397, 92399, 93010, 93015, 93021, 93040, 93060, 93063, 93064, 93065, 93510, 93532, 93534, 93543, 93544, 93550, 93553, 93563.

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33c. Kaiser Foundation Health Plan, Inc. (Hawaii Region), 1697 Ala Moana Boulevard, Honolulu, Hawaii 96815. Service area.—Islands of Oahu and Maui. Date of qualification: Transitionally qualified—October 27, 1977.

* * * * *

34. Kaiser Foundation Health Plan of Oregon, 1500 Southwest First Avenue, Portland Oreg. 97201. Service area as follows:

State of Oregon (Cities, towns, and Zip Codes)

Aloha—97006; Banks—97106; Barlow—97003; Beavercreek—97004; Beaverton—97005, 97007; Bonne—97009; Bridal Veil—97010; Brightwood—97011; Canby—97013; Carlton—97111; Clackamas—97015; Colton—97017; Columbia City—97018; Corbett—97019; Cornelius—97113; Dayton—97114; Deer Island—97054; Donald—97020; Dundee—97115; Eagle Creek—97022; Estacada—97023; Fairview—97024; Forest Grove—97116; Gales Creek—97117; Gaston—97119; Gladstone—97027; Gresham—97030; Hillsboro—97123; Hubbard—97032; Jennings Lodge—97267; Lafayette—97127; Lake Grove—97035; Lake Oswego—97034; Manning—97125; Marylhurst—97036; McMinnville—97128; Milwaukie—97222; Molalla—97038; Mt. Angel—97362; Mulino—97043; Newberg—97132; North Plains—97133; Oak Grove—97268; Oregon City—97045; Portland—97043, 97201, 97202, 97203, 97204, 97205, 97206, 97207, 97208, 97209, 97210, 97211, 97212, 97213, 97214, 97215, 97216, 97217, 97218, 97219, 97220, 97221, 97225, 97226, 97227, 97229, 97230, 97231, 97232, 97233, 97236, 97242, 97266; St. Helens—97051; Sandy—97055; Scappoose—97056; Sherwood—97140; Tigard—97223; Troutdale—97060; Tualitan—97062; Warren—97053; Wemme—97067; Westlinn—97068; Wilsonville—97070; Woodburn—97071, 97072.

State of Washington (Cities, towns, and Zip Codes)

Amboy—98601; Ariel—98603; Battleground—98604; Camas—98606, 98607; Heisson—98622; Kalama—98625; LaCenter—98629; Ridgefield—98642; Skamania—98646; Vancouver—98660, 98661, 98662, 988663, 98664, 98665; Washougal—98671; Woodland—98674; Yacolt—98675.

Date of qualification: Transitionally qualified—October 27, 1977.

* * * * *

35. Kaiser Community Health Foundation, 1101 Bond Court, 1300 East Ninth Street, Cleveland, Ohio 44114. Service area.—Counties—Cuyahoga, Lake, Geauga, Medina, Lorain, and Summit, except the townships of Franklin and Green are excluded from Summit county. Townships in the following counties—Ashtabula: Trumbull, Hartsgrove, and Windsor. Trumbull: Mesopotamia and Farmington. Portage: Aurora, Brimfield, Charlestown, Franklin, Freedom, Hiram, Mantua, Nelson, Ravenna, Rootstown, Shalersville, Streetsboro, and Windham.

Date of qualification: Transitionally qualified—October 27, 1977.

* * * * *

36. Kaiser Foundation Health Plan of Colorado, 2525 West Alameda Avenue, Denver, Colo. 80219. Service area.—City and County of Denver; communities immediately surrounding Denver, including all major and minor urbanized areas immediately adjacent to Denver; and cities, towns, and communities in the following counties:

Adams County

Adams City, Barr Lake, Bow Mar, Brighton, Commerce City, Derby, Dupont, Eastlake, Federal Heights, Hazeltine, Henderson, Highland Acres, Irondale, Lochbuie, Northglenn, Riverdale, Thornton, Watkins, Welby, Westminster.

Arapahoe County

Aurora, Cherry Hills, Columbine Valley, Englewood, Greenwood Village, Littleton, Sheridan.

Boulder County

Boulder, Broomfield, Crescent Village, Eldorado Springs, Erie, Goodview, Lafayette, Longmont, Louisville, Marshall, Niwot, Silver Spruce, Superior, Valmont.

Clear Creek County

Beaver Brook, Brookvale, Hyland Hills.

Douglas County

Blakeland, Gann, Louviers, Parker, Riverside, Sedalia.

Gilpin County

Floyd Hill.

Jefferson County

Arvada, Aspen Park, Bensen Park, Conifer, Critchell, Deermont, Edgewater, El Rancho, Evergreen, Fenders, Green Valley Acres, Golden, Hiwan Hills, Homewood Park, Idledale, Indian Hills, Kassler, Kittredge, Lakewood, Leyden, Marshalldale, Morrison,

[4] Except 90704 (Avalon).

[5] Except 92672 (San Clemente).

Date of qualification: Transitionally qualified—October 27, 1977.

Mountain View, Plain View, Phillipsburg, Rosedale, Semper, Sprucedale, Tiny Town, Troutdale, Twin Forks, Wheat Ridge.

Date of qualification: Transitionally qualified—October 27, 1977.

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37. Manhattan Health Plan, Inc., 425 East 61st Street, New York, N.Y. 10021. Service area.—Manhattan and Roosevelt Island in county of New York in the State of New York inclusive of zip codes 10001 through 10048. Date of qualification: Operationally qualified—November 1, 1977. (Achieved preoperational qualification on October 31, 1977.)

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38. Marion Health Foundation, Inc., 125 Executive Drive, Box 1085, Marion, Ohio 43302. Service area.—Marion County and the township of Claibourne in adjoining Union County. Date of qualification: Operationally qualified—November 30, 1976.

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39. Maxi-Care, 4455 West 117th Street, Suite 502, Hawthorne, Calif. 90250. Service area.—South Bay and Southwest portion of the Los Angeles metropolitan area. The zip codes included in the area are as follows:

90001, 90002, 90003, 90007, 90008, 90011, 90016, 90018, 90037, 90043, 90044, 90045, 90047, 90056, 90058, 90059, 90061, 90062, 90066, 90220, 90221, 90222, 90230, 90245, 90247, 90248, 90249, 90250, 90254, 90260, 90266, 90274, 90277, 90278, 90291, 90301, 90302, 90303, 90304, 90305, 90501, 90502, 90503, 90504, 90505, 90710, 90717, 90731, 90732, 90744, 90745, 90746, 90747.

Date of qualification: Transitionally qualified—March 25, 1976.

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40. Metropolitan Health Council of Indianapolis, Inc. (Metro-Health Plan), Suite 100, 3000 Meadows Parkway, Indianapolis, Ind. 46205. Service area.—Indianapolis/Marion County, Ind. Date of qualification: Operationally qualified—January 31, 1977.

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41. North Communities Health Plan, Inc., 1718 Sherman Avenue, Evanston, Ill. 60201. Service area.—The following communities located in the State of Illinois: E. Rogers Park, Evanston, Glencoe, Glenview, Golf, Kenilworth, Lincolnwood, Morton Grove, Niles, North Brook, North Field, Park Ridge, Skokie, West Rogers Park, Wilmette, and Winnetka. Date of qualification: Operationally qualified—

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42. Penn Group Health Plan, Inc., IBM Building, Pittsburgh, Pa. 15222. Service area.—Allegheny and western Westmoreland Counties. Date of qualification: Operationally qualified—November 28, 1975.

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43. Piedmont Health Care Corp., P.O. Box 6867, Greenville, S.C. 29606. Service area.—Greenville, S.C., and any portion of adjacent counties, located in South Carolina, which lie within a radius of 30 miles of the Caro- lina Medical Center, 2320 East North Street, Greenville, S.C. Date of qualification: Transitionally qualified—December 29, 1975.

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44. Portland Metro Health, Inc., 5201 Southwest Westgate Drive, Room 111, Portland, Oreg. 97221. Service area.—Multnomah, Clackamas, and Washington Counties, Oreg.; and Clark County, Wash. Date of qualification: Operationally qualified—January 1, 1976.

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45. Prudential Health Care Plan, Inc., P.O. Box 2884, Houston, Tex. 77001. Service area.—Radius of 25 air miles of the medical group's facilities within greater Houston metropolitan area. Date of qualification: Operationally qualified—June 2, 1976.

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46. Rhode Island Group Health Association, Inc., 210 High Service Avenue, North Providence, R.I. 02904. Service area.—State of Rhode Island. Date of qualification: Transitionally qualified—October 30, 1975.

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47. Rocky Mountain Health Maintenance Organization, Inc., 2231 North 7th Street, Grand Junction, Colo. 81501. Service area.—Mesa County, Colo. Date of qualification: Transitionally qualified—December 29, 1975.

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48. Rutgers Community Health Plan, 57 U.S. Highway 1, New Brunswick, N.J. 08901. Service area.—Communities within a 15 mile radius of New Brunswick, which includes all of Middlesex County and parts of Somerset, Union, Mercer, Monmouth, and Morris Counties. Date of qualification: Operationally qualified—July 1, 1976.

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49. SHARE, 1515 Charles Avenue, St. Paul, Minn. 55104. Service area.—Hennepin (Minnesota), Ramsey (St. Paul), Anoka (north of St. Paul), Washington (east of St. Paul), and Dakota (south of St. Paul) Counties. Date of qualification: Transitionally qualified—June 30, 1976.

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50. Sound Health Association, 622 Tacoma Avenue South, Tacoma, Wash. 98402. Service area.—Pierce County, Wash. Date of qualification: Operationally qualified—January 23, 1976.

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51. Westchester Community Health Plan, 145 Westchester Avenue, White Plains, N.Y. 10601. Service area.—Westchester County, N.Y. Date of qualification: Operationally qualified—September 30, 1976. (Achieved preoperational qualification on September 28, 1976.)

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Dated: March 24, 1978.

JULIUS B. RICHMOND,
Assistant Secretary for Health.

[FR Doc. 78-9062 Filed 4-6-78; 8:45 am]

federal register

FRIDAY, APRIL 7, 1978
PART VI

DEPARTMENT OF LABOR

Office of the Secretary

■

SUMMER PROGRAM FOR ECONOMICALLY DISADVANTAGED YOUTH

[4510-30]

DEPARTMENT OF LABOR

Office of the Secretary

[29 CFR Part 97]

SUMMER PROGRAM FOR ECONOMICALLY DISADVANTAGED YOUTH

Proposed Rules

NOTE.—This document originally appeared in the FEDERAL REGISTER for Wednesday, April 5, 1978. It is reprinted in this issue to meet requirements for publication on an assigned day of the week. (See the inside cover of this issue for information about agencies publishing on assigned days of the week.)

AGENCY: Department of Labor.

ACTION: Proposed rules.

SUMMARY: This document contains proposed regulations for the summer program for Economically Disadvantaged Youth authorized under the Comprehensive Employment and Training Act. These rules are needed to implement and operate the 1978 program. Their purpose is to provide guidance to 1978 summer program sponsors.

DATE: Comments must be received on or before May 5, 1978.

ADDRESS: Send comments to: Robert Taggart, Administrator, Office of Youth Programs, U.S. Department of Labor, 601 D Street, NW., Washington, D.C. 20213.

FOR FURTHER INFORMATION CONTACT:

Robert Taggart, Administrator, Office of Youth Programs, U.S. Department of Labor, 601 D Street NW., Washington, D.C. 20213, telephone: 202-376-7449.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the Department of Labor, Employment and Training Administration, proposes to revise the regulations accompanying title III, section 304(a)(3) of the Comprehensive Employment and Training Act of 1973, as amended (hereinafter referred to as the Act), Pub. L. 93-203, 87 Stat. 839; Pub. L. 93-567, 88 Stat. 1845; and Pub. L. 94-444, 90 Stat. 1476, in order to provide for the implementation of the 1978 summer program. This proposed document is essentially similar to the regulations published in the FEDERAL REGISTER (42 FR 11711) on April 22, 1977, however, programmatic changes have been made to reflect the experience gained in the first four years of implementation, and to integrate the summer program with the new Youth Programs established under title III, part C, subparts 2 and 3 of CETA, as amended.

The regulations are being published today as proposed 1978 summer program regulations.

AN OVERVIEW AND GENERAL INSTRUCTIONS FOR THE 1978 SUMMER PROGRAM

The changes made in these proposed regulations reflect continued efforts to improve the quality of the summer program so that youth will engage in meaningful work tasks and training programs which will develop their skill levels and enhance their future employability. Major program emphases will be placed on: (1) Early planning and integration of the summer program and the overall youth employability development strategy of the prime sponsor; (2) monitoring and assessment to learn more about the program and to improve performance; (3) expanding vocational exploration programs and improving the relationship between education and work through the award of academic credit for competencies gained on the job.

The purposes and short term goals of this program are manifold. Inclusive among these, depending upon local needs of youth, are the provision of: (1) Structured well supervised work to improve work habits; (2) work experiences which will provide opportunities for vocational exploration; (3) job rotation to provide youth with exposure to different work settings which can assist them in making career decisions; (4) vocational counseling and occupational information; (5) summer income to participants who without assistance would be unable to return to school; (6) assistance for youth with special employability needs; (7) services which will induce and aid dropouts in returning to school; and (8) avenues for securing part-time in-school employment as well as full-time unsubsidized employment where return to school is not expected.

A short explanatory statement is provided to describe the substantive amendments proposed for the 1978 summer program regulations. A description of the amendments follows:

DISCUSSION OF CHANGES

In § 97.2, *Allocation of funds*, paragraph (b)(3) has been changed to reflect the Department's decision to use data on the number of persons in low income families in the allocation formula rather than the data on the number of adults in low income families which were used last year.

In § 97.3, *Unexpended previous year summer program funds*, paragraphs (b) and (c) have been eliminated. The information previously contained in these paragraphs can be found in § 97.7.

In § 97.4, *Eligibility for funds*, paragraph (b) has been changed to indicate that Native American Employment and Training Program prime sponsors eligible to apply for funds are those which are Indian tribes on Federal or State Reservations, recognized tribes in Oklahoma, and Alaskan Native villages.

In § 97.5 and 97.8 changes are made to reflect the new grant application procedures implemented in fiscal year 1978, and the revised narrative description of the program.

In § 97.6, *Program planning; planning and youth councils*, renumbered § 97.7, the following changes have been made:

Paragraph (a) (1) has been added to require that prime sponsors coordinate their summer program with their Title I, YETP and YCCIP programs.

Paragraph (a) (2) has been revised to require that youth councils established under YETP be used for summer program planning. Last year's program required that a separate youth council be created for the summer program.

In § 97.10, *Comment and publications procedures*, renumbered § 97.9 has been changed to allow the required comment period to be simultaneous with the submission of the summer plan to the RA.

In § 97.11, *Modification to the Summer Plan*, renumbered § 97.12, has been revised. Modifications will be necessary whenever a prime sponsor transfers a substantial amount of its program funds between program activities or cost categories.

In § 97.14, *Basic responsbilities of prime sponsors*, renumbered § 97.13, the following changes have been made:

Paragraph (b) has been reworded to require that prime sponsors provide services on an equitable basis to the various significant demographic segments within their eligible population.

Paragraph (f) has been revised to require that outreach and recruitment techniques should be aimed at all segments of the eligible population, especially school dropouts and those youth not likely to return to school without assistance from the summer program. Last year's summer regulations listed three categories of youth which were to receive priority.

Paragraph (g) requires that labor market orientation be provided to all participants.

A new paragraph (i) has been added requiring that prime sponsors utilize those cooperative relationships established under YETP with other agencies and institutions providing employment and training services to youth in their community.

A new paragraph (j) has been added requiring that the prime sponsor insure that adequate supervision be provided to participants at each worksite.

A new paragraph (k) has been added requiring prime sponsors to make appropriate efforts to encourage educational agencies and institutions to award academic credit for competen-

cies participants gain from employment under the program.

In § 97.15, *Eligibility for participation*, renumbered § 97.14, the following changes have been made:

Paragraph (a) now requires that participants meet eligibility criteria at time of application. Previously, summer program eligibility was to be determined at time of enrollment.

Paragraph (a) has been expanded by allowing wards of the court and youth offenders to be eligible if they can be determined to have left the family unit. It should be noted that the definition of economically disadvantaged as revised in the October 18, 1977 FEDERAL REGISTER and found in § 94.4(s), applies to this year's summer program.

A new paragraph (a) (3) has been added to permit youth to directly transfer into the summer program from other CETA programs without recertification of youth's family income. Paragraph (c) has been eliminated because it duplicates section § 94.4(v).

In § 97.16, *Types of employment and training programs available*, renumbered as § 97.15, has been revised to exclude public service employment as described in § 95.33(d)(3) as an allowable activity. This revision does not preclude work experience which is designed to be a short term and/or part time work assignment, with a public employer or private non-profit employing agency as defined in § 95.33(d)(4).

In § 97.17, *Vocational Exploration Program*, renumbered § 97.16, the following changes have been made:

Paragraph (A) has been reworded to clarify that youth in this program may only receive allowances and wages may not be paid.

Paragraph (C) has been revised to clarify that Vocational Exploration Program opportunities cannot be for positions which are the subject of a labor dispute involving a work stoppage.

A new paragraph (D) has been added requiring that a detailed curriculum be developed.

A new paragraph (a)(ii) has been added to clarify that organizations involved in the program may only be reimbursed for the extraordinary training costs associated with the program.

In § 97.17, *Startup of program*, a new section has been added to clarify what activities are allowable prior to the close of the school year. The previous year's provision for the employment of out-of-school youth two weeks before the end of the school year has been eliminated.

In § 97.19 *Participant benefits*, where the prime sponsor elects not to pay allowances to enrollees during the planning and implementation of the program, prior to the close of the school year, no waiver is necessary from the RA.

In § 97.25, *Reporting requirements*, renumbered § 97.23, has been revised to reflect the Department's decision to use the same reporting forms developed for YCCIP and YETP for this program.

Section 97.26, *Termination date for the Summer Program*, has been renumbered § 97.24.

A new section, *Administrative provisions*, numbered § 97.25, has been added to place increased emphasis on monitoring responsibilities of prime sponsors, subgrantees and contractors.

A new section, *Alternative remedies*, numbered § 97.26, describes remedies to be used whenever a prime sponsor or one of its subgrantees or contractors has materially violated the provisions of the Act, the regulations or the terms of the summer program grant.

In addition to these substantive changes, other changes were made in restructuring these regulations to be similar in format to those published for other CETA programs.

1. In § 94.3, Consolidated table of contents for secs. 94–99; the table of contents for Part 97, Subpart A is revised to read as follows:

§ 94.3 Consolidated table of contents for Parts 94–99.

* * * * *

SUBPART A—SUMMER PROGRAM FOR ECONOMICALLY DISADVANTAGED YOUTH UNDER THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

General

Sec.
97.1 Scope and purpose.
97.2 Allocation of funds.
97.3 Unexpended previous year Summer Program funds.
97.4 Eligibility for funds.

Grant Planning, Application and Modification Procedures

97.5 Content and description of grant application.
97.6 Preapplication for Federal assistance.
97.7 Program planning; planning and youth councils.
97.8 Description of the Summer Plan.
97.9 Comment and publication procedures.
97.10 Submission of Summer Plan; review and approval.
97.11 Use of alternative prime sponsor and services by the Secretary; reallocation of funds.
97.12 Modifications to the Summer Plan.

Program Operations

97.13 Basic requirements of prime sponsors.
97.14 Eligibility for participation.
97.15 Types of employment and training programs available.
97.16 Vocational exploration program.
97.17 Startup of program.
97.18 Worksite standards.
97.19 Participant benefits.
97.20 Training for lower wage industries and relocation of industries.
97.21 Nepotism.
97.22 Nondiscrimination in Native Americans Programs.
97.23 Reporting requirements.
97.24 Termination date for the Summer Program.
97.25 Administrative provisions.
97.26 Alternative remedies.

2. Accordingly, Part 97 of Title 29 of the Code of Federal Regulations is revised to read as follows:

SUBPART A—SUMMER PROGRAM FOR ECONOMICALLY DISADVANTAGED YOUTH UNDER THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

General

Sec.
97.1 Scope and purpose.
97.2 Allocation of funds.
97.3 Unexpended previous year Summer Program funds.
97.4 Eligibility for funds.

Grant Planning, Application and Modification Procedures

97.5 Content and description of grant application.
97.6 Preapplication for Federal assistance.
97.7 Program planning, planning and youth councils.
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97.9 Comment and publication procedures.
97.10 Submission of Summer Plan; review and approval.
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Program Operations

97.13 Basic requirements of prime sponsors.
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97.16 Vocational exploration program.
97.17 Startup of program.
97.18 Worksite standards.
97.19 Participant benefits.
97.20 Training for lower wage industries and relocation of industries.
97.21 Nepotism.
97.22 Nondiscrimination in Native Americans Programs.
97.23 Reporting requirements.
97.24 Termination date for the Summer Program.
97.25 Administrative provisions.
97.26 Alternative remedies.

Subpart A—Summer Program for Economically Disadvantaged Youth Under the Comprehensive Employment and Training Act

AUTHORITY: Comprehensive Employment and Training Act of 1973, as amended (Pub. L. 93-203, 87 Stat. 839; (29 U.S.C. 801 et seq.); Pub. L. 93-567, 88 Stat. 1845 and Pub. L. 94-444, 90 Stat. 1476), secs. 702(a) and 304(a)(3), unless otherwise noted.

GENERAL

§ 97.1 Scope and purpose.

(a) This Subpart A contains the policies, rules, and regulations of the Department in implementing and administering a Summer Program for Economically Disadvantaged Youth (hereinafter referred to as the Summer Program) authorized by Title III, section 304(a)(3), of the comprehensive Employment and Training Act (hereinafter referred to as the Act).

(b) Programs funded under this Subpart A shall be designed by summer sponsors, defined in § 97.4, to provide

summer employment and any other activities and services, except public service employment, described under Title I of the Act.

(c) Subpart A should be read in conjunction with Parts 94, 95, 97, and 98 of this title. The provisions of Parts 95 and 97, however, apply to this Subpart A only as indicated in specific sections of these regulations. The definitions of Part 94 and the provisions of Part 98 shall apply to this Subpart A, unless otherwise indicated in specific sections of these regulations.

(d) The Division of Indian and Native American Programs in the Office of National Programs shall have field reponsibility for all matters pertaining to funds allocated to Indian and Native American Employment and Training Program summer sponsors for programs funded under this Subpart A. All references to PA in this Subpart A shall be read as Director, Division of Indian and Native American Programs, when pertaining to programs for Indian and Native Employment and Training Program summer sponsors.

§ 97.2 Allocation of funds.

(a) *General.* The funds available for Title III, section 304(a)(3) in any fiscal year shall be allocated according to the procedures set forth below; except that the Secretary may reserved up to 5 percent of available funds to fund a national vocational exploration program, and for other discretionary purposes.

(b) *Prime sponsor basic allocations.* Allocations of funds for summer sponsors who are prime sponsors under Tilte I of the Act shall be based on the following formula:

(1) Fifty percent of such funds shall be allocated on the basis of each sponsor area's proportion of the funds allocated for the previous year Summer Program;

(2) Thirty-seven and one-half percent of the funds shall be allocated based on the ratio of the annual average number of unemployed persons in the sponsor's area (in the most recent year for which data are available) to the total annual average number of unemployed persons in the United States in that year;

(3) Twelve and one-half percent of the funds shall be allocated based on the ratio of the number of persons in low income families in the sponsor's area to the total number of persons in low income families in the United States; and

(4) Each sponsor shall receive a new allocation which when added to its unspent previous year's summer funds as of December 31, shall be equal to the amount determined by the above formula.

(5) To the extent that funds are available, allocations shall be adjusted by the Secretary to insure that each prime sponsor area receives adequate funding to provide at least the same number of opportunities as were available in the area under the Summer Program for Economically Disadvantaged Youth in the previous year.

(c) *Native American prime sponsor allocations.* The total funds for Native American summer sponsors shall be allocated based on the ratio of the number of Native American youth 14 through 21 years of age in the eligible Native American summer sponsor's area to the total number of Native American youth 14 through 21 years in all Native American summer sponsor areas, except that adjustments in the allocations shall be made to insure that to the extent funds are available, no area receives less funds than were provided under the previous year's Summer Program.

(d) *Other allocation.* The allocation to Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands and the Northern Marianas, in the aggregate, shall be equal to the same percentage of the funds allocated to them in the aggregate under the previous summer program.

§ 97.3 Unexpended previous year summer program funds.

Unexpended summer program funds as of December 31 of each year must be utilized in the next year for appropriate summer activities and expended in accordance with these regulations.

§ 97.4 Eligibility for funds.

The following are eligible to be summer sponsors:

(a) Prime sponsors designated to operate programs under Title I of the Act; and

(b) Native American Employment and Training Program prime sponsors which are Indian tribes on Federal or State reservations, recognized tribes in Oklahoma and Alaskan Native villages.

GRANT PLANNING, APPLICATION, AND MODIFICATION PROCEDURES

§ 97.5 Content and description of Grant Application.

In order to receive funds, each eligible summer sponsor shall submit a summer plan which, when approved, together with the Prime Sponsor Agreement (PSA), shall become the grant application.

§ 97.6 Preapplication for Federal assistance.

(a) An eligible summer sponsor interested in receiving financial assistance shall submit a preapplication to the RA, the Governor and the appropriate State and areawide A-95 clearinghouses (See Part I of Attachment A, OMB Circular A-95) by a date established by the RA. The preapplication shall consist of Standard Form 424 as prescribed by Federal Management Circular (FMC) 74-7.

(b) State and areawide clearinghouses may request information in addition to that furnished on the preapplication form. Such a request shall be made within 30 days of receiving the preapplication in order to avoid delay in a prime sponsor applicant's preparation of its summer plan.

(c) The A-95 clearinghouses shall within 30 days of receiving the preapplication, inform the prime sponsor applicant of any actual or potential problems with the preapplication and notify the prime sponsor applicant if they wish to review the completed plan. If the prime sponsor applicant receives no such notifications, the prime sponsor applicant has fulfilled its obligation under A-95 and it may submit its plan to the RA without submitting it to the A-95 clearinghouses.

§ 97.7 Program planning; planning and youth councils.

(a)(1) In developing the summer program the prime sponsor shall coordinate such plan with its Title I, YETP, and YCCIP annual plans.

(2) Eligible summer sponsors which are prime sponsors under Title I of the Act shall utilize the planning process and planning council, as described in § 95.13 (b) and (c) of this title; and the youth council established for YETP. The roles and responsibilities of the youth council shall be those described in § 97.705(b) (1), (2), (3) and (5).

(b) Upon approval from the RA, the following planning and implementation activities shall be allowable beginning January 1 of each year:

(1) Hiring of staff (planners, worksite developers, intake specialists, etc.);

(2) Development of summer plan;

(3) Publication and clearance through A-95;

(4) Worksite development;

(5) Application, selection and enrollment until subject to the limitations provided in § 97.17;

(6) Arrangements for supportive services;

(7) Orientation to jobs/activities;

(8) Coordination between schools and other services;

(9) Other activities with the approval of the RA that may be characterized as planning and implementation but not program operation.

§ 97.8 Description of the Summer Plan.

The summer plan consists of the following items:

(a) Approval Request Letter.

(b) Application for Federal assistance (Standard Form 424) which is contained in FMC 74-7.

(c) Narrative description of the summer program consisting of the following:

(1) Objectives and needs for assistance.—A discussion of:

(i) The program's purpose and goals in terms of local needs of youth;

(ii) The rationale for the selection of significant segments by the summer sponsor as it relates to the program purposes and goals.

(2) Results and benefits expected.—A discussion of:

(i) How the enrollment of participants in the various program activities and the projected program outcomes reflect the program purposes: This should include a description of how the program activities will serve the needs of the particular significant segments designated by the summer sponsors;

(ii) Efforts to obtain academic credit for youth as a result of competencies gained on the job during the summer program;

(iii) Other benefits which will accrue to participants.

(3) Approach.—A description of:

(i) The role of the Youth Council in the formulation of the summer program;

(ii) How analyses of the previous summer program were used in the planning of the program including the selection of the worksites;

(iii) The methods, procedures, standards, etc. used to make worksite selections and items to be covered by worksite agreements;

(iv) Special methods, if any, specifically designed for recruitment of summer participants (as distinguished from other participants) and who the recruiting agent(s) will be;

(v) The intake process, including the particular methods to be used and the identity of the service providers;

(vi) The process of determining eligibility and the verification methods to be used;

(vii) The orientation, assessment and assignment process;

(viii) The work experience, on-the-job training, and classroom training activities indicating the number of youth who will be served in each of these components, and a discussion of labor market orientation and any skill training and remedial education to be provided;

(ix) Any special services to be provided to designated significant segments;

(x) The supportive services which will be provided to participants;

(xi) Any vocational Exploration Programs, funded under the summer plan, including:

(A) Number of total participants and planned expenditures;

(B) Name of organizations with which the prime sponsor has a contract or written agreement listing the number of participants and occupations to which participants will be exposed;

(C) The methods and techniques which will be used to provide broad career exposure;

(D) The methods the prime sponsor has developed to ensure that youth are not involved in work experience or any other activity which contributes to, or could be expected to contribute to, additional sales or profit for a private-for-profit organization or otherwise result in the subsidization of wages for such organizations; and

(E) Evidence of the approval of labor organizations representling employees in the affected collective bargining units;

(xii) The methods and delivery agents which will be used in placing participants into jobs, other CETA programs, etc. and of arrangements for providing continuity of services, and the efforts that will be made to encourage participants to return to school;

(xiii) A description of the linkages established with SESA's, local educational agencies and postsecondary institutions, labor organizations, the private sector (other than organizations conducting Vocational Exploration Program), neighborhood and community based organizations and other youth related programs/agencies;

(xiv) How the summer program will enhance the employment potential of participants and how this strategy will be coordinated with other CETA programs.

(4) Management and Administration Plan.

(i) An organization chart and staffing pattern and an explantion of how it relates to the prime sponsor's regular organization pattern;

(ii) A detailed description of monitoring procedures, including the number of planned visits to each worksite, the activities to be monitored, and procedures and timeframes for taking corrective action, including followup visits;

(iii) A discussion of plans to assess the overall program and the performance of each worksite employer, including how the knowledge gained will be used to improve the quality of other youth programs and next year's summer program;

(iv) A description of any special payroll process or any special allowance payment system not previously described in the PSA.

(v) A discussion of the cost plan, including an explanation of how administrative costs were determined.

(d) CETA Youth Program Planning Summary and Youth Budget Information Summary which provide information on the estimated number of participants and accured expenditures.

§ 97.9 Comment and publication procedures.

The comment and publication procedures of § 95.15 shall be applicable to the summer program, except that newspaper publication and provision of the application to Governors, appropriate units of Government, appropriate Native American prime sponsors, appropriate labor organizations and State and sub-State clearinghouse(s) may be simultaneous with submission of the summer plan to the RA. However, the plan cannot be executed until 30 days after submission of it to these organizations during which time comments can be submitted to the RA and prime sponsor.

§ 97.10 Submission of summer plan; review and approval.

(a) A program shall be undertaken upon execution of the summer plan between a summer sponsor and the RA. The RA shall send a summer plan package to each eligible summer sponsor. The summer plan shall be submitted to the RA not later than a date set by the RA.

(b) Each summer plan shall be reviewed by the appropriate RA using all the standards described in § 95.17 (a) and (b) (1), (7), (8), and (9) of this title.

(c) Each summer plan shall be approved or disapproved under the provisions and conditions described in §§ 95.18 and 95.19 of this title.

§ 97.11 Use of alternative sponsor and services by the Secretary; reallocation of funds.

(a) If a summer plan is not submitted, or is denied, or terminated, the Secretary may make provisions for the use of an alternative sponsor, or provide services directly pursuant to § 95.20 of this title.

(b) The reallocation provisions of § 98.11 of this title shall be applicable to the summer program, except as follows:

(c) Reallocation may occur immediately (without regard to the number of months that have elapsed in the fiscal year of the grant) after completion of the notice and comment procedure specified in § 98.11(d). The comment period specified in § 98.11(d)(2) shall be limited to 10 days.

Priority shall be given in reallocating such funds to other areas with the same State.

§ 97.12 Modification to the summer plan.

(a)(1) A modification to the summer plan requiring prior regional office approval is necessary under any of the following conditions:

(i) Change in duration of the summer plan;

(ii) Change in summer plan allotment;

(iii) Substantial change in program design and/or program goals defined as follows:

(A) When the cumulative number of individuals to be served is proposed to

be increased or decreased by 15 percent or more.

(B) For grants of $100,000 or less, when the cumulative transfer of funds among program activities or cost categories exceeds $15,000.

(C) For grants of over $100,000, when the cumulative transfer of funds among program activities or cost categories exceeds $50,000 or 15 percent of the total grant budget, whichever is less.

(2) A summer sponsor desiring a modification as defined in paragraph (a)(1) of this section, shall sumit a revised Youth Budget Information Summary, a revised Youth Program Planning Summary and an explanation of the proposed changes to the RA.

The RA shall notify the sponsor of approval or disapproval within 10 days of receipt of the proposed modification.

(b) A RA may initiate a modification as described in § 95.21(b)(iv).

PROGRAM OPERATIONS

§ 97.13 Basic requirements for program operation.

Each summer sponsor shall:

(a) Follow the regulations of this subpart;

(b) Follow the provisions described in § 95.31 (a), (b), (e), and (f) of this chapter;

(c) Provide service on an equitable basis to the significant demographic segments among its economically disadvantaged youth population, taking into account the priorities identified by the Secretary, if any, the youths most in need of service and the geographic distribution of economically disadvantaged youth within the prime sponsor's jurisdiction;

(d) Design programs which are, to the maximum extent feasible, consistent with every participants' fullest capabilities;

(e) Maintain accounting records in accordance with §§ 98.12 and 98.13 of this title;

(f) Giving special consideration to the needs of eligible veterans as described in § 95.32(e)(i) of this chapter;

(g) Develop outreach and recruitment techniques aimed at all segments of the economically disadvantaged youth population; especially school dropouts, youth not likely to return to school without assistance from the summer program, and youth who remain in school but are likely to be confronted with significent employment barriers relating to work attitude, aptitude, social adjustment, and other such factors.

(h) Provide labor market orientation to all participants. This orientation may include vocational exposure, counseling, testing, resume preparation, job interview preparation, providing labor market information, providing information about other training programs available in the area, including apprenticeship programs, and similar activities. It may be provided on a group or individual basis. Skill training and remedial education shall be provided on an as-needed basis. In providing labor market orientation, skill training and remedial education, each sponsor shall make maximum efforts to develop cooperative relationships with other community resources so that these activities are provided in the summer program at no cost, or at minimum cost, to the summer program.

(i) Coordinate its summer activities with an organization operating a nationally funded vocational exploration program in its area pursuant to § 97.16(b);

(j) Use cooperative relationships established under YETP with other agencies and institutions that provide employment and training services to youth in the community;

(k) Ensure that adequate supervision is provided to participants at each worksite; and

(l) Make appropriate efforts to encourage educational agencies and postsecondary institutions to award academic credit for the competencies participants gain from their employment.

(m) Ensure that all appropriate efforts are made to closely monitor the performance of service deliverers in compliance with § 97.25(d) as well as part 98, Subpart B, Assessment and Evaluations. Specifically, prime sponsors shall have sufficient technical and managerial personnel to monitor performance and to measure program outcomes against prime sponsor established goals.

(n) Ensure that enrollee applications are widely available and that jobs are awarded in an equitable fashion.

(o) Enter into subgrants and contracts in accordance with § 98.20 and OMB Circular A-102, Attachment O.

§ 97.14 Eligibility for participation.

(a) Each participant shall at the time of application be:

(1) Economically disadvantaged as defined in § 94.4(s) of this title and 14 through 21 years of age; or

(2) Wards of the court and offenders 14 through 21 years of age determined to have left the family unit or who otherwise do not have access to the benefits that family income would normally be expected to provide shall be treated as a family of one and only income generated by themselves shall be used in determining income status; such a determination shall be based on the certification by an assigned probation officer, or other responsible court official that the youth has lived at home 50 percent or less of the time in the last six months; or

(3) A current participant in another CETA program who at the time of his or her enrollment into any of these programs met the criteria of paragraph (a)(1) of this section.

(b) Program participation shall be limited to citizens of the United States, natives of American Samoa, Trust Territory of the Pacific Islands and the Northern Marianas, permanent resident aliens and other aliens who have been permitted to accept permanent employment in the United States.

§ 97.15 Types of employment and training programs available.

A program funded under this Subpart A may include any activity or service specified in § 95.33 of this title, except public service employment. Because of the short term nature of this program, public service employment opportunities which are transitional in nature and likely to lead to regular unsubsidized employment are not appropriate under this program.

§ 97.16 Vocational exploration program.

(a) A summer sponsor may conduct a vocational exploration program for the purpose of exposing youth to the operation and types of jobs available in the private sector through observation of such jobs and instruction, including where appropriate limited practical experience.

(1) The following provisions shall apply to all locally funded vocational exploration programs:

(i) All contracts, subgrants, or written agreements between summer sponsors and other parties for the operation of such programs shall at a minimum assure that:

(A) Participants in vocational exploration programs shall receive allowances in accordance with § 95.34 of this title and shall receive workmen's compensation benefits in accordance with § 98.24(a) of this title. Wages shall not be paid to participants;

(B) The program has received the approval of any labor organization representing employees in the affected collective bargaining units;

(C) Youth will not be assigned to vocational exploration opportunities which are the subject of a labor dispute involving a work stoppage;

(D) A detailed curriculum has been developed; and

(E) The program shall not displace currently employed workers or prevent the hiring of new workers.

(ii) Organizations which have a contract, subgrant or written agreement with a prime sponsor may be reimbursed only for the costs incurred in the conduct of the program: *Provided*, That payments to employers organized for profit are only made for the costs of training which are over and above those normally provided by the employer.

(2) Whenever opportunities are located with a private-for-profit organi-

zation, the summer sponsor shall assure, in addition to items listed in (1) (i) of this section, that youth will not be involved in work experience or any other activity that contributes, or could be expected to contribute, to additional sales or profit for the private-for-profit organization or otherwise result in the subsidization of wages for the organization.

(b) Where a nationally funded program operates in a summer sponsor area, the prime sponsor shall enter into an agreement with the local representative of the program which shall include provisions dealing with arrangements for recruitment, selection, referral and certification of the youth entering the nationally funded program.

§ 97.17 Startup of program.

During the planning and implementation phase of the program prior to the close of the school year, participants may only receive those services listed in § 95.33(d)(5). Such services may include outreach, intake, assessment, counseling, orientation to jobs/activities and other such services which may be appropriate for the youth.

§ 97.18 Worksite standards.

(a) No participant under 18 years of age shall be employed in any occupation which the Secretary has found, pursuant to his authority under the Fair Labor Standards Act, to be particularly hazardous for persons between 16 and 18 years of age (see Subpart E of Part 570, of this title).

(b) Participants who are 14 and 15 years of age will participate only in accordance with the limitations imposed by §§ 570.13 and 570.35 of Subpart C of Part 570 of this title.

(c) Each prime sponsor shall develop written agreements with each worksite employer which assures: (1) Adequate supervision of each participant; (2) adequate accountability for participant time and attendance; and (3) adherence to the rules and regulations governing the Summer Program. Such written agreements do not have to be contracts or subgrants. They may be memoranda of understanding, simple work statements or other documents which indicate an estimate of the number of participants at the worksite and any operational conditions to which the worksite is expected to adhere.

(d) Each prime sponsor shall establish procedures for the monitoring and evaluation of each worksite to insure compliance with the worksite agreements and the terms and conditions of subgrants and contracts.

(e) No participant shall be required to work, or be compensated for more than 40 hours of work per week. Nothing in this section shall be construed as limiting an individual to a maximum number of total hours of employment in the Summer Program. While the Department uses a 9-week, 26-hour week job as the basis for estimating the number of youth to be served, it is not intended to take away the flexibility of the prime sponsor to establish job slots in keeping with the needs of the area and the youth to be served.

§ 97.19 Participant benefits.

(a) Participants in classroom training shall receive allowances as described in § 95.34 of this title and workmen's compensation as provided in § 98.24(a) of this title.

(b) Participants in on-the-job training shall be compensated as specified in § 95.35 of this title, as applicable, and shall be assured of appropriate benefits and working conditions as provided in § 98.24 of this title.

(c) Participants in work experience shall receive wages, benefits and working conditions as provided in § 95.33(d)(4) (viii) and (ix) and § 98.24 of this title.

(d) Participants receiving services (including orientation to jobs/activities), other employment and training activities, or combined activities shall be compensated as specified in § 95.33 (d)(5)(v), (6)(ii), and (7)(ii) of this title.

§ 97.20 Training for lower wage industries and relocation of industries.

The provisions of § 95.37 shall apply in the summer program.

§ 97.21 Nepotism.

(a) The provisions of § 98.22 of this title regarding nepotism apply to summer sponsors who are prime sponsors under title I of the act.

(b)(1) The provisions of § 98.22 (a) and (b) of this title regarding nepotism apply to Native American Employment and Training Program summer sponsors except as modified by paragraphs (b) (2), (3), and (4) of this section.

(2) No Native American Employment and Training Program summer sponsor or subgrantee shall hire, or permit the hiring of, any person in a position funded under this subpart A if a member of that person's immediate family is employed in an administrative capacity by the Native American Employment and Training Program summer sponsor. For the purposes of paragraphs (b) (2), (3), and (4) of this section, the term "immediate family" means wife, husband, son, daughter, mother, father, brother, and sister and the term "administrative capacity" means persons who have selection, hiring, or supervisory responsibilities for participants in a program under this subpart A, or operational responsibility for the program.

(3) If a subgrantee cannot hire program participants without an immediate family member being included, the Director, Division of Indian and Native American Programs may waive the requirement of subparagraph (2) of this paragraph if adequate justification is received from such subgrantee that no other persons within the subgrantee's jurisdication are eligible and available for participation.

(4) Where a tribal policy regarding nepotism exists which is more restrictive than this policy, the prime sponsor shall follow the tribal rule in lieu of this policy.

§ 97.22 Nondiscrimination in Native American Employment and Training Programs.

Section 98.21 of this title shall be applicable to Indian programs funded pursuant to this subpart A, except that participants must be Native Americans and staff may be limited to Native Americans. Native American summer sponsors may also require that subgrantees agree, to the maximum extent feasible, to hire qualified Native Americans to provide services called for pursuant to the subgrant in accordance with 42 U.S.C. 2000e-2(i).

§ 97.23 Reporting requirements.

Each summer sponsor shall submit the following reports to the RA:

(A) A Youth Program Status Summary, as of September 30, based on the enrollment records required under §§ 98.8, and 98.18 of this title (separate reporting of the Vocational Exploration Program component will be included in this report);

(b) Two Youth Financial Status Reports, as of September 30 and December 31, based on the accounting records required under §§ 98.8, 98.12, and 98.13 of this title (separate reporting of the Vocational Exploration Program component will be included in this report;

(c) Separate Quarterly Summary of Youth Characteristics reports, as of September 30, based on the participant records for (1) this program and (2) the title I summer component, required under § 98.18 of this title.

(d) Selected information required on the above reports shall also be submitted for informational purposes for participants and expenditures in summer components funded with monies in the sponsor's current title I annual plan.

(e) The reports in this section shall be submitted to the RA no later than 30 days after the end of the report period.

§ 97.24 Termination date for the Summer Program.

(a) Participants shall not be enrolled in program activities beyond September 30.

(b) Allowable acitivities after September 30 include: Report and record preparation and submittal, completion

of followup activities, completion of evaluations and assessments of worksite employees and the overall program or other elements of the summer program, and audits.

§ 97.25 Administrative Provisions.

(a) Summer sponsors shall comply with the provisions of Part 98 of this title.

(b) Summer sponsors may enter into subgrants or contracts for the operations of the summer program only with public agencies and private nonprofit organizations which:

(1) Have sufficient capability to operate the program;

(2) Have financial management capability as required by § 98.5 of this title;

(3) Have stated that all proposed worksites have been evaluated in terms of the requirements of the summer program, and that such worksites will be adequate;

(4) Include in their applications the names and qualifications of their officers, directors, and managing personnel, including the names and qualifications of officers, directors and and managing personnel of any affiliate, subsidiary, etc. which will participate in the operation of the summer program;

(5) Include in their application a list of all Federal programs under which they have received financial assistance during the last three years and a statement that they have substantially compiled with the requirements, procedures and objectives of such programs;

(6) If they operated a summer program under this subpart in the previous year, that at the time of application there is no information available to them showing substantial noncompliance with the Act and regulations in operation during the terms of such program, or, if there is, they have developed a corrective action plan which has been approved by the RA;

(7) Assures in their applications that none of the officers, directors, or managing employees, who are subject to the disclosure requirement of paragraph (b)(4) of this section, have been convicted of defrauding the Federal Government, or of obstructing an investigation with respect to such fraud, during the past three years: *Provided*, That nothing herein will prohibit the participation of otherwise eligible ex-offenders in CETA programs; and

(8) Assures in their applications that all their personnel will have had basic training in the program and regulations before the summer program begins.

(c) In selecting subgrantees and contractors the prime sponsor shall consider the capability of such organizations to:

(1) Provide worthwhile work to participants (i.e., work that this appropriate in terms of participant needs and local market demands);

(2) Provide specific services contracted for;

(3) Restrict expenditures to allowable cost items only;

(4) Submit timely and accurate reports;

(5) Authorize payment only for time worked by a participant or an employee of the project sponsor; and

(6) Provide such public information regarding the program worksites and its administrators as may be requested, including the information required to be kept under paragraphs (b)(4) and (e) of this section.

(d) To effect compliance with part 98, Subpart B, Assessment and Evaluation, of this title, prime sponsors shall, or shall require their contractors and subgrantees to:

(1) Have supervisory and operational personnel for monitoring each site to which their participants are assigned;

(2) Assure that all sites where participants will be assigned, have the capability and facilities to provide services to summer youth in a sanitary and safe environment;

(3) Train their own personnel and site personnel with regard to duties and responsibilities, including monitoring.

(e) Each prime sponsor shall compile and continually update a list of worksites (broken down by subgrantee and contractor) to aid in its monitoring efforts and to be made available to the public on request.

(f) Each prime sponsor, without prior notice, shall visit some worksites of each subgrantee or subcontractor at least once during the first half of the summer program to determine whether:

(1) The activities on the site are those described in the worksite agreement;

(2) There is enough meaningful work to occupy all the youth assigned during the hours they are at the site;

(3) Attendance records which accurately record time worked by each enrollee are being maintained, and

(4) The requirements of the Act and this subpart are being met.

(g) In addition to following the monitoring requirements of § 98.31 of this title, each prime sponsor shall:

(1) Promptly review the reports written by its own and Federal monitors;

(2) Revisit worksites where monitors report problems; and

(3) Close worksites where it finds serious or continual violations of the Act, the regulations or the grant which are not likely to be remedied by quick remedial action.

§ 97.26 Alternative remedies.

(a) In addition to the remedial procedures available to the Secretary under Subpart C of Part 98 of this title, the Secretary, in view of the short-term nature, and the national program character, of the summer program, may employ any of the following remedies whenever the Secretary has reason to believe that a prime sponsor or one of its subgrantees or contractors has materially violated the provisions of the Act, the regulations, the terms of the summer program grant, or that the program is being administered in an inefficient or incompetent way:

(1) The Secretary may immediately terminate or suspend the prime sponsor's program in whole or in part provided the Secretary offers the prime sponsor an opportunity for a subsequent hearing; or

(2) The Secretary, for good cause, may order a subgrant or contract suspended or terminated in whole or in part effective on the date of the Secretary's order or on such other date as the Secretary determines. In cases of termination, the Secretary may allow the subgrantee or contractor to expend further funds only for purposes of closing out the subgrant or contract, including the transfer or participants into other of the prime sponsor's summer program slots in accordance with the Secretary's directions. Whenever the Secretary orders termination of suspension of a subgrantee or contractor under this paragraph, the Secretary may take whatever action is necessary including direct legal action against the subgrantee or contractor, or an order to the prime sponsor that it take such legal action, to reclaim misspent funds or to otherwise protect the integrity of the funds or ensure the proper operation of the summer program.

(b) All grants, subgrants and contracts under the summer program shall contain the provisions of this section.

Signed in Washington, D.C., this 3rd day of April 1978.

RAY MARSHALL,
Secretary of Labor.

[FR Doc. 78-9145 Filed 4-4-78; 8:45 am]

FRIDAY, APRIL 7, 1978
PART VII

federal register

NATIONAL CREDIT UNION ADMINISTRATION

■

ORGANIZATION AND OPERATIONS OF FEDERAL CREDIT UNIONS

Final and Proposed Provisions for Real Estate Lending

[7535-01]

Title 12—Banks and Banking

CHAPTER VII—NATIONAL CREDIT UNION ADMINISTRATION

PART 701—ORGANIZATION AND OPERATIONS OF FEDERAL CREDIT UNIONS

Final Rule—Real Estate Lending

AGENCY: National Credit Union Administration.

ACTION: Final rule.

SUMMARY: This rule implements amendments to the Federal Credit Union Act authorizing Federal credit unions to make residential real estate loans.

EFFECTIVE DATE: This regulation is to be effective May 8, 1978. The Administration is open to public comment on this final rule.

ADDRESS: National Credit Union Administration, 2025 M Street, NW., Washington, D.C. 20456.

FOR FURTHER INFORMATION CONTACT:

Either Joseph Bellenghi, Assistant Administrator, Office of Examination and Insurance, or Steven Bisker, Attorney-Advisor, Office of General Counsel, at the above address. Telephone: 202-254-8760 (Mr. Bellenghi) or 202-632-4870 (Mr. Bisker).

SUPPLEMENTARY INFORMATION: On November 23, 1977, the Administration published a proposed rule (42 FR 59980) to implement the provisions of the Federal Credit Union Act (12 U.S.C.A. 1751, *et seq.*, hereafter "the Act"), as amended by Pub. L. 95-22, authorizing Federal credit unions to make residential real estate loans with maturities not exceeding 30 years. Public comment was invited, to be received on or before January 18, 1978. Seventy comments were received, the majority of which were in support of the requirements of the regulations. Upon review of these comments by the Administration, various changes have been made.

ANALYSIS OF COMMENTS.

1. *Authority to refinance.* After considering comments on refinancing and further researching this area, the Administration has determined that the thrust of the legislation includes the right to refinance real estate loans. Therefore, Federal credit unions are permitted to refinance real estate loans under this rule.

2. *Key terms.* Part 701.21-6(a) of the final rule defines key terms used in the Act and in this rule. Commenters requested certain revisions to the definitions which would provide more flexibility in making real estate loans.

Paragraph (a)(2) defines "Principal residence". A large number of commenters stated that the 6 month period was too short a time frame to accommodate a member who was going to construct a home or extensively rehabilitate an existing home. One commenter recommended that this time period begin with the disbursement of the loan, instead of the conveyance of title. The Administration concurs with both recommendations and has extended the time period to 18 months beginning with the disbursement of the loan.

Paragraph (a)(3) defines "Median sales price". A number of the commenters stated that the requirement in the proposed rule to maintain data on all sales within a 12 month period would be burdensome and expensive. The requirements in the proposed rule were intended to prevent the establishment of artificially low or high median sales price levels. However, the Administration recognizes that the proposed rule could be excessively burdensome. The Administration has revised this final regulation to allow sampling techniques. Further, the sales data used would not have to cover the entire 12 month period. Rather, the data may represent sales occurring *within* a 12 month period (e.g., prior 3 months, 6 months, etc.) prior to the disbursement. Median sales data need only be obtained on the type of dwelling that is being financed, i.e., if a two family dwelling is being financed only sales data on two family dwellings will be used.

Paragraph (a)(4) defines "Geographical area". Some commenters recommended that the board of directors be allowed to choose very small geographical areas such as certain streets or sections of a community. The Administration has not adopted these suggestions since it would increase the likelihood of financing luxury homes and nonessential real estate contrary to the intent of Congress.

Paragraph (a)(5) defines "Value". Several commenters recommended that "Value", in the case of property to be rehabilitated be based upon an appraiser's estimate of market value after the rehabilition rather than the cost of rehabilitation. The Administration has not adopted these recommended changes. The costs of rehabilitation incurred by the first individuals to rehabilitate homes in a depressed urban area may not initially be reflected in a proportionate increase in the market value. However, we believe that with careful underwriting in evaluating the members' creditworthiness the credit union's interest can be protected. By Federal credit unions taking initiative and making the initial loans in urban depressed areas, the cycle of decay can be turned around and eventually the cost of rehabilitation will be reflected in the market value.

Paragraph (a)(6) defines "Appraisal". A few commenters recommended that the use of the cost and income methods of appraisal be included. The Administration concurs with the commenters that in certain instances (i.e. such as when a four family dwelling is being financed) a correlation of all three methods will provide the best indication of market value. Appropriate changes have been made.

Paragraph (a)(11) defines "Escrow account". A few commenters objected to the payment of dividends on escrow accounts. It should be stressed that a Federal credit union has the option of whether or not to require a borrower to maintain an escrow account. It is the Administration's position that borrowers having escrow accounts must receive reasonable compensation for the use of their money. Escrow accounts will earn either dividends or interest depending on whether the account is established by a member, or a nonmember assuming a member's loan.

Paragraph (a)(12) defines "Title insurance". The Administration has added language specifying that this insurance covers losses which may result from clouds or defects in the title to real property.

Paragraph (a)(13) defines "Hazard insurance". Some commenters recommended that the terminology of "a loss payable clause" be changed to a "standard mortgagee clause" and that protection and benefits of the hazard insurance run to subsequent purchasers of the mortgage. The Administration concurs and has made appropriate changes.

Paragraph (a)(14) defines "Service charges". This definition has been added to the final rule.

3. *Amortization of loans*—Paragraph (b)(2). A number of commenters recommended that the Administration allow flexible and graduated payment mortgage programs on an experimental pilot program basis. The Administration believes that such innovative and creative programs should be used to assist low and moderate income people in purchasing homes and has adopted the recommendation. Before a Federal credit union will be given this authority it must demonstrate that it can effectively manage real estate lending.

The Administration adopted a recommendation that the amortization of a loan be allowed to begin on the 61st day instead of the 60th day to accommodate those situations where a loan is closed on the 1st or 2nd day of consecutive 31-day months.

4. *Investment limitation—25 percent of loan portfolio*—Paragraph (b)(4). A

number of commenters recommended that the limitation be based upon assets instead of the loan portfolio. The commenters believed that a limitation based upon assets would give Federal credit unions greater flexibility. In addition, the commenters pointed out that several credit unions presently have low loan to share ratios. They asserted that in limiting the amount of real estate loans to a per centum of total loans, instead of total assets, their real estate lending activity would be unduly restricted. It should be pointed out that the Administration in basing the limitation upon the loan portfolio was guided by Congressional concern that Federal credit unions could lose sight of their primary purpose of providing low cost consumer loans. After careful consideration, the Adminsitration has determined that a limitation of 25 percent of assets will provide Federal credit unions with greater flexibility in mortgage lending without impeding the primary objective of extending low cost consumer credit.

A few commenters asked for clarification as to whether or not loans that are sold would be included within the 25 percent limitation. Whole loans which are sold will not be included within the 25 percent limitation. When a partial interest in a loan is sold, only the interest retained will be included in the 25 percent limitation.

5. *Loan to value ratio.* Several commenters recommended that the regulation permit the financing of conventional real estate loans up to 90 per centum of Value without private mortgage insurance in order to provide more young families and moderate income families the opportunity to purchase a home. In recognizing the role of credit unions in providing low cost home mortgage loans to persons of small and modest means, we have amended the regulation as recommended.

Paragraph (b)(5)(i) provides an exception to the 90 per centum of Value limitation when the loan is an Insured or Guaranteed Loan. Commenters indicated that the language in the proposed regulation would, in some instances, result in Federal credit unions not being permitted to loan up to the maximum amount acceptable to the insuring or guaranteeing agency. Since this was not the intent of the Administration, the final rule was revised.

Paragraph (b)(5)(ii) sets forth the requirements for obtaining private mortgage insurance. Since the regulation has been amended so as to allow conventional loans to be made up to 90 percent of Value without mortgage insurance, we have revised the corresponding language in this section requiring private mortgage insurance only when the borrower's loan balance exceeds 90 percent of Value.

6. *Loan application*—Paragraph (b)(6). The proposed regulation referred only to the Federal Home Loan Mortgage Corporation (FHLMC) loan application form. In order to avoid confusion the final rule has been revised to include the appropriate Federal National Mortgage Association (FNMA) form numbers.

7. *Mortgage loan file*—Paragraph (b)(11). Paragraph (b)(11) sets forth the documents that must be maintained in the mortgage loan file. A number of comments noted concern over the fact that when loans are sold on the secondary market the originals of certain documents are required to be transferred to investors. The Administration believes that there is sufficient latitude in the proposed language to allow Federal credit unions to maintain copies of the required documents in those instances.

Paragraph (b)(11)(ii) sets forth the required appraisal forms. The Administration has added language to indicate the appropriate FNMA form numbers in addition to the FHLMC form number.

Paragraph (b)(11)(vi) of the proposed rule stated that a copy of the hazard insurance policy must be maintained in the Federal credit union's office. The Administration has amended this paragraph to indicate that the original hazard insurance policy may be transferred if the loan is sold.

Paragraph (c)(3) has been amended so as to have the restriction in this section pertain to all officials of a Federal credit union.

General Comments

1. *Interest-calculation and treatment.* Paragraph (c)(4) specifices, in part, that the rate of interest shall not exceed 1 per centum per month on the unpaid balance inclusive of all prepaid interest, processing fees and other service charges. This reflects the dictates of sections 107(5)(a)(vi)-(viii) of the Federal Credit Union Act.

As previously noted, paragraph (a)(14) defines "service charges" which, along with prepaid interest (points, discounts, etc.), must be included in the calculation of the 1 per centum interest. Points charged to the seller will not be included in the interest rate calculation unless actually passed on to the borrower (purchaser). Also, in a separate publication accompanying this final rule, it is proposed that origination fees (commitment fees, processing fees, administrative fees, etc.) shall not be charged to the borrower. Until such time as final action is taken on that proposal, any origination fees which are passed on to the borrower must, as indicated in paragraph (a)(14)(f) be included in the interest calculation.

Service charges and prepaid interest are not required to be treated as impacting solely on the "rate" of interest paid in the first month. Rather, it is the effective interest over the entire transaction which may not exceed the 1 per centum per month limitation.

Section 107(5)(a)(vi) of the Act is definitive in limiting the rate of interest. An early repayment, depending upon the amount of "front-end" payments, could result in the FCU exceeding the 1 per centum per month limitation.

Paragraph (c)(5) specifies that if the 1 per centum limitation is exceeded, a refund, or adjustment of the final payment must be made to the member. If the appropriate adjustments are made, the penalty provision of section 107(5)(A)(vii) would *not* be applicable since an excessive rate was not "knowingly" charged. Because of required effective yields demanded by the secondary market, many FCU's intending to sell their loans will attempt to keep their interest rates low by charging "points" (prepaid interest). An FCU, depending upon the amount of prepaid interest and service charges, may run the risk of absorbing a loss if the loan is paid prior to maturity (usually within the first two years).

A Federal credit union which neither charge points nor assesses service charges does not run the risk of being liable for refunds.

FCU's will have the opportunity and incentive to provide the borrower with a real choice in shopping for his/her mortgage loan. Instead of mirroring their competitors, FCU's can lead the way by informing borrowers that the amount of settlement costs are as important in shopping for a loan as is the interest rate. The idea of apprising borrowers of lenders' costs is not a novel one. This has been the intent of the Real Estate Settlement Procedures Act (R.E.S.P.A.), the Truth-in-Lending Act (T.I.L.), and the regulations promulgated thereunder.

Although T.I.L. requires disclosure of the Annual Percentage Rate (APR) certain service charges need not be included in this calculation. R.E.S.P.A. was intended to apprise borrowers of all costs, including those which do not affect the APR, so that borrowers could have a basis for comparison in shopping for credit. Because of the differences in these service charges from lender to lender, comparisons are still difficult to make.

Although R.E.S.P.A. and T.I.L. have greatly improved disclosures to borrowers, neither requires disclosure of an overall effective rate inclusive of all service charges. (For example, certain charges in connection with real estate loans—such as credit report fees—which are a cost of credit, are nonetheless specifically excluded from the "finance charge" and "annual percentage rate" computations under the Truth-In-Lending Act by section 106(e) thereof. A more accurate disclo-

sure of the true cost of credit would include these charges, if paid by the borrower.) The 1 per centum per month interest limitation in the Federal Credit Union Act, although it does not require disclosure of an overall effective rate of interest, it does limit the overall effective rate.

Because of the 1 per centum per month limitation, a borrower can be assured that the effective rate of interest he/she will pay on a credit union mortgage loan will never exceed 1 per centum per month inclusive of all service charges in the event the loan is prepaid. This is accomplished by requiring Federal credit unions to recompute the interest charge in the event of early payoff.

It would be in the public interest for T.I.L. to be amended to follow the lead taken by the Administration in including all the costs of obtaining credit in the calculation of an overall effective interest rate.

Borrowers can truly be benefited in cost savings by not incurring the settlement charges but instead paying a higher rate on their loans. If significant settlement charges are required, a borrower must have the readily available cash (or secure financing) to pay for these costs in addition to whatever downpayment is required. Congress intended that Federal credit unions be a source of mortgage money for those individuals that might have difficulty obtaining such financing elsewhere, especially those seeking low and middle priced housing. Typically, these individuals do not have large amounts of savings to use as downpayments and to pay for settlement charges. By minimizing the settlement charges these members will be benefited.

2. *New construction.* A few commenters questioned whether or not the language in the regulation would permit a member to finance the construction of his or her home. The Administration believes that the language in the regulation provides sufficient latitude in permitting this type of financing. Construction loans can be made, as presently discussed in the Credit Manual for Federal Credit Unions. However, instead of requiring a member to obtain financing from another financial institution upon the completion of the construction which has been the case, the credit union should determine whether or not it will be able to finance the loan under this regulation upon completion of construction.

3. *Assumption by nonmembers.* Several commenters expressed concern over the Administration's position that loans of members can be assumed by nonmembers so long as the member remains primarily liable. The commenters stated that this requirement would impose a hardship on veterans who must be relieved of all liability in order to have their Veterans eligibility reinstated. The Administration believes that this requirement will not impose a hardship upon the veteran since the Veterans Administration does not require the veteran to be relieved of his or her liability to the lender. In order to have their eligibility reinstated they must be relieved of their liability to the VA and not the lender.

Lastly, some commenters pointed out that the Administration should have used the term personally liable when referring to assumptions by nonmembers instead of primarily liable as stated in the preamble to the proposed regulation. The Administration concurs that the term personally liable is more appropriate.

LORENA C. MATTHEWS,
Acting Administrator.

(AUTHORITY: Sec. 120, 73 Stat. 635 (12 U.S.C. 1766) and Sec. 209, 84 Stat. 1104 (12 U.S.C. 1789).

Accordingly, 12 CFR Part 701 is amended by adding a new section to read as follows:

§ 701.21-6 Real estate lending.

(a) For purposes of this section;

(1) "One-to-four family dwelling" means a structure designed for residential use by not more than four families. The term also includes a one-to-four family unit in a planned unit development or condominium project where certain portions of the security property are owned in common with others. The term does not include a unit in a cooperative project.

(2) "Principal residence" means a structure where the member will be domiciled or will reside permanently within 6 months after initial disbursement of the loan or within 18 months, provided the structure is being newly constructed or extensively rehabilitated.

(3) "Median sales price" means that price level at which half of the residential real property in a geographical area have sold below and half have sold above within a period not exceeding 12 months prior to the disbursement of the loan. Sampling techniques may be utilized to determine "Median sales price."

(4) "Geographical area" means a definable market area. If such an area cannot be defined, regional areas such as city, county, census tract, or standard metropolitan statistical area will be used. In defining and selecting geographical areas the board will consider the availability of funds to persons of greater need and more moderate means; it shall not seek out high priced areas as the basis for determining the median sales price.

(5) "Value" means the lower of the appraised market value or the purchase price. In the case of residential real property being rehabilitated, "Value" shall also include the cost of rehabilitation. The cost of rehabilitation shall be supported by a good faith estimate.

(6) "Appraisal" means an objective estimate of value based upon a physical examination and evaluation which shall disclose the market value of the security offered by use of the market sales approach which shall be supported by an analysis of comparable properties in the immediate area. The market value should also be supported by use of the cost and income appraisal methods if conditions warrant.

(7) "Appraiser" means a person who is experienced in the appraisal of one-to-four family dwellings and is actively engaged in such appraisal work and whose qualifications are demonstrated by membership in a national professional appraisal organization, or who is licensed to appraise in the state in which the real estate is located or who is acceptable as an appraiser by an insuring or guaranteeing agency of the Federal or State government.

(8) "Market value" means that the highest price which real property will bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller, each acting prudently, knowledgeably, and assuming the price is not affected by undue stimulus.

(9) "Security instrument" means either a Deed of Trust, Mortgage or Leasehold Mortgage which constitutes a first lien. Only in those areas of the United States of America, its territories and possessions, the Panama Canal Zone, or the Commonwealth of Puerto Rico where an interest in real estate is customarily evidenced by leasehold or ground estates will the term "Leasehold Mortgage" be included in this definition.

(10) "Insured or Guaranteed Loan" means any loan that is fully or partially insured or guaranteed by the Federal Government, State government, or any agency of either.

(11) "Escrow account" means either a special limited withdrawal share account or accounts payable account for the accumulation of funds to pay for not more than one year's taxes, assessments, insurance premiums, construction proceeds, or other charges that could affect the credit union's first lien position.

(12) "Title insurance" means insurance protecting the credit union against loss due to clouds or defects in title to real property equaling the current principal balance of the mortgage loan also protecting and benefiting subsequent purchasers of the mortgage.

(13) "Hazard insurance" means property insurance affording protection against loss or damage from fire and

other hazards covered by the industry's standard extended coverage endorsement which provides for payment of an amount sufficient to pay the mortgage balance in the event of a covered loss, with a standard mortgagee clause in favor of the credit union and subsequent purchasers of the mortgage.

(14) "Service charges" means those charges paid by the borrower which are a cost or condition of obtaining credit such as:

a. Appraisal fees;
b. Credit report fees;
c. Fees or premiums for title examinations, abstracts, or insurance, which protect the lenders' interest;
d. Attorneys' fees for services performed for the lender;
e. Lenders' inspection fees;
f. Loan origination fees.

Charges payable in connection with any home purchase transaction which would be incurred whether or not credit is obtained are *not* service charges. Examples are:

a. Fees or premiums for title examinations or title insurance which protect the borrower;
b. Premiums for hazard insurance;
c. Fees for surveys;
d. Fees for preparing and notarizing deeds or other documents.

(b) Federal credit unions with assets of $2,000,000 or more, or any other Federal credit union with prior written consent of the Administration, may originate loans secured by first liens on residential real property, with maturities in excess of 12 years and not exceeding 30 years within the limitations of written policies adopted by the board of directors provided:

(1) Loans shall be made to finance or refinance a one-to-four family dwelling which will be used for the principal residence of the Federal credit union member.

(2) Loans shall be amortized by substantially equal monthly installments sufficient to retire the loan at maturity. Each monthly installment shall be applied first to taxes and insurance due and payable (when an escrow account is established), then to interest currently due and payable, with the remainder to principal. Amortization shall commence no later than 61 days after disbursement of proceeds and shall not exceed 30 years from date of disbursement. An Insured or Guaranteed Loan shall be amortized as permitted by the insuring or guaranteeing agency. With prior written consent of the Administration, loans may be amortized by other than substantially equal monthly installments.

(3) The sales price of the real estate and improvements thereon shall not exceed 150 per centum of the median sales price of residential real property in the geographical area in which the property is located.

(4) The aggregate dollar amount of real estate loans outstanding may not exceed 25 per centum of the Federal credit union's assets without prior written consent of the Administration. This limitation does not include real estate loans with maturities not exceeding 12 years.

(5) The loan shall not exceed 90 per centum of value at the time of disbursement except that:

(i) An Insured or Guaranteed Loan may equal the maximum amount acceptable to the insuring or guaranteeing agency.

(ii) The loan amount may equal up to 95 per centum of value provided that private mortgage insurance is obtained for the amount of the loan in excess of 90 per centum of value.

(6) The loan application shall be the current revision of FHLMC Form 65/FNMA Form 1003 or its equivalent. In the case of an Insured or Guaranteed Loan the loan application shall be acceptable to the insuring or guaranteeing agency.

(7) The security instruments and notes shall be executed on the current revision of the FNMA/FHLMC Uniform Instruments for the jurisdiction in which the property is located. No prepayment penalty shall be allowed. In the case of an Insured or Guaranteed Loan these instruments shall be acceptable to the insuring or guaranteeing agency.

(8) The loan shall be secured by a perfected first lien on real property in favor of the credit union supported by a properly executed and recorded security instrument. No loan shall be secured by real property located outside the U.S.A., its territories and possessions, the Panama Canal Zone, or the Commonwealth of Puerto Rico.

(9) Where an interest in real estate is customarily evidenced by leasehold or ground rent estates, real estate loans shall comply with the preceding provisions of this section in addition to the procedures customarily followed to perfect an interest in a leasehold or ground rent estate. In the case of an Insured or Guaranteed Loan the leasehold or coveyance reserving ground rents shall comply with the requirements of the insuring or guaranteeing agency.

(10) A Federal credit union may require the member/borrower to maintain an escrow share account. If a member's loan is assumed by a nonmember, any required escrow account shall be maintained as an interest bearing account payable. The rate of interest paid on such accounts shall be equal to the dividend rate paid on regular share accounts.

(11) Each mortgage loan file shall contain the following:

(i) A loan application supported by an executed sales contract and any modifications bearing the signature of the applicant(s) and a statement of the median sales price for the geographical area.

(ii) A written appraisal on the current revision of FHLMC Form 70/FNMA Form 1004; FHLMC 465; FNMA Form 1004-A or their equivalent, prepared and signed prior to approval of the loan application by an appraiser who shall provide a certification on the current revision of FHLMC Form 439 or its equivalent. In the case of an Insured or Guaranteed loan, the appraisal form shall comply with the requirements of the insuring or guaranteeing agency.

(iii) When applicable, a private mortgage insurance certificate or documentation of Insured or Guaranteed loans.

(iv) A complete settlement statement (Form HUD-1) detailing all charges and fees and distribution of the loan proceeds.

(v) An opinion of title signed by an attorney licensed to practice in the jurisdiction in which the property is located or a title insurance policy affirming the quality and the position of the first lien.

(vi) A current hazard insurance policy.

(vii) A flood insurance policy, if required.

(viii) A properly executed note and security instrument and a document indicating the date and place(s) of recording of such instruments.

(c) The following restrictions shall be applicable to all loans made under this section;

(1) A Federal credit union shall not grant any loan on the prior condition, agreement, or understanding that the borrower contract with any specific person or organization for the following:

(i) Insurance services (as an agent, broker, or underwriter) except insurance or a guarantee provided by a government agency;

(ii) Building materials or construction services;

(iii) Legal services rendered to the borrower; and

(iv) Services of a real estate agent or broker.

(2) Notwithstanding the preceding paragraph, a Federal credit union may refuse to grant any loan if it believes, on reasonable grounds, that the insurance services provided by the person or organization selected by the borrower will afford insufficient protection to the credit union.

(3) A Federal credit union shall not make any mortgage loan if, either directly or indirectly, any commission, fee or other compensation is to be paid to, or received by, any of its officials or employees in connection with the procuring or insuring of the loan.

(4) The rate of interest shall not exceed 1 per centum per month on the unpaid balance inclusive of all service

charges. Any loan discount or points charged to the borrower represent prepaid interest. Knowingly charging or receiving a rate of interest in excess of 1 per centum per month shall constitute a forfeiture of the entire interest on the obligation. A member may repay a loan, in whole or in part, prior to maturity on any business day without penalty.

(5) Early repayment of a loan involving points or service changes shall require recomputation. A refund, or an adjustment of the final payment must be made promptly to ensure that the true rate of interest has not exceeded 1 per centum per month. This requirement also applies to loans which the credit union has sold in whole or in part.

[FR Doc. 78-9235 Filed 4-6-78; 8:45 am]

[7535-01]

NATIONAL CREDIT UNION ADMINISTRATION

[12 CFR Part 701]

ORGANIZATION AND OPERATIONS OF FEDERAL CREDIT UNIONS

Proposed Rulemaking—Real Estate Lending

AGENCY: National Credit Union Administration.

ACTION: Proposed amendment to rule.

SUMMARY: The purpose of this proposed amendment to the National Credit Union Administration's Real Estate Lending Regulation is to provide the public with an opportunity to comment on proposed provisions which impose certain restrictions and affirmative requirements upon Federal credit unions. Inasmuch as these provisions were not contained in the proposed real estate lending rule previously published (42 FR 59980) on November 23, 1977, the Administration believes it is appropriate to publish the provisions in proposed form now, rather than including the provisions in the final real estate lending regulation which is being published concurrent with this proposal.

DATES: Comments must be received on or before May 8, 1978.

FOR FURTHER INFORMATION CONTACT:

Either Joseph Bellenghi, Assistant Administrator, Office of Examination and Insurance, or Steven Bisker, Attorney Advisor, Office of General Counsel, National Credit Union Administration, 2025 M Street NW., Washington, D.C. 20456. Telephone: (202) 254-8760 (Mr. Bellenghi) or (202) 632-4870 (Mr. Bisker).

SUPPLEMENTARY INFORMATION: The final rule on real estate lending, § 701.21-6, defined "service charges", in paragraph (a)(14)f. as including loan origination fees. It is the Administration's position that the charging of such origination fees to member borrowers is not consistent with credit union philosophy of providing low cost credit. The fee represents administrative costs of processing the loan application and related documents. Historically, these costs have been absorbed by the Credit Union and not assessed to the borrower. In this regard, the Administration is proposing to prohibit Federal credit unions from charging origination fees (commitment fees, processing fees, administrative fees, etc.) to the borrower.

The second proposed amendment to the final rule concerns the possible refund to borrowers that might result in the event that service charges and/or prepaid interest are paid by the borrower and, because of an early repayment of the loan, upon recomputing the interest charge, the 1 per centum per month limitation is exceeded with the excess remitted to the borrower. It is proposed that every Federal credit union making real estate loans subject to the regulation provide written notification to the borrowers where the possibility of a refund exists (service charges and/or prepaid interest paid by borrowers), at the time of disbursing the loan, that early repayment of their loan may result in a possible refund or adjustment in their final payment. This notification is especially critical in those instances where the Credit Union sells the loan and does not retain the servicing. In these situations, the Credit Union would not know if the member makes an early repayment on his/her loan, and therefore, it would be left solely to the borrower to notify the Credit Union.

LAWRENCE CONNELL,
Administrator.

MARCH 29, 1978.

AUTHORITY: Sec. 120, 73 Stat. 635 (12 U.S.C. 1766) and Sec. 209, 84 Stat. 1104 (12 U.S.C. 1789).

12 CFR Part 701 is proposed to be amended by revising §701.21-6 as follows:

§ 701.21-6 [Amended]

1. Section 701.21-6(a)(14)(i)(f) is to be deleted with § 701.21-6(a)(14)(i)(g) redesignated as § 701.21-6(a)(14)(i)(f);

2. Section 701.21-6(c)(4) is to be amended by inserting, "No borrower shall be required to pay a loan origination fee" after the second sentence; and

3. Section 701.21-6(c)(5) is to be amended by inserting "Each Federal credit union is required to provide written notification to borrowers, if the possibility of a refund exists, at the time of disbursement of the loan, that an early repayment of their loan may result in a refund or an adjustment" at the end of the section.

[FR Doc. 78-9236 Filed 4-6-78; 8:45 am]

federal register

FRIDAY, APRIL 7, 1978
PART VIII

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Human Development Services

■

HEADSTART GRANTS ADMINISTRATION AGENCIES AND ELIGIBILITY REQUIREMENTS AND LIMITATIONS FOR ENROLLMENT IN HEADSTART PROGRAMS

[4110-92]

Title 45—Public Welfare

CHAPTER XIII—OFFICE OF HUMAN DEVELOPMENT SERVICES, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 1301—HEADSTART GRANTS ADMINISTRATION

Establishment of New Administrative Requirements

AGENCY: Office of Human Development Services, HEW.

ACTION: Final rule.

SUMMARY: These regulations establish requirements to govern the administration of Headstart grants. The basis of this regulation is title V of the Economic Opportunity Act of 1964.

DATE: Effective May 8, 1978.

FOR FURTHER INFORMATION CONTACT:

D. C. Drohat, 202-755-7480 or Taik M. Lee, 202-755-7488, Program Management Division, Headstart Bureau, Administration for Children, Youth, and Families, Office of Human Development Services, Department of Health, Education, and Welfare.

SUPPLEMENTARY INFORMATION: This regulation adds a new part 1301. The purpose of the new part is to establish requirements for the administration of Headstart programs, grants for technical assistance and training, and grants for research, demonstration, and pilot projects. The provisions of 45 CFR part 74, which establish uniform requirements for the administration of HEW grants and principles for the determination of program costs, are incorporated by reference, except for two specific provisions which are treated separately for Headstart. This regulation also established criteria for an increase in the Department's share of program costs, and sets limits on the costs of developing and administering a Headstart program.

The basis for this regulation is title V of the Economic Opportunity Act of 1964.

A notice of proposed rulemaking for this regulation was published in the FEDERAL REGISTER on May 5, 1976 (41 FR 18606).

The most apparent contrast between this regulation and the proposed regulation is that this is significantly shorter. Upon reflection, the Department concluded that there were many provisions in the proposed rule that did not warrant promulgation as rules and should be deleted. For example, parts of the proposed regulation merely provided detailed information about the Department's grant process—information which is readily available in the Department's grant administration manuals. Other provisions in the proposed regulation simply repeated requirements already specified in our Department-wide grant administration regulation. There were also provisions which merely described how the Department will carry out its responsibilities.

To illustrate, § 1301.2-1 of the proposed regulations simply stated that the amount of the grant, the period covered by the grant, and the purpose of the grant will all be set forth in the notice of the grant award. That would be true whether the regulation stated so or not. Section 1301.4-3 repeated already applicable regulations found in 45 CFR 74.92, which provide that grant payments will be made in installments, in advance or by way of reimbursement. And, by stating that the HEW official responsible for approving grant applications shall either approve or disapprove the grant, § 1301.2-2 did little more than state the obvious.

We have deleted such provisions from the proposed rule. We have also deleted provisions, such as references to compliance with civil rights statutes and the Davis-Bacon Act, which merely state a legal effect which would obtain in the absence of the statement, and have substantially reduced the level of detail in the requirements pertaining to personnel management. The remaining provisions have been redrafted in an attempt to make them more concise and more readily understood.

PUBLIC COMMENTS

One hundred and thirty-six comments were received from twenty-eight individuals and organizations.

Comments pertaining to those provisions that have been deleted will not be discussed in this preamble, but will be used by the Department in preparing information memoranda, program guidelines, or similar issuances on the Headstart program. Our handling of the comments pertaining to the provisions that remain is explained in the following discussion:

1. Several comments suggested that we set minimum monetary levels for the insurance and bonding required of Headstart agencies (see § 1301.3-2.) While we share the concern that insurance and bonding be maintained at adequate levels, we believe the specific determination of an adequate level should be left to the best judgment of grantees, based on the particular setting of the program. This approach also has the virtue of avoiding a potential conflict with state or local requirements.

2. Several commenters requested that we allow "pooling" of the non-Federal share among various other Federal programs under which a grantee might be funded. The excess non-Federal share generated by one program could then be used to help meet the matching requirements of other programs. Although this had been authorized by specific language in prior legislation, the present law no longer contains such an authorization. Accordingly, no change was made pursuant to these comments.

3. In measuring per capita personal income levels in a geographic area, to determine whether an area qualifies for an increased percentage of the Federal share of program costs, the proposed regulation required that the measurement be taken on a countywide basis (see § 1301.4-2.) Commenters complained that this form of income measurement does not distinguish between poorer areas and richer areas within the county. That is correct. The Department believes, however, that reliable figures are readily available on a county basis and not readily available on a county basis and not readily available for geographic areas smaller in size. Consequently, we concluded that it was better to stay with reliable figures than to risk confusion and argumentation over the reliability of other figures.

4. There were several comments directed to the definitions of "costs of development and administration" and "total costs" (see § 1301.1-2.) Because the costs of development and administration must not exceed 15 percent of the total costs in any Headstart program, the commenters generally desired more specificity in identifying the types of costs to be charged to each category. We have tried to develop definitions which are reasonably consistent with the highly diverse sponsorship and administration of Headstart programs. We believe that further specificity, if established as a uniformly applicable requirement, will impose unwarranted hardships on a considerable number of Headstart agencies. Therefore, we have not concurred with these comments. However, we do plan to give further guidance and assistance in subsequent program guidelines.

45 CFR part 1301 is revised to read as follows:

Subpart A—General

Sec.
1301.1-1 Purpose and scope.
1301.1-2 Definitions.

Subpart B—Applicability of HEW General Grant Administration Regulation

1301.2-1 General.
1301.2-2 Insurance and bonding.
1301.2-3 Annual audit of Headstart programs.
1301.2-4 Accounting system certification.

Subpart C—Federal Financial Assistance

1301.3-1 Matching requirements.

Sec.

1301.3-2 Criteria for increase in Federal share.

Subpart D—Personnel and General Administration

1301.4-1 General requirements.
1301.4-2 Personnel policies.
1301.4-3 Limitation on cost of development and administration.
1301.4-4 Delegation of program operations.
1301.4-5 Reports and maintenance of records.
1301.4-6 Grantee appeals.

AUTHORITY: 88 Stat. 2300, et seq. (42 U.S.C. 2921 et seq.).

Subpart A—General

§ 1301.1-1 Purpose and scope.

This part establishes regulations applicable to program administration and grants management for all grants under the Act, including grants for technical assistance and training and grants for research, demonstration, and pilot projects.

§ 1301.1-2 Definitions.

For the purposes of this part, unless the context requires otherwise:

(a) "Act" means title V of the Economic Opportunity Act of 1964.

(b) "Approved costs" means the total budget, including both the Federal share and the non-Federal share, for carrying out the program activities provided for in an approved application for a Headstart program.

(c) "Budget period" means the interval of time, usually 12 months, for which a grant is awarded.

(d) "Community" means a city, county, a multi-city or multi-county unit within a state, an Indian reservation, or any neighborhood or other geographic area (irrespective of boundaries or political subdivisions) which provides a suitable organizational base and possesses the commonality of interest needed to operate a Headstart program.

(e) "Headstart Agency" or "grantee" means a local public or private nonprofit agency designated to operate a Headstart program by the responsible HEW official, in accordance with part 1302 of this chapter.

(f) "Delegate agency" means a public or private non-profit organization or agency to which a grantee has delegated all or part of its responsibility for operating a Headstart program.

(g) "Headstart program" means a program, funded under the Act and carried out by a Headstart agency or a delegate agency, that provides ongoing comprehensive child development services.

(h) "Independent auditor" means an individual accountant or an accounting firm, public or private agency, association, corporation, or partnership, that is sufficiently independent of the agency being audited to render objective and unbiased opinions, conclusions, and judgments.

(i) "Major disaster" means any natural disaster or catastrophe which is of such severity and magnitude as to directly affect the capability of the Headstart agency of agencies providing Headstart programs to the damaged community to continue the programs without an increase in the Federal share above 80 percent.

(j) "Responsible HEW official" means the official of the Department of Health, Education, and Welfare who has authority to make grants under the Act.

(k) "Development and administrative costs" are all costs other than those which are incurred in carrying out the education, health, social service, and parent involvement functions prescribed in part 1304 of this chapter. These costs include, but are not limited to, the personnel and other costs of overall planning, coordination, general program direction, accounting, auditing, bonding, insurance, and the allocated costs of occupying, operating, and maintaining the space utilized for these purposes.

(l) "Totals costs" means the sum of all approved costs incurred in operating a Headstart program during an approved budget period.

Subpart B—Applicability of HEW General Grant Administration Regulations

§ 1301.2-1 General.

Part 74 of this title establishes uniform requirements for the adminsistration of grants and principles for determining costs that are applicable to all HEW grant programs, except as specifically stated otherwise. Part 74 shall apply to all grants made under the act, except that: § 1301.2-2 supersedes the insurance and bonding requirements of § 74.15 with respect to private nonprofit Headstart agencies; and § 1301.2-3 supersedes the audit requirements of § 74.61(h) with respect to all Headstart agencies.

§ 1301.2-2 Insurance and bonding.

(a) Private nonprofit Headstart agencies and their delegate agencies shall carry reasonable amounts of student accident insurance, liability insurance for accidents of their premises, and transporation liability insurance.

(b) Private nonprofit Headstart and delegate agencies shall make arrangements for bonding officials and employees authorized to disburse program funds.

§ 1301.2-3 Annual audit of Headstart programs.

(a) An audit of the Headstart program covering the prior budget period of each Headstart agency and its delegate agencies, if any, shall be made by an independent auditor to determine: (1) whether the agency's financial statements are accurate; (2) whether the agency is complying with the terms and conditions of the grant; and (3) whether appropriate financial and administrative procedures and controls have been installed and are operating effectively. Headstart agencies shall either include delegate agency audits as a part of their own audits or provide for separate independent audits of their delegate agencies.

(b) Upon a written request showing necessity, the responsible HEW official may approve a period other than the prior budget period to be covered by the annual audit.

(c) Unless otherwise approved by the responsible HEW official, the report of the audit shall be submitted to the responsible HEW official, in the manner and form prescribed by him or her, within 4 months after the prior budget period.

§ 1301.2-4 Accounting system certification.

(a) Upon request by the responsible HEW official, each Headstart agency or its delegate agency shall submit an accounting system certification, prepared by an independent auditor, stating that the accounting system or systems established by the Headstart agency, or its delegate, has appropriate internal controls for safeguarding assets, checking the accuracy and reliability of accounting data, and promoting operating efficiency.

(b) A Headstart agency shall not delegate any of its Headstart program responsibilities to a delegate agency prior to receiving a certification that the delegate agency's accounting system meets the requirements specified in paragraph (a).

Subpart C—Federal Financial Assistance

§ 1301.3-1 Matching requirements.

(a) Federal financial assistance granted under the act for a Headstart program shall not exceed 80 percent of the total costs of the program, unless: (i) An amount in excess of that percentage is approved under section 1301.3-2; or (ii) the Headstart agency received Federal financial assistance in excess of 80 percent for any budget period falling within fiscal year 1973 or fiscal year 1974. Under the circumstances described in clause (ii) of the preceding sentence, the agency is entitled to receive the same percentage of Federal financial assistance that it received during such budget periods.

(b) The non-Federal share will not be required to exceed 20 percent of the total costs of the program. The non-Federal share may be provided by the Headstart agency or third parties and may consist of cash or in-kind contri-

butions. Except to the extent authorized by Federal statute, none of the non-Federal share may be derived from grants under any Federal program or from program income.

§ 1301.3-2 Criteria for increase in Federal financial assistance.

The responsible HEW official, on the basis of a written application and any supporting evidence he or she may require, will approve financial assistance in excess of 80 percent if he or she concludes that the Headstart agency has made a reasonable effort to meet its required non-Federal share but is unable to do so; and the Headstart agency is located in a county: (a) That has a personal per capita income of less than $3,000 per year; or (b) that has been involved in a major disaster.

Subpart D—Personnel and General Administration

§ 1301.4-1 General requirements.

Headstart agencies and delegate agencies shall conduct the Headstart program in an effective and efficient manner, free of political bias or family favoritism. Each agency shall also provide reasonable public access to information and to the agency's records pertaining to the Headstart program.

§ 1301.4-2 Personnel policies.

(a) Headstart agencies shall establish personnel policies for themselves and their delegate agencies. At a minimum, such policies must govern the following: staff qualifications, recruitment and selection, classification of positions, salaries, employee benefits (including leave, holidays, overtime, and fringe benefits), conflicts of interest, official travel, career development, performance evaluations, and employee management relations (including employee grievances and adverse actions).

(b) The policies shall be in writing, approved by the Headstart Policy Council or Committee, and made available to all Headstart and delegate agency employees.

§ 1301.4-3 Limitation on costs of development and administration.

(a) The costs of developing and administering a Headstart program shall not exceed 15 percent of the total costs of such program, unless the responsible HEW official approves a higher percentage for periods not to exceed 6 months, as necessary to carry out the purpose of the program.

(b) Each Headstart agency shall provide written assurance, at the time application is made for funding, that the costs of development and administration will not exceed 15 percent of the total cost.

§ 1301.4-4 Delegation of program operations.

Federal financial assistance is not available for program operations where such operations have been delegated to a delegate agency by a Headstart agency unless the delegation of program operations is made by a written agreement and has been approved by the responsible HEW official before the delegation is made.

§ 1301.4-5 Reports and maintenance of records.

(a) Each Headstart agency and delegate agency shall maintain records necessary for the proper and efficient administration of the program, including records regarding applications, determinations of eligibility, the provision of services, and any other records pertinent to the program specified by the responsible HEW official.

(b) Each Headstart agency and delegate agency shall make such reports, in such form and containing such information, as the responsible HEW official may from time to time require.

§ 1301.4-6 Grantee appeals.

(a) A Headstart Agency may appeal the following adverse decisions in accordance with the Department's grant appeals process set forth in part 16 of this title: (1) Disapproval of a written request to incur an expenditure during the term of the grant, (2) disallowance of an expenditure charged to grant funds or a determination that the grantee has otherwise failed to account for grant funds, (3) determination of an indirect cost rate and any other rate negotiated between HEW and the grantee; and

(b) A Headstart agency may appeal a denial of refunding, or a suspension or a termination, in accordance with part 1303 of this title.

(c) An agency receiving a grant under the Act for technical assistance and training, or for a research, demonstration, or pilot project may appeal adverse decisions in accordance with part 16 of this title.

(Secs. 513, 517, and 520. Economic Opportunity Act; 88 Stat. 2291 (42 U.S.C. 2928b, 2928f, and 2928i).)

(Catalog of Federal Domestic Assistance Program No. 13.600, Child Development Headstart.)

NOTE.—It is hereby certified that this regulation has been screened pursuant to Executive Order No. 11821, and does not require an inflation impact evaluation.

Dated: March 3, 1978.

ARABELLA MARTINEZ,
Assistant Secretary for Human Development Services.

Approved: March 31, 1978.

HALE CHAMPION,
Acting Secretary.

[FR Doc. 78-9299 Filed 4-6-78; 8:45 am]

[4110-92]

PART 1302—POLICIES AND PROCEDURES FOR DESIGNATION, INITIAL FUNDING, AND REFUNDING OF HEADSTART AGENCIES AND FOR DESIGNATION OF REPLACEMENT GRANTEES

Technical Changes

AGENCY: Office of Human Development Services, HEW.

ACTION: Final rule.

SUMMARY: This regulation amends the existing rules for policies and procedures for designation, initial funding, and refunding of Headstart agencies and for designation of replacement grantees, to make it conform with a 1974 amendment to title V of the Economic Opportunity Act of 1964. Specifically, preference is no longer given to all community action agencies to serve as Headstart agencies, but is, instead, now given to only those which were receiving funds to operate a Headstart program on January 4, 1975. Revisions are also made to institute the change in the statute requiring opportunity for hearing where Headstart agencies have had their grants terminated or suspended for longer than 30 days, or have had their applications for refunding denied.

DATE: Effective May 8, 1978.

FOR FURTHER INFORMATION CONTACT:

D. C. Drohat, 202-755-7480 or Taik M. Lee, 202-755-7488, Program Management Division, Headstart Bureau, Administration for Children, Youth and Families, Office of Human Development Services, Department of Health, Education, and Welfare.

SUPPLEMENTARY INFORMATION: The purpose of this regulation is to revise two sections contained in 45 CFR Part 1302, to conform to amendments made to the Headstart legislation by the Headstart, Economic Opportunity, and Community Partnership Act of 1974 (Pub. L. 93-644).

Section 1302.1-5 is being revised to provide that before a grant is terminated or suspended for more than 30 days, and before an application for refunding is denied, the grantee has an opportunity for an administrative hearing, in accordance with the process set forth in Part 1303 of this title.

Section 1302.2-3 is being revised to reflect the fact that community action agencies are no longer necessarily given priority to operate a Headstart program. The 1974 amendments now give that priority to agencies which were operating a Headstart program on January 4, 1975.

A notice of proposed rulemaking was published in the FEDERAL REGISTER on

May 5, 1976 (41 FR 18612). That notice not only dealt with the two changes specified above, but also included a substantial number of other minor word changes and technical revisions. For example, the word "selection" was changed to "designation" throughout the regulation and the acronym "OCD" (for Office of Child Development) was changed to "HEW".

Upon reflection, the Department has decided to adopt as final revisions at this time only the two substantive amendments required by Pub. L. 93-644. As announced on November 18, 1977 (See 45 FR 59555) the Department has initiated a major effort to evaluate all of its regulations with a view towards simplification, clarification, and deletion of unnecessary provisions. Part 1302 will be carefully reviewed as part of this major project, will be revised accordingly, and will be published again as a notice of proposed rulemaking.

PUBLIC COMMENTS

Thirty-five (35) comments on the notice of proposed rulemaking were received from twenty-seven (27) individuals and organizations. Some of these were directed at portions of the current regulation that are not being revised. Those comments will be considered during our further review of Part 1302.

Of the comments pertinent to the provisions which are being revised by this rule, most consisted of objections to the removal of the priority previously given community action agencies to operate a Headstart program. In particular, concern was expressed that such removal might lead to, or be widely interpreted as, an organizational realignment of the Headstart program at the Federal level.

The change in § 1302.2-3 is required by Pub. L. 93-644, which expressly grants priority to Headstart grantees who were receiving funds on January 4, 1975. This change is merely a reflection of Congress' desire to remove a priority for community action agencies which were not Headstart grantees; but to retain the priority for those which were Headstart grantees. It does not reflect a desire on the part of Congress or the Department to prohibit community action agencies from continuing to play a significant part in carrying out the Headstart program. In explaining the amendment, the House Committee stated:

> The Committee has heard testimony on and reviewed evidence of efforts * * * to reorganize Headstart grantees and to shift funds and control away from the community agencies which have had as much as eight years of experience operating Headstart. Section 714(c), which gives continued priority for funding to existing Headstart grantees, makes clear that decisions to terminate or deny refunding of a grantee can be made only for failure to comply with program and fiscal requirements established by the Secretary. (See H. Rep. No. 94-1043, 93rd Cong. 2d Sess., p. 13.)

As a practical matter, since community action agencies are, in most instances, the Headstart grantee for their community, they will presumably continue in that capacity, so long as they continue to meet established program requirements.

There was no significant comment on the proposed revision in § 1302.1-5.

45 CFR Part 1302 is amended as follows:

1. Section 1302.1-5 is revised to read as follows:

§ 1302.1-5 Grantee appeal rights.

(a) Except in emergency situations, the responsible HEW official will not suspend financial assistance under the Act unless the grantee has been given an opportunity, in accordance with Part 1303, Subpart D, of this chapter, to show cause why such action should not be taken.

(b) The responsible HEW official will not terminate a grant, suspend a grant for longer than 30 days, or deny refunding to a grantee, unless the grantee has been given an opportunity for a hearing in accordance with Part 1303 of this chapter.

2. Section 1302.2-3 is revised to read as follows:

§ 1302.2-3 Priority for previously selected Headstart agencies.

Before selecting a Headstart agency, the responsible HEW official, in addition to considering the factors specified in §§ 1302.2-1 and 1302.2-2, will give priority to an agency which was receiving funds under the Act on January 4, 1975, to operate a Headstart program.

(Secs. 504 and 519, Economic Opportunity Act; 88 Stat. 2302, 2304 (42 U.S.C. 2928c, 2928h).)

(Catalog of Federal Domestic Assistance Programs No. 13.600, Child Development—Headstart.)

Dated: March 3, 1978.

ARABELLA MARTINEZ,
Assistant Secretary for Human Development Services.

Approved: March 31, 1978.

HALE CHAMPION,
Acting Secretary.

[FR Doc. 78-9297 Filed 4-6-78; 8:45 am]

[4110-92]

PART 1305—ELIGIBILITY REQUIREMENTS AND LIMITATIONS FOR ENROLLMENT IN HEADSTART

Establishment of New Part

AGENCY: Office of Human Development Services, HEW.

ACTION: Final rule.

SUMMARY: This regulation changes some existing policies for determining the eligibility of children to participate in Headstart programs. The basic purpose of the regulation is to insure that Headstart programs continue to serve primarily impoverished children below the age of compulsory school attendance. At least ninety percent (90%) of the children enrolled in Headstart programs must come from families receiving public assistance or whose incomes are below the official poverty line established by the Office of Management and Budget (OMB). A further purpose of the regulation is to insure that no less than 10 percent of the total number or enrollment opportunities in Headstart programs in each State is available for handicapped children.

DATE: Effective May 8, 1978.

FOR FURTHER INFORMATION CONTACT:

D. C. Drohat, 202-755-7480 or Taik M. Lee, 202-755-7488, Program Management Division, Headstart Bureau, Administration for Children, Youth and Families, Office of Human Development Services, Department of Health, Education, and Welfare.

SUPPLEMENTARY INFORMATION: The purpose of this regulation is to implement the requirement in sections 511 and 518 of the Headstart—Follow Through Act that Headstart programs primarily serve impoverished children below the age of compulsory school attendance, and to implement the requirement in section 513(d) of the Act that no less than 10% of the total number of enrollment opportunities in Headstart programs in each State be available for handicapped children. (The Headstart—Follow Through Act is title V of the Economic Opportunity Act of 1964.) The bases for the individual sections of this regulation are as follows:

Section 1305.3 requires that the children served by Headstart be between the age of three years and compulsory school age. The basis for the requirement is the Department's belief that it is necessary to carry out the Congressional intent that the program "* * * meet the desperate needs of * * * children age 3 to 5 years from poor families who reach school age each year * * *" (See H.R. Rep. No. 1568, 89th Cong., 2nd Sess. (1966).)

Section 1305.4 requires that at least 90% of the children served by each Headstart program be from families with incomes below the OMB poverty line, and that, if more eligible low-income children apply than a program can accommodate, preference be given to the children from the lowest income families. The basis for the requirement that at least 90% of the

children served be from low-income families is the Department's belief that such a requirement reasonably and effectively accomplishes the statutory mandate in section 511 of the Act that the Headstart program be "focused primarily" on children from low-income families. The requirement that Headstart programs give preference to children from the lowest income families is based on the Department's belief that such children have the greatest need for comprehensive child development services and that their families are the least likely to have access to such services.

Section 1305.5 requires that no less than 10 percent of the enrollment opportunities in any State be made available to handicapped children. This is a specific requirement of section 513(d) of the Act.

Section 1305.6 requires that eligibility for participation in a Headstart program be determined prior to a child's enrollment. Children found eligible to participate in any enrollment year remain eligible throughout that, and the immediately succeeding, enrollment year.

The requirement that a child be determined eligible prior to his or her initial enrollment insures that the program serves primarily children from low-income families. The basis for the requirement that children remain eligible throughout the initial and immediately succeeding enrollment year, regardless of changes in family income, is the Department's belief, based on past experience, that continuity of care is important to the well-being of the child and family.

Section 1305.7 requires the Headstart agency to verify the family's income eligibility to participate in a Headstart program, and to maintain a written statement that such verification has been made. This requirement is based on the Department's conclusion that it is a reasonable and necessary method of carrying out the statutory mandate that this program primarily serve children from low-income families.

Section 1305.8 prohibits the charging of any fees as a condition to participate in this program, and is based on a specific statutory mandate set forth in section 518(b).

PUBLIC COMMENTS

A proposed regulation was published in the FEDERAL REGISTER on May 5, 1976, to implement the eligibility requirements for participation in a Headstart program. Interested persons and organizations were invited to submit comments on or before June 21, 1976. Two hundred and twelve (212) comments were received from seventy-six (76) individuals and organizations. The comments were thoughtful and helpful, and were carefully considered in preparing the final regulation. The major comments, and our responses are as follows:

1. Several comments suggested that priority be given to those children who would attend Headstart the year immediately preceding the year of compulsory school attendance.

Evaluation studies of the Headstart program do not indicate that any special benefits exist for children who would attend Headstart the year immediately preceding the year of compulsory school attendance. Accordingly, the Department believes that it should not establish a national priority for those children. Decisions as to which children will be served in any particular community is best left to the individual agencies, based on their assessment of their community's need.

2. Several commentors seemed to be confused about the interaction between the requirement in the proposed regulations that 90 percent of the children served by Headstart be from low-income families, and the requirement that no less than 10 percent of the enrollment opportunities in Headstart be made available to handicapped children. The question arose whether, when read together, these two requirements mean that exactly 90 percent of the handicapped children served must be from low-income families and 10 percent from non-low-income families.

The answer to this question is no. The two sections are separate and distinct requirements.

3. Other commentors expressed concern that the 10 percent handicapped enrollment requirement could not be met in some areas (particularly in rural areas) because there are not enough eligible handicapped children in such areas.

The requirement in § 1305.5 that no less than 10 percent of the enrollment opportunities in a Headstart program be made available to handicapped children is a state-wide requirement. That is to say, at least 10 percent of the total enrollment opportunities in each state (not in each community) must be set aside for handicapped children. Thus, although the Department encourages each community's Headstart agencies to enroll at least 10 percent handicapped children, a community with less than 10 percent handicapped enrollment in any particular state can be offset by a community in that state with an enrollment of more than 10 percent handicapped children.

4. With respect to the income eligibility requirements of § 1305.4, many commentors objected to the use of the official poverty line as defined by the Office of Management and Budget, complaining that the poverty line is too low. Suggestions were made to waive the use of this poverty line, or to moderate its impact by reducing the requirement that at least 90 percent of the children enrolled in Headstart be from low-income families. The point was made that in many small, rural, or Indian communities there are many children who would benefit from Headstart services whose family income is slightly above the poverty line, and that its strict application not only works a hardship on the children living in such communities but creates a serious community relations problem.

Our response to this is that the statute requires the OMB poverty line to be used. There is no authority given to the Department to waive its use. (See section 525 of the act.) However, the Department will consider those comments in its efforts to remedy those specific inequities which have been identified.

5. Objections were made to the requirement in the proposed regulations that the income eligibility of a child who has participated in the program one year must be predetermined before that child can participate in a succeeding year.

The Department recognizes that there are child and family benefits flowing from more than one year's participation in Headstart. Accordingly, the final rule requires that children found eligible for any enrollment year are to remain eligible for that and the succeeding enrollment year. (See § 1305.6.)

6. Many objections were made to the requirement in § 1305.7 that families applying to the program provide income documentation, and that such documentation be retained by the Headstart agency. Concern was expressed primarily about the extent to which this form of verification represents an invasion of privacy, and about the administrative burdens and costs of obtaining, duplicating, and retaining the income documents.

To insure that primarily low-income families participate in the program, the Department believes that some form of income documentation must be reviewed by the Headstart agency. However, the Department concurs with the comments that such documentation need not be retained by the Headstart agency. Accordingly, it has modified § 1305.7 by deleting the requirement that such documentation be retained by the agency. Instead, all that need be retained is a signed statement by the reviewer identifying what income documentation has been reviewed and stating that the applicant has been found eligible.

45 CFR Chapter XIII is amended by adding a new Part 1305, to read as follows:

Sec.
1305.1 Purpose and scope.
1305.2 Definitions.
1305.3 Age eligibility of children.

Sec.
1305.4 Family income eligibility.
1305.5 Handicapped children.
1305.6 Enrollment and re-enrollment.
1305.7 Income verification.
1305.8 Fees policy.

AUTHORITY: 88 Stat. 2300, et seq. (42 U.S.C. 2921, et seq.)

§ 1305.1 Purpose and scope.

This part prescribes eligibility requirements, with respect to age and family income, for enrollment and participation of children in Headstart programs.

§ 1305.2 Definitions.

(a) Terms defined in Part 1301 of this chapter have the same meaning when used in this Part, unless the context indicates otherwise.

(b) As used in this Part, unless the context indicates otherwise:

(1) The term "income guidelines" means the official poverty line specified by the U.S. Office of Management and Budget.

(2) The term "low-income family" means a family whose total annual income before taxes is equal to, or less than, the income guidelines. The term also includes a family that is receiving public assistance even if family income exceeds the income guidelines.

(3) The term "handicapped children" means mentally retarded, hard of hearing, deaf, speech impaired, visually handicapped, seriously emotionally disturbed, orthopedically impaired, or other health impaired children who by reason thereof, require special education and related services.

(4) The term "enrollment year" means the period of time not to exceed twelve months, during which a Headstart program provides classroom or other program activities for children enrolled in the program.

(5) The term "family" means all persons living in the same household who are: (i) Supported by the income of the parent(s) or guardian(s) of the child enrolling or participating in a Headstart program, and (ii) related to the parent(s) or guardian(s) by blood, marriage, or adoption.

(6) The term "income" means gross cash income and includes earned income, military income (including pay and allowances), veterans benefits, social security benefits, unemployment compensation, and public assistance benefits. With respect to a child in foster care, family income is the amount paid to the foster family on behalf of the child by a public or private agency.

§ 1305.3 Age eligibility of children.

Unless the Headstart agency's approved grant provides otherwise, only those children between three years of age and the age of compulsory school attendance are eligible to enroll and participate in the Headstart program.

§ 1305.4 Family income eligibility.

At least 90 percent of the children who are enrolled in each Headstart program shall be from low-income families. If applications for admission to a Headstart program are received for more children from low-income families than the Headstart program can accommodate, the children from the lowest income families shall be given preference.

§ 1305.5 Handicapped children.

No less than 10 percent of the total number of enrollment opportunities in Headstart programs in each State shall be available for handicapped children who are eligible to participate under § 1305.3.

§ 1305.6 Enrollment and re-enrollment.

(a) An application for enrollment of children in a Headstart program may be made at any time during the program year. The Headstart agency must make an eligibility determination prior to permitting a child to participate in the Headstart program.

(b) If a child has been found eligible and is participating in a Headstart program, he or she remains eligible through the enrollment year with respect to which such eligibility determination was made and the immediately succeeding enrollment year.

§ 1305.7 Income verification.

(a) The family income shall be verified by a Headstart agency before determining that a child is eligible to participate in the program.

(b) Verification shall include examination of any of the following: Individual Income Tax Form 1040, W-2 forms, pay stubs, pay envelopes, written statements from employers, or documentation showing current status and recipients of public assistance.

(c) A signed statement by an employee of the Headstart agency, identifying which of these documents was examined and stating that the child is eligible to participate in the program, shall be maintained to indicate that verification has been made.

§ 1305.8 Fees policy.

A Headstart agency shall not prescribe any fee schedule or otherwise provide for the charging of any fees for participation in the program. If the family of a child determined to be eligible for participation by a Headstart program volunteers to pay part or all of the costs of the child's participation, the Headstart agency may accept the voluntary payments. Under no circumstances shall a Headstart agency solicit, encourage, or in any other way condition a child's enrollment or participation in the program upon the payment of a fee.

(Sec. 511, 513, 518, Economic Opportunity Act; 88 Stat. 2300, 2301, 2304 (42 U.S.C. 2928, 2928b, 2928g).)

(Catalog of Federal Domestic Assistance Program No. 13.600, Child Development—Headstart.)

Dated: March 3, 1978.

ARABELLA MARTINEZ,
Assistant Secretary for Human Development Services.

Approved: March 31, 1978.

HALE CHAMPION,
Acting Secretary.

[FR Doc. 78-9298 Filed 4-6-78; 8:45 am]

FRIDAY, APRIL 7, 1978
PART IX

federal register

DEPARTMENT OF LABOR

Office of the Secretary

■

YOUTH PROGRAMS UNDER THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

[4510-30]

Title 29—Labor

SUBTITLE A—OFFICE OF THE SECRETARY OF LABOR

PART 94—GENERAL PROVISIONS FOR PROGRAMS UNDER THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

PART 97—SPECIAL FEDERAL PROGRAMS AND RESPONSIBILITIES UNDER THE COMPREHENSIVE EMPLOYMENT AND TRAINING ACT

Youth Programs under the Comprehensive Employment and Training Act; corrections and clarifications to final rules

AGENCY: Department of Labor.

ACTION: Corrections and Clarifications to final rules.

SUMMARY: On September 16, 1977, the Department of Labor published in the FEDERAL REGISTER final regulations to implement the Youth Community Conservation and Improvement Projects and the Youth Employment and Training Programs under the Youth Employment and Demonstration Projects Act of 1977 (YEDPA). The purpose of this publication is to amend those final regulations by correcting typographical and compilation errors and by clarifying regulations. Many of these changes were made as a result of comments received.

DATE: Effective date: April 7, 1978.

FOR FURTHER INFORMATION CONTACT:

Robert Taggart, Administrator, Office of Youth Programs, U.S. Department of Labor, 601 D Street NW., Washington, D.C. 20213, tel: 202-376-7449.

SUPPLEMENTARY INFORMATION: The Youth Employment and Demonstration Projects Act (YEDPA) of 1977, Pub. L. 95-93, became effective on August 5, 1977. It amended the Comprehensive Employment and Training Act (CETA) of 1973 by adding several new programs for youth. The purpose of these new programs is to employ and increase the future employability of young persons, to help coordinate and improve existing career development, employment and training programs, and to test diffferent approaches in solving the employment problems of youth. YEDPA contains four distinct programs: (1) The Young Adult Conservation Corps (YACC) which emphasizes the participation of youth in needed conservation work on our Nation's public lands; (2) Youth Incentive Entitlement Pilot Projects (YIEPP) designed to test the effect of a year round structured work experience as an entitlement to encourage school completion; (3) Youth Community Conservation and Improvement Projects (YCCIP) designed to provide jobs and employment experience for youth in community betterment projects; and (4) Youth Employment and Training Programs (YETP) structured to make available to youth a broad range of employment and training services designed locally and adapted to local needs.

Section 702(a) of the Comprehensive Employment and Training Act (CETA) states that the Secretary may prescribe rules and regulations as he deems necessary to carry out the purposes of CETA. Pursuant to this authority, the Department of Labor is setting forth in this document the Federal regulations governing two of the new youth programs, YETP and YCCIP.

Both programs are to be operated by CETA Title I prime sponsors, sponsors of CETA Native American programs, sponsors of CETA migrant and seasonal farmworker programs and such other agencies and/or organizations as designated by the Secretary under his discretionary authority. The regulations in this document do not apply to Native American and migrant YETP and YCCIP programs. These regulations also do not apply to the Secretary's YETP and YCCIP discretionary funds.

REQUIREMENTS COMMON TO YCCIP AND YETP LABOR UNION PARTICIPATION

Section 353(d) of CETA requires that where an appropriate local labor organization represents employees who are engaged in similar work in the same area to that proposed to be performed under the program, that organization shall be afforded a reasonable period of time prior to the submission of the application in which to make comments.

The regulations provide for a 15-day comment period prior to the submission of YETP and YCCIP plans to the regional administrators. During that period, appropriate local labor organizations may make written comments to the eligible applicant. The eligible applicant must consider any such comments before submitting its plan to the RA. Additionally, if there are any changes in wage rates or job classifications to jobs in youth plans approved by the RA, appropriate labor organizations must be notified in writing at least 15 days prior to implementing such changes. If the appropriate labor organizations disagrees with the proposed changes, the dispute must be resolved in writing prior to implementing such changes.

REQUIREMENTS FOR YCCIP

PARTICIPATION OF NEIGHBORHOOD AND COMMUNITY BASED ORGANIZATIONS

Legislative history indicates the clear intent of Congress that YCCIP projects be carried out by neighborhood and community based organizations insofar as feasible. The regulations require that eligible applicants establish procedures which assure that potential project applicants, particularly neighborhood and community based organizations, are notified of the application process. Each eligible applicant is further required to establish objective project selection criteria which will be applied first to applications of neighborhood and community based organizations; only after these have been given such primary consideration may applications of other project applicants be considered. Furthermore, if eligible applicants elect to limit the types of activities for which the project applicants will compete, the regulations require that they secure the approval of the youth and planning councils in the selection of these activities.

ELIGIBILITY FOR PARTICIPATION

Section 332 of CETA requires that any unemployed youth age 16 to 19, inclusive, is eligible for YCCIP. However, it is intended that prime sponsors target the large majority of resources available to them for projects employing out-of-school youths. In section 354, CETA further requires that appropriate efforts be made to insure that participating youths shall be those who are experiencing severe difficulties in obtaining employment, including those who have demonstrated special needs, as determined by the Secretary. Because statistics show that youth in low-income families, particularly minority youth, have the highest unemployment rates, highest school dropout rates, and the greatest difficulties in entering the labor market, the regulations require that eligible applicants give preference to economically disadvantaged youth, and that they describe in their proposed plans the procedures they will use to assure this preference is given.

PROGRAM FUNDING ESTIMATES

Section 333 of CETA provides for allocation of YCCIP funds among the States based on the relative number of unemployed persons within each State as compared to all States. No provision is made for allocations within States. The Department has issued program funding estimates rather than allocations for each Title I eligible applicant based on the relative share of the unemployed in that eligible applicant's

area compared to all unemployed within the State. If an eligible applicant declines to participate in YCCIP or submits insufficient approval project applications, the RA may award its funds to other eligible applicants in the State within 30 days after a notification from the RA.

SUPERVISION AT WORKSITES

Section 335 of CETA requires that project applicants assure that there are adequate numbers of supervisory personnel on the project. Because well supervised activities are essential both for enhancing work habits and the development of skills, the regulations require that there should be at least the equivalent of 1 full-time supervisor to every 12 youths, unless adequate justification can be provided to support another ratio.

LIMITATION ON USE OF FUNDS

Because section 335 of CETA requires that this program be labor intensive, the regulations have established percentage limitations on the use of the funds available. No more than 5 percent of the total funds available to an eligible applicant may be used for administrative costs. Of the remaining funds, at least 65 percent must be spent on participant wages and fringe benefits, unless the eligible applicant can justify a lower amount, and no more than 10 percent can be used for administrative costs. Project applicants and eligible applicants are further encouraged to secure worksite supervisors, materials, and supplies from other sources, wherever feasible.

ROLE OF PROGRAM AGENTS

Section 336 of CETA permits program agents under Title II of CETA to act as program agents under YCCIP. A jurisdiction eligible to be a program agent and electing to assume those functions under YCCIP will be responsible for the approval and disapproval of project applications submitted in its area and for the administration of the projects pursuant to section 204(d) of CETA; however, program agents must share with eligible applicants the funds available for administrative costs.

REQUIREMENTS FOR YETP

SPECIAL CONSIDERATION FOR COMMUNITY BASED ORGANIZATIONS

Section 343(e) of CETA requires that special consideration be given to community based organizations (CBO's) of demonstrated local effectiveness in the delivery of employment and training services to youth. To assure special consideration, the regulations require that eligible applicants (1) actively involve local CBO's in the planning process and describe that role in the grant narrative; (2) provide public notification of the proposed youth plan through appropriate media to all CBO's and through written notification to CBO's of demonstrated local effectiveness in serving youth; (3) maintain documentation relating to the selection of service deliverers and (4) consult with CBO's prior to directly performing classroom training, on-the-job training or work experience and document the administrative and programmatic benefits of such direct operation.

To further provide special consideration for CBO's, the regulations require that, 15 days prior to the submission of youth plans to the RA, eligible applicants must provide to CBO's of demonstrated local effectiveness the full youth plan or a summary of the youth plan which at a minimum identifies the deliverers selected, the services each is to offer and the target group(s) to be served. Eligible applicants are to respond in writing to any substantive comments from CBO's regarding the selection of service deliverers and must include those responses in the plan submitted to the RA.

ELIGIBILITY FOR PARTICIPATION

Section 345(a) of CETA emphasizes participation in YETP by individuals who are in families whose income does not exceed 85 percent of the lower living standard income level determined by the Bureau of Labor Statistics. Although the legislation also permits in some cases the provision of services to youth from families above that income level, the legislation and legislative history clearly indicate that YETP funds should be concentrated on those having severest difficulties in obtaining employment. The regulations, therefore, limit services to youth from families with incomes above the lower living standard income level to: Counseling; placement services, occupational, educational, and training information; job referral information through coordinated intake; and programs to overcome employment-related sexstereotyping. In order to further target these programs to those having greatest need, the regulations also require that eligible applicants give preference to economically disadvantaged youth and that they describe in their proposed plans, the procedures they will use to assure that this preference is given.

Section 345(a) of CETA also allows that 10 percent of the funds available for this program may be used for programs which include youth of all economic backgrounds in order to adequately test whether the disadvantaged benefit from participation in nontargeted programs. Programs mixing youths in different economic backgrounds must be an identifiable program component which follows a structured experimental design in which comparison groups and follow-up are used to determine the benefits to the disadvantaged. A report on the results must be submitted at the end of the fiscal year.

AGREEMENTS WITH LOCAL EDUCATIONAL AGENCIES (LEA'S)

Section 343(d) of CETA requires that not less that 22 percent of the funds allocated to each eligible applicant must be used for programs for in-school youth carried out pursuant to agreements between eligible applicants and local educational agencies.

Since it is the purpose of LEA agreements to link eligible applicants and local educational agencies, only those two public entities may be signatories to the agreement. The particular form of the agreement itself has, however, been left flexible. The agreement may be financial or nonfinancial, and local educational agencies are encouraged to use other service deliverers in the area that can effectively provide the types of activities needed to serve the YETP in-school target population.

The regulations further provide for in-school career employment experience which combines ancillary transition services with any in-school work experience or on-the-job training supported under YETP.

This document has been prepared under the direction and control of Robert Taggart, Administrator, Office of Youth Programs.

SUMMARY OF CHANGES

Many of the changes made were in response to comments requesting clarification of specific definitions. In § 97.602, Definitions, the following additions and changes are made:

The definition of "Eligible Applicant" taken from the Act (sec. 332(1)) has been added.

The definition of "Neighborhood and Community Based Organizations" has been corrected to indicate that public agencies are not neighborhood organizations for purposes of this subpart.

The definition of "Program funding estimate" has been changed to clarify that each estimate is determined by apportioning the State allocation among prime sponsors qualified under Section 102 of CETA.

In §§ 97.621 (b), and 97.712, Modifications, the requirement to modify the youth plan when changes in job classifications or wage rates occur has been deleted. In order to alert ALO's of any proposed changes in job classifications or wages rates, §§ 97.621 and 97.712 required both a modification to the annual plan and notification to ALO's prior to the modification. The procedure as written did not assure that ALO's receive notification prior to actual implemention of changes. To

assure this prior notification, the procedures have been changed. The prime sponsor is now required to notify the ALO's and the RA in writing fifteen days prior to implementing such changes. Also, any disputes arising from these changes must be resolved in writing before implementation.

Section 97.622(c), Administrative provisions, the final regulations required eligible applicants to share supportive costs with program agent(s) so that the program agent would receive an amount proportionate to its share of program funds. This requirement was modified to remedy the unforeseen result of depriving a prime sponsor of all administrative funds whenever all program funds were distributed to a program agent.

In § 97.623, Eligibility for participation, a new paragraph (e) has been added to prohibit the enrollment of youth in full-time employment opportunities if the prime sponsor determines that the youth dropped out of high school in order to participate. This provision is stated in the Act, Section 353(f) and was inadvertently omitted from the final regulations.

In § 97.629, Materials, equipment and supplies, a paragraph (a) has been added to clarify that the acquisition, lease or rental of materials, supplies and equipment is allowable subject to the limitations of § 97.631.

In § 97.631, Limitation on use of funds, paragraph (a) has been clarified to show that prime sponsors may incur administrative costs not listed as supportive costs under 29 CFR 98.12 (f) (6) (ii), such as those costs incurred for the prime sponsor's planning council, monitoring, publishing of the annual plan and technical assistance to contractors and subgrantees.

In § 97.702, Definitions, the following changes and additions are made:

The definition of "Career Employment Experience" has been clarified by deleting adequate supervision and skills training as ancillary services.

The definition of "Community Based Organization" has been clarified to show a CBO is a private nonprofit organization. The definition of "In-School Youth" has been clarified to reflect Section 343(d) (2) of the Act, which indicates that the Congress intended that in-school youth be enrolled or agree to enroll in a full-time school program in order to participate in a YETP program.

The definition of "Eligible Applicant" taken from the Act (Section 344) has been added.

In § 97.712, Modifications, See § 97.621(b).

In § 97.714, Eligibility for participation, paragraph (e) has been changed to cite specific groups listed in the Act (sec. 354(a)) that are to receive preference for participation.

In § 97.714, Eligibility for participation, § 97.716(c) has been moved to paragraph (f) of this section.

In § 97.715, Eligibility for participation, (extraordinary), paragraph (c) (2) has been deleted as unnecessary.

In § 97.716, the requirements of paragraph (b) have been moved to § 97.718, paragraph (a).

In § 97.717, In-school programs; paragraph (a)(1)(ii)(I) has been corrected to read "Institutional skills training" and to delete "on the job training." Paragraph (a)(2) was corrected to make the definition of career employment experience more precise by deleting adequate supervision and skills training as minimum ancillary services.

A new paragraph (b)(3)(iv) has been added as an assurance to clarify that all LEA agreements will be reviewed by the youth council.

Paragraph (b)(5) was clarified so that where there is a non-financial LEA-prime sponsor agreement, prime sponsors are also encouraged to enter into sub-agreements with various organizations or agencies to carry out the LEA agreement(s). A new § 97.721 Academic Credit taken from section 355 of the Act has been added. This section has been inadvertently omitted from the final regulations. Section 97.721, Governor's Youth Programs is being changed to § 97.722.

In § 97.722 Governor's Youth Programs, paragraph (a) has been changed to more closely parallel the language of the Act, Section 343(c).

A new paragraph (c) has been added to clarify that the eligibility requirements of Section 345 of the Act apply to the Governor's Youth Plan.

A new paragraph (c) has been added to clarify that the 20 percent limitation on the use of funds for administration found in § 98.12(f)(6) does not apply to the Governor's Youth Plan.

Paragraph (d)(1), formerly paragraph (c), has been corrected to reference § 95.13(d)(4) rather than § 97.705(b). Additional typographical corrections have been made.

Accordingly, Title 29 of the Code of Federal Regulations is amended as follows:

§ 94.3 [Amended]

1. In § 94.3, Consolidated table of contents for Parts 94-99; the tables of contents for Part 97, Subparts G and H, are revised to read as follows:

* * * * *

Subpart G—Youth Community Conservation and Improvement Projects

GENERAL

Sec.
97.601 Scope and purpose.
97.602 Definitions.
97.603 Eligible applicants.
97.604 Allocation of funds; program funding estimates.
97.605 Award of funds.
97.606 Reallocation of funds.
97.607 Redistribution of funds.

GRANT PLANNING, APPLICATION, AND MODIFICATION PROCEDURES

Sec.
97.608 Eligible applicant planning process.
97.609 Pre-application for Federal assistance (Standard Form 424).
97.610 Project planning process.
97.611 Project application content.
97.612 Project application submission.
97.613 Project approval.
97.614 Project prioritization.
97.615 Submission of the proposed plan.
97.616 Application of Federal assistance.
97.617 Narrative description.
97.618 Budget information summary and program planning summary.
97.619 Special assurances and certifications.
97.620 Plan review and approval.
97.621 Modifications.

ADMINISTRATIVE PROVISIONS

97.622 Administrative provisions.

PROGRAM OPERATIONS

97.623 Eligibility for participation.
97.624 Acceptable project activities.
97.625 Participant benefits.
97.626 Academic credit.
97.627 Substitution for Title I programs.
97.628 Supervisory personnel.
97.629 Materials, equipment, and supplies.
97.630 Earnings disregard.
97.631 Limitation on use of funds.

Subpart H—Youth Employment and Training Programs

GENERAL

97.701 Scope and purpose.
97.702 Definitions.
97.703 Allocation of funds.
97.704 Reallocation procedures.

GRANT PLANNING, APPLICATION, AND MODIFICATIONS PROCEDURES

97.705 Eligible applicant planning process.
97.706 Content and description of the grant application.
97.707 Approval request letter.
97.708 Application for Federal assistance (Standard Form 424).
97.709 Narrative description; program and planning forms; additional documentation.
97.710 Special assurances and certifications.
97.711 Youth plan, review, and approval.
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ADMINISTRATIVE PROVISIONS

97.713 Administrative provisions.

PROGRAM OPERATIONS

97.714 Eligibility for participation.
97.715 Eligibility for participation (extraordinary).
97.716 Allowable activities and services.
97.717 In-school programs.
97.718 Participant benefits.
97.719 Maintenance of effort.
97.720 Substitution for Title I programs.
97.721 Academic credit.

GOVERNORS YOUTH PROGRAMS

97.721 Governors youth programs.

2. Part 97 is amended by revising the following two subparts.

Subpart G—Youth Community Conservation and Improvement Projects

GENERAL

Sec.
97.601 Scope and purpose.
97.602 Definitions.
97.603 Eligible applicants.
97.604 Allocation of funds; program funding estimates.
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97.606 Reallocation of funds.
97.607 Redistribution of funds.

GRANT PLANNING, APPLICATION AND MODIFICATION PROCEDURES

97.608 Eligible applicant planning process.
97.609 Pre-application for Federal assistance (Standard Form 424).
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97.611 Project application content.
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97.617 Narrative description.
97.618 Budget information summary and program planning summary.
97.619 Special assurances and certifications.
97.620 Plan review and approval.
97.621 Modifications.

ADMINISTRATIVE PROVISIONS

97.622 Administrative provisions.

PROGRAM OPERATIONS

97.623 Eligibility for participation.
97.624 Acceptable project activities.
97.625 Participant benefits.
97.626 Academic credit.
97.627 Substitution for Title I programs.
97.628 Supervisory personnel.
97.629 Materials, equipment, and supplies.
97.630 Earnings disregard.
97.631 Limitation on use of funds.

AUTHORITY: Sec. 702(a), Comprehensive Employment and Training Act of 1973, as amended, unless otherwise noted.

Subpart H—Youth Employment and Training Programs

GENERAL

Sec.
97.701 Scope and purpose.
97.702 Definitions.
97.703 Allocation of funds.
97.704 Reallocation procedure.

GRANT PLANNING, APPLICATION, AND MODIFICATION PROCEDURES

97.705 Eligible applicant planning process.
97.706 Content and description of the grant application.
97.707 Approval request letter.
97.708 Application for Federal assistance (Standard Form 424).
97.709 Narrative description; program and planning forms; additional documentation.
97.710 Special assurances and certifications.
97.711 Youth plan, review, and approval.
97.712 Modifying the grant.

ADMINISTRATIVE PROVISIONS

97.713 Administrative provisions.

PROGRAM OPERATIONS

Sec.
97.714 Eligibility for participation.
97.715 Eligibility for participation (extraordinary).
97.716 Allowable activities and services.
97.717 In-school programs.
97.718 Participant benefits.
97.719 Maintenance of effort.
97.720 Substitution for Title I programs.
97.721 Academic credit.

GOVERNORS YOUTH PROGRAMS

97.722 Governors youth programs.

AUTHORITY: Sec. 702(a), Comprehensive Employment and Training Act of 1973, as amended, unless otherwise noted.

Subpart G—Youth Community Conservation and Improvement Projects

GENERAL

§ 97.601 Scope and purpose.

(a) This subpart contains the Department of Labor's regulations governing the establishment and operation of Youth Community Conservation and Improvement Projects (YCCIP) under title III, Part C, Subpart 2, of the Act. The regulations at Part 98 of this title also apply to the YCCIP program, except to the extent noted in this subpart. The provisions at §§ 97.603 through 97.631 apply to the grants to eligible applicants which are title I prime sponsors.

(b) To the extent the regulations set forth in this subpart conflict with other regulations promulgated under the Act in 29 CFR Parts 94 through 99, the requirements contained in this subpart shall apply.

(c) This program seeks to provide youth experiencing severe difficulties in obtaining employment with well supervised work in projects that produce tangible benefits to the community. In order to adequately meet community needs, the participation of neighborhood and community based organizations in the program is stressed. This program places predominant emphasis on the development and provision of jobs. Any training must be directly related to the development of specific skills needed for the job. Participation should result wherever possible in the attainment of academic credit for competencies gained from employment. The Department expects that supervisors will play a strong role in introducing and reinforcing desirable work habits. Program operators shall target activities primarily on economically disadvantaged youth, because these individuals, particularly minorities, have the highest unemployment rates, highest dropout rates and greatest difficulties in obtaining employment. Since it is expected that most participants will be school dropouts or have high dropout potential, projects should be structured so that academic credit may be granted for work experience. Youth are to be encouraged to remain in school or return to school if they are out of school. Any programs developed for in-school youth must be flexible enough to accommodate the scheduling needs of such youth.

(d) The Department of Labor will provide allocations of funds for States rather than to eligible applicants, but will provide eligible applicants with program funding estimates to be used by them for planning purposes. Eligible applicants are expected to submit quality project applications selected through an objective process at the local level. The Department will review these project applications, and will fund only those projects which fulfill the requirements of the program. Under certain conditions, an eligible applicant may be awarded less than its program funding estimate, with the remaining funds awarded for acceptable projects to eligible applicants elsewhere in the State.

§ 97.602 Definitions.

Definitions for abbreviations and major terms used in this subpart are contained in § 94.4 of this title. The following definitions are specific to this subpart:

(a) "Appropriate labor organization" shall mean a labor organization that represents employees in the eligible applicant's area in the same or substantially equivalent jobs as those proposed to be filled or already filled by YCCIP participants.

(b) "Eligible applicant" shall mean any prime sponsor qualified under section 102 of CETA, sponsors of Native American programs qualified under section 302(c)(1) of CETA and sponsors of migrant and seasonal farmworkers programs qualified under section 303 of CETA.

(c) "Low-income housing" shall mean dwellings of individuals whose incomes are at or below 125 percent of the poverty level which are privately owned and owner occupied, privately owned by a nonprofit organization, or units of public housing. For weatherization or winterization projects funded and approved by the Federal Energy Administration or the Community Services Administration, "low-income housing" shall include privately owned rental housing.

(d) "Neighborhood and community based organizations" shall mean (1) neighborhood groups organized at the local level to operate employment and training programs, and which have demonstrated local effectiveness. Such organizations can be private nonprofit organizations or associations; and (2) community based organizations as defined in § 97.702(c).

(e) "Program funding estimate" shall mean the level of funds announced by the Department for each

eligible applicant which is a prime sponor qualified under section 102 of CETA for its planning purposes. The estimate is determined by apportioning the State allocation among such eligible applicants for YCCIP, using the unemployment data available for each such eligible applicant area in proportion to the unemployment data for the State.

(f) "Project" shall mean "Community Conservation and Improvement Project" which provides constructive work conducted by youths, under the guidance of skilled supervisors, which (1) results in tangible outputs or a specific product; (2) benefits participants in terms of work habits, skills, and attainment of academic credit where applicable; and (3) will be completed within a definable period of time not to exceed 12 months.

(g) "YCCIP" shall mean the Youth Community Conservation and Improvements Projects.

§ 97.603 Eligible applicants.

Any eligible applicant may apply for funds for projects in its area.

§ 97.604 Allocation of funds; program funding estimates.

(a) *Allocations.* Allocations shall be provided to the States on the basis of the formula and distribution requirements in Section 333 of the Act.

(b) *Program funding estimates.* The Secretary will provide eligible applicants with program funding estimates based on their relative share of the State's unemployed.

§ 97.605 Award of funds.

(a) The RA may award to an eligible applicant an amount of funds equal to the program funding estimate when sufficient approvable project applications are submitted by the eligible applicant.

(b) The RA may award to an eligible applicant an amount of funds greater than the program funding estimate when another eligible applicant within the same State has not submitted to the RA a Preapplication for Federal Assistance or sufficient approvable project applications within the time required.

§ 97.606 Reallocation of funds.

The RA may reallocate funds from one State to another when the RA determines that an eligible applicant will not be able to use the funds within a reasonable period of time and that no other eligible applicant within the same State will be able to effectively use the funds within a reasonable period of time. The procedure described in § 98.11(d) of this title will apply to such reallocations, except that the reference in § 98.11(d) to § 98.11(c) does not apply.

§ 97.607 Redistribution of funds.

The RA may redistribute funds after a grant has been signed from one eligible applicant to another within the State when:

(a) The RA determines that the eligible applicant will not be able to use the funds within a reasonable period of time. The actions described in § 98.11(d) of this title will apply, except that the reference to § 98.11(c) does not apply; or

(b) The RA determines that the eligible applicant's performance is inadequate or that it has failed to comply with the Act or the regulations. The procedures set forth in § 98.11(b) of this title will apply to such cases.

GRANT PLANNING APPLICATION, AND MODIFICATION PROCEDURES

§ 97.608 Eligible applicant planning process.

Every eligible applicant which desires funds shall submit a preapplication pursuant to § 97.609 and a plan pursuant to §§ 97.616 through 97.619. The eligible applicant shall utilize the planning process and planning council as described in § 95.13(b) and (c) of this title and the youth council described in § 97.705 in developing its plan.

§ 97.609 Preapplication for Federal Assistance (Standard Form 424).

(a) An eligible applicant interested in applying for funds shall submit a Standard Form 424 to the RA, governor, and areawide A-95 clearinghouse by a date set by the RA.

(b) The RA may require that the additional information specified below be submitted at the same time as the Preapplication for Federal Assistance. Where the option to require additional information is exercised, an approval or disapproval decision concerning the adequacy of that information must be provided to the eligible applicant by five (5) work days after the submission date of the Standard Form 424. Further, the additional information submitted by the eligible applicant will not be required for resubmission in the formal proposed plan. The information that may be required in the preapplication includes a description of methods to be used to:

(1) Solicit applications, in particular, from neighborhood and community-based organizations, and for soliciting comments on the project applications from the planning and youth councils (§ 97.613(g));

(2) Objectively select and rank project applications (§ 97.614); and

(3) Insure involvement of appropriate labor organizations.

§ 97.610 Project planning process.

(a) In developing the program specifications, eligible applicants may consider proposals for any allowable activities under YCCIP or may elect to limit the types of activities for which project applicants will compete. In the latter case, the eligible applicant must secure the approval of the planning and youth councils in the selection of these activities. The eligible applicant may limit the types and number of project applications by:

(1) Establishing parameters regarding the size and duration of all projects;

(2) Identifying priority community needs, e.g., environmental, weatherization, and housing rehabilitation projects which projects must address;

(3) Identifying specific neighborhoods or geographic areas in which projects may be conducted.

(b) A program agent under title II may elect to be a program agent under this subpart. Program agents under YCCIP shall approve or disapprove projects, administer the program in their areas, and be subject to the limitation of funds provided in § 97.631.

(c) Each eligible applicant shall establish procedures for its own use and the use of any program agent(s) which will assure that potential project applicants (as defined in § 94.4 (ppp) of this title), particularly neighborhood and community-based organizations are notified of the project application process and the cutoff date for acceptance of project applications.

§ 97.611 Project application content.

All project applications must contain the following information:

(a) Name of agency or organization applying for project funds, type of agency (community-based organization, local educational agency as defined in § 97.702, etc.) and, if applicable, the program agent to which it was submitted;

(b) *Description of project.* (1) The need for the project in the area in which it will be conducted and how the project will meet the need;

(2) The types of jobs youth are to perform;

(3) The full-time supervisor to youth ratio, or its equivalent and the reason for selecting the ratio;

(4) The qualifications of the supervisors in terms of necessary skills and experiences, or where these are not yet specifically identified, assurances that supervisors will be adequately trained in the skills needed to carry out the projects and in instructing participating youth and a description of the method for selecting supervisors; and

(5) The beginning and ending dates of the project;

(c) *Participants.* (1) Identification of the number of participants to be enrolled and their expected duration of employment, not to exceed 1 year;

(2) List of target groups to be served; and

(3) Description of the expected benefits to participants, e.g., skills to be obtained, other positive terminations anticipated, academic credits to be earned, etc.;

(d) *Job titles, descriptions and wages.* (1) The principal job titles, job descriptions, and hourly wages to be paid for each. If job restructuring as defined in § 97.702(g) is to occur, a description of the methods of analysis to be used, the expected results, the methods for soliciting consultation of appropriate labor organizations, and the relevant expertise of personnel who perform the restructuring; and

(2) The participation of appropriate labor organizations and other affected organizations with regard to job classifications and wage rates;

(e) *Administration.* A description of the project applicant's organization (including type of organization, purpose of organization), experience in operating employment and training programs and/or providing public services, and a description of the accounting and financial management procedures and/or arrangements; and

(f) *Budget.* Totals for the following line items:

(1) Direct program costs as defined in § 98.12(f)(6)(iii) of this title;

(2) Costs of participant wages and fringe benefits;

(3) Costs of wages and fringe benefits of work-site supervisors;

(4) Costs of job-related training;

(5) Costs of material, supplies and equipment used by participants on the job; and

(6) Cost of supportive services for participants.

§ 97.612 Project application submission.

The project applicant shall submit applications to the program agent for its area, or to the eligible applicant if there is no program agent for its area.

§ 97.613 Project approval.

(a) Criteria shall be established by the eligible applicant to be used consistently by itself and any program agents for evaluating and approving project applications.

(b) Each project, in order to be approved, must:

(1) Provide tangible output and measurable benefits which will accrue to the community;

(2) Provide benefits to participants in terms of work habits, skills, and attainment of academic credit where applicable;

(3) Be labor intensive;

(4) Assure an adequate level of supervision, taking into account the complexity of the jobs to be created; and

(5) Describe or assure adequate qualifications for supervisors in terms of necessary skills and experience.

(c) Project applicants must assure that the project will result in an increase in employment opportunities over those which would otherwise be available, and that:

(1) It will not result in the displacement of currently employed workers;

(2) It will not substitute jobs assisted under this subpart for existing federally assisted jobs;

(3) It will not employ any youth when any other person is on layoff by the employer from the same or any substantially equivalent job in the same area;

(4) It will not employ any person to fill a job opening created by laying off or terminating the employment of any regular employee, or otherwise reducing the regular work force, in anticipation of filling vacancies by hiring youth to be supported under YCCIP;

(5) It will not infringe upon the promotional opportunities which would otherwise be available to persons currently employed in public service not subsidized under the Act;

(6) It will not permit a job to be filled in other than an entry-level position in each promotional line until applicable personnel procedures and collective bargaining agreements have been complied with;

(7) Where job restructuring will occur or where new job classifications will be developed, these will not be done in order to negate established personnel procedures, or to displace currently employed workers.

(d) The project approval process shall assure that project applications from neighborhood and community based organizations of demonstrated local effectiveness in providing employment and training services to youth will be considered before applications from other project applicants are considered. Where it can be documented that the neighborhood or community based organization does not have the administrative capability to run the project, or its project application does not meet the criteria established by the prime sponsor, then project applications from other than neighborhood and community-based organizations may be considered: *Provided,* The same criteria are used.

(e) Program agents shall review the project applications submitted to them, approve or disapprove them, and submit all project applications to the eligible applicant, indicating their approval or disapproval.

(f) The eligible applicant shall review those project applications received, including those submitted by any program agent(s). When reviewing those submitted by a program agent, the eligible applicant shall give due consideration to project applications approved by the program agent.

(g) After review, the eligible applicant shall submit all project applications to the youth and planning councils for comment and recommendations.

(h) After review of any comments and/or recommendations of the planning and youth councils, the eligible applicant shall approve or disapprove the project applications. The eligible applicant, however, shall not disapprove a project application recommended for approval by the planning council unless it has first considered any comments and recommendations made by the planning and youth councils and unless it has provided the councils with a written statement of its reasons for disapproval (Section 336(c)(2)).

(i) In cases of disapproval, the eligible applicant shall inform the project applicant in writing of its disapproval. It must also indicate the reasons for the disapproval.

§ 97.614 Project prioritization.

(a) Each eligible applicant shall rank, in terms of their relative priority, approved project applications.

(1) It shall first rank those projects having highest priority whose total proposed cost does not exceed the amount available for projects (see § 97.631).

(2) It shall then rank those approved project applications whose additional total cost (including no more than 5 percent for administrative costs) does not exceed 25 percent of the program funding estimate.

(b) Eligible applicants shall document the rationale used for ranking the approved project applications.

§ 97.615 Submission of the proposed plan.

(a) Each eligible applicant must submit a proposed plan to the RA by a date established by the RA. The proposed plan shall consist of prioritized project applications as well as the items described in §§ 97.616 through 97.619. The eligible applicant shall also submit any project applications approved by any program agents, but disapproved by the eligible applicant, together with a description of the due consideration which was accorded to them.

(b) A proposed plan may be submitted for a planned dollar level not to exceed 125 percent of the program funding estimate.

§ 97.616 Application for Federal Assistance.

(a) Standard Form 424, Application for Federal Assistance, shall be submitted.

(b)(1) Where there is an appropriate labor organization, it shall be given either the complete proposed plan or a summary of the proposed plan which includes a list of all job classifications and wage rates and afforded 15 calendar days to make written comments to the eligible applicant prior to the submission of the proposed plan to the RA.

(2) Except for the requirement contained in paragraph (b)(1) of this section, for the purpose of implementing the program for fiscal year 1978, the comment and publication procedures provided in § 95.15 of this title shall be followed except that copies of the proposed plan or summaries of the plan may be submitted to Governors, appropriate units of government, appropriate Native American CETA sponsors, and appropriate State and sub-State clearinghouse(s) at the same time they are submitted to the appropriate labor organizations for comment; and in any case should not be submitted later than the date of submission to the RA.

(3) Project applicants and other interested parties must be notified through appropriate media that they may review the proposed plan at a predesignated location.

§ 97.617 Narrative description.

The narrative description shall contain the eligible applicant's overall strategy and design and shall describe the procedures to be used to implement and administer the program including:

(a) Methods used to solicit project applications, in particular those from neighborhood and community-based organizations;

(b) Methods used to approve and prioritize project applications;

(c) The criteria used for approving and prioritizing project applications;

(d) The participation of appropriate labor organizations;

(e) Recruiting methods to be used if different from those described in the PSA. This description should include coordination with other programs under the Act;

(f) The target groups to be served and procedures used to assure that economically disadvantaged youths receive preference;

(g) Plans for assessing the results of the projects to both the participants and the community; and

(h) A description of the administrative structure including subgrant and contract administration, which will be used if different from that described in the PSA.

§ 97.618 Budget information summary and program planning summary.

A budget information summary and program planning summary shall be completed by the eligible applicant and submitted as part of the plan. Eligible applicants shall use the classifications of costs by category which are provided in the grant package instructions.

§ 97.619 Special assurances and certifications.

(a) The proposed plan shall contain the following special assurances:

(1) Compliance with Prime Sponsor Agreement (PSA), including the assurances and certifications in the PSA; and

(2) Compliance with the Youth Employment and Demonstration Projects Act of 1977 and the regulations of 29 CFR 97.601-97.631.

(3) Compliance with the Hazardous Occupations Orders issued pursuant to the Fair Labor Standards Act and set forth at 29 CFR 570.50 et seq. with respect to the employment of youths under 18 years of age.

§ 97.620 Plan review and approval.

(a) The RA shall first review the project applications to determine if they meet the requirements of the Act, the regulations of this subpart and other applicable law.

(b)(1) Using the factors and assurances set forth in § 97.613 (b) and (c), the RA shall consider ranked projects and may approve projects up to 100 percent of the amount of the eligible applicant's program funding estimate which is available for projects.

(2) The RA shall disapprove any project application which does not at a minimum meet the factors and assurances of § 97.613 (b) and (c) and other requirements of the Act, the regulations and other applicable law. RA's will review individual applications for outstanding disagreements between appropriate labor organizations, employers and eligible applicants with respect to jobs that have been restructured. RA's will provide in writing to the eligible applicant an explanation for any prioritized project applications that are rejected.

(c) If there are not sufficient approvable prioritized project applications in the plan to equal the amount of the eligible applicant's program funding estimate which is available for projects, the RA shall allow the eligible applicant 30 days in which to modify the prioritized project applications which were submitted to the RA. If the eligible applicant fails to submit revised project applications or submits revised project applications which are not approvable, the RA shall award the unused funds to another eligible applicant within the State. In States with only one (1) eligible applicant or in States where no other eligible applicant will be able to spend these funds within a reasonable period of time, the RA shall initiate the reallocation procedures set forth in § 97.606.

(d) The approval of the proposed plan will be in accordance with § 95.18 of this title.

(e) The RA shall determine whether or not the eligible applicant gave due consideration to project applications approved by any program agent, but disapproved by the eligible applicant.

§ 97.621 Modifications.

(a) Any modification to the plan will be in accordance with the provisions of § 95.21 of this title, except that in § 95.21(a) the term "project(s)" shall be read for the term "program activities," and references to public service employment shall be disregarded.

(b)(1) Appropriate labor organizations and the RA must be notified in writing of all wage rate and job classification changes under the youth plan at least 15 calendar days prior to implementing such changes. (2) If the appropriate labor organization disagrees with the proposed changes in job classification or wage rates, the dispute must be resolved in writing prior to implementing such changes.

ADMINISTRATIVE PROVISIONS

§ 97.622 Administrative provisions.

(a) Eligible applicants shall comply with the administrative provisions of Part 98 of this title in operating programs pursuant to this subpart, except as stated in §§ 97.629 and 97.631.

(b) Eligible applicants or program agents shall enter into financial agreements with project applicants except as provided in paragraph (d) of this section. With respect to such agreements, program agents are governed by the fund restrictions set forth in § 97.631.

(c) Eligible applicants must share administrative costs as provided under § 97.631(a) of this subpart with the program agent(s).

(d) The eligible applicant or program agent may enter into a non-financial agreement with a project applicant if there is a written agreement between the project applicant and the eligible applicant that clearly identifies the administrative and programmatic benefits of such a non-financial agreement.

PROGRAM OPERATIONS

§ 97.623 Eligibility for participation.

(a) In order to participate, an individual must at the time of application and enrollment:

(1) Be 16 through 19 years of age, inclusive; and

(2) Be unemployed, as defined in § 94.4(ggg) of this title.

(3) If at the time of enrollment into any other program under the Act, a 16 through 19 year old youth was unemployed, that individual may be transferred into this program.

(b) Eligible applicants shall give preference to the economically disadvantaged, as defined in § 94.4 of this title.

(c) Appropriate efforts shall be made to serve those youths who have severe difficulties in obtaining employment, as described in § 97.714(e).

(d) The citizenship and veterans provisions of § 95.32(d) and (e)(1) of this title shall apply to YCCIP programs.

(e) No youth may enroll in full-time employment opportunities if the eligi-

ble applicant determines that there is evidence(s) he dropped out of high school in order to participate (Section 353(f)(2)).

§ 97.624 Acceptable project activities.

(a) Each project shall insure that each participant does constructive work in terms of individual and community benefits during the participation in the program. Such employment shall be in projects that may include the rehabilitation or improvement of public facilities (including accessing them for the handicapped by removing architectural barriers); neighborhood improvements; weatherization and basic repairs to low income housing as defined in § 97.602; energy conservation including solar energy projects, especially those utilizing materials and supplies available without cost; and conservation, maintenance, or restoration of natural resources of non-Federal publicly held lands.

(b) Training provided must be directly related to a participant's job.

(c) Where in-school youth are served, they must be in a structured combination work and education program.

§ 97.625 Participant benefits.

(a) Participants shall be paid wages as described in § 97.718(d).

(b) Each participant shall be provided the benefits and working conditions as provided in § 98.24 of this title.

§ 97.626 Academic credit.

Eligible applicants shall make appropriate efforts to encourage educational agencies and postsecondary institutions to award academic credit for the competencies participants gain from their employment.

§ 97.627 Substitution for Title I programs.

Programs funded under YCCIP shall be supplementary to, and shall not replace programs and activities for youth available under Title I of the Act (See §§ 95.13(b)(3) and 95.14(b)(3)(ii) (G) of this title).

§ 97.628 Supervisory personnel.

(a) Each project must have an adequate number of skilled supervisors. There must be at least the equivalent of 1 full time supervisor to every 12 youths, unless satisfactory justification for another ratio is provided in the eligible applicant's plan. Supervisors must have the skill needed to carry out the project and must be able to instruct participants in those skills.

(b) The hiring of supervisory personnel for projects shall not impede the promotional rights of existing employees.

§ 97.629 Materials, equipment, and supplies.

(a) Funds may be expended subject to the limitation of § 97.631 for the acquisition, lease or rental of supplies, equipment, and materials. With respect to the use of funds, the provisions set forth in § 98.12(c) of this title do not apply.

(b) Eligible applicants are encouraged to make use of resources from CSA and FEA to supplement YCCIP funds. Eligible applicants should be aware that Federal statutes which provide funds for materials, supplies, etc., often have Davis-Bacon related provisions which may affect wage rate levels in projects involving construction.

§ 97.630 Earnings disregard.

Earnings received by any youth under this subpart shall be disregarded in determining the eligibility of the youth's family for, and the amount of, any benefits based on need under any Federal or federally assisted programs.

§ 97.631 Limitation on use of funds.

(a) No more than 5 percent of the total funds may be used by the eligible applicant and program agent(s) for administrative costs including those supportive costs as defined in § 98.12 (f)(6)(ii) of this title and those costs incurred in the establishment and maintenance of the prime sponsor's Planning Councils, in publishing a Comprehensive Manpower Plan, and in monitoring and providing technical assistance to contractors and subgrantees. The remaining funds must be made available for projects.

(b) Of the project funds:

(1) At least 65 percent of the funds must be used for participant wages and fringe benefits, unless adequate justification is provided in the eligible applicant's plan.

(2) No more than 10 percent may be used by project applicants for administrative costs including those direct program costs defined in § 98.12(f)(6)(iii).

(3) Any remaining funds may be used for training of participants, materials, equipment, supplies, on-site supervisors, and supportive services.

Subpart H—Youth Employment and Training Programs

General

§ 97.701 Scope and purpose.

(a) This subpart contains the regulations for the Youth Employment and Training Programs (YETP) which are authorized by Title III, Part C, Subpart 3 of the Act. These regulations also implement, with respect to YETP, the administrative provisions found in sections 341 through 347 of the Act. The regulations at Part 98 of this title also apply to YETP programs except as indicated in this subpart. The regulations at sections 703 through 721 of this subpart apply only to eligible applicants which are Title I prime sponsors. To the extent the regulations set forth in this subpart conflict with other regulations issued under the Act in 29 CFR Parts 94 through 99, the regulations contained in this subpart shall prevail (section 357).

(b) It is the purpose of this program to enhance the job prospects and career opportunities of young persons to enable them to secure unsubsidized employment in the public and private sector of the ecomony. It is not the purpose of this program to provide make-work activities but rather to provide youth, especially economically disadvantaged youth with opportunities to learn and earn, which will lead to meaningful employment opportunities after they have completed the program. In addition, this program explores methods of dealing with the structural unemployment problems of youth and the immediate difficulties of youth in need of and unable to find jobs (sec. 341).

(c) In order to achieve the highest quality of program services, coordination with existing services for youth is essential. These services include: Activities funded under the other parts of CETA; employment and educational services provided by local educational agencies, and post-secondary institutions; services offered by State Employment Security Agencies; programs funded through other sources such as community based organizations; and employment and educational activities of business, labor, and nonprofit institutions in the community.

(d) Information gained from the operation of YETP will be considered by the Department in developing future legislative and program designs.

§ 97.702 Definitions.

Definitions of abbreviations and major terms used in this subpart are contained in § 94.4 of this title. Special definitions applicable to terms found in this subpart are as follows:

(a) "Appropriate labor organization" shall mean a labor organization that represents employees in the eligible applicant's area in the same or substantially equivalent jobs as those proposed to be filled or already filled by YETP participants.

(b) "Career employment experience" shall mean a program activity for in-school youth which is a combination of both well supervised employment (work experience or on-the-job training) supported under YETP and certain transition services including, at a minimum, career information, counseling and guidance.

(c) "Community based organization (CBO)" shall mean a private nonprofit organization which is representative of a community or of particular segments of a community and which provides employment and training services. CBO's include such organizations as Opportunities Industrialization Centers, the National Urban League, SER-

Jobs for Progress, Mainstream, Community Action Agencies, union-related organizations, employer-related nonprofit organizations, and other similar organizations.

(d) "Eligible applicant" shall mean any prime sponsor qualified under section 102 of CETA, sponsors of Native American programs qualified under section 302(c)(1) of CETA and sponsors of migrants and seasonal farmworkers programs qualified under section 303 of CETA.

(e) "In-school program" shall mean a program which provides either or both career employment experience and transition services to in-school youth.

(f) "In-school youth" shall mean a youth who: (1) Is currently enrolled full-time in and attending a secondary, trade, technical, vocational school or community college, or is scheduled to attend full time the next regularly scheduled quarter or semester of any of these schools; or (2) has not completed high school and is scheduled to attend in a school program leading into a secondary school diploma or its equivalent (sec. 343(d));

(g)(1) "Job restructuring" shall mean the procedure which includes:

(i) Identifying the separate tasks that comprise a job or group of jobs;

(ii) Developing new position descriptions which retain some of the tasks of the original job; and

(iii) Developing a career ladder which builds upward from the new positions containing the lesser skilled tasks to regular jobs.

(2) A restructured job shall be clearly different from the original one in terms of skills; knowledges, abilities, and experience needed to perform the work (sec. 342(a)(3)(L)).

(h) "Local education agency (LEA)" shall mean a public board of education or other public authority legally constituted within a State for either administrative control over, direction of, or service to public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or a combination of such school districts or counties which are recognized in a State as an administrative agency for their public elementary or secondary schools (sec. 343(d)).

(i) "Of this title" shall mean "of Title 29 of the Code of Federal Regulations."

(j) "Transition services" shall mean services and activities which are designed to assist youth to make the transition from school to unsubsidized jobs. These services are set forth in § 97.717(a)(1).

(k) "YETP" shall mean the Youth Employment and Training Programs.

§ 97.703 Allocation of funds.

(a) *General.* The Secretary shall publish formula allocations to eligible applicants in the FEDERAL REGISTER.

(b) *Formula allocated funds (sec. 343)* (1) The Secretary shall allocate 75 percent of the funds available to YETP to eligible applicants which are prime sponsor under section 102 of CETA.

(2) Of the funds available to YETP, the Secretary shall allocate an amount equal to 5 percent of the funds available under Title III, Part C of the Act, to Governors for programs as specified in § 97.722.

(3) The Secretary shall allocate funds to eligible applicants and Governors using the formula set out in section 343(b) of the Act.

(c) *Additional allocations.* The Secretary shall allocate funds to Indian, Native American, and migrant and seasonal farmworker eligible applicants as provided in section 343 of the Act.

(d) *Secretary's discretionary funds.* The Secretary shall use all remaining funds for programs designed to identify and test approaches for dealing with the unemployment problems of youth (secs. 343, 348).

§ 97.704 Reallocation procedures.

(a) Reallocation procedures under YETP will apply only after a grant is signed.

(b) The RA may reallocate funds awarded to an eligible applicant if he determines that the eligible applicant will not be able to use all of the allocated amount within a period of time when the RA deems appropriate (sec. 354(b)).

(c) The procedures described in § 98.11(d) of this title shall apply to reallocations except that the reference in §§ 98.11(d) to 98.11(c) does not apply.

(d) The RA may also reallocate funds based on nonperformance. The procedures set forth in § 98.11(b) of this title shall apply to such reallocations.

(e) If all proposed LEA agreements under a grant are not signed by the eligible applicant and the LEA(s) within 60 days after the initial submission of the YETP plan to the RA for review and approval, the RA shall initiate reallocation procedures for that portion of the 22 percent of the eligible applicant's funds which were required to be covered under LEA agreement. The procedures set forth in § 98.11(d) apply to such reallocations.

GRANT PLANNING, APPLICATION, AND MODIFICATION PROCEDURES

§ 97.705 Eligible applicant planning process.

(a) *Youth plan.* Every eligible applicant which desires funds shall submit a youth plan containing the items listed in §§ 97.706 through 97.710. In developing its youth plan, the eligible applicant shall:

(1) Take into account the eligible applicant's Title I and summer program plans;

(2) Utilize the planning process and planning council, as described in § 95.13 (b) and (c) of this title; and the youth council described in paragraph (b) of this section;

(3) Afford an opportunity to community based organizations of demonstrated local effectiveness in providing employment and training activities for youth to participate in the development of the youth plan as required by paragraph (c) of this section.

(4) Afford an opportunity to appropriate labor organizations to participate in the development of the youth plan as required by paragraph (d) of this section.

(b) *Youth council.* Each eligible applicant shall establish a youth council, (sec. 346).

(1) In consultation with the planning council, the eligible applicant shall make appointments to a youth council when include individuals who are representative of the local educational agencies, the local vocational advisory council, post-secondary education institutions, business, unions, the State employment security agency, local government and non-government agencies which are involved in serving youth, the local community, and the eligible applicant. In addition, youth council members shall include youths who are participants in, or eligible for YETP.

(2) The youth council may be either an entirely separate council or a subcommittee or subcouncil to the planning council, or eligible applicants may use existing youth councils created with respect to other programs under this Act if these councils meet the requirements set forth in this section. In all cases, the youth council must report to the planning council.

(3) The youth council shall perform the tasks described in § 95.13(c)(2) of this title, and provide recommendations to the planning council.

(4) The youth council shall at a minimum make recommendations to the planning council with respect to the planning and review of all program activities under Title III, Part C, of the Act, and shall review the proposed agreements with local educational agencies under YETP.

(5) No member of the youth council shall cast a vote on any matter under deliberation by the youth council which has direct bearing on services to be provided by that member (or any organization with which that member is associated).

(c) *Community-based organizations (CBO's).* (1) Each eligible applicant shall involve CBO's in the planning process as follows:

(i) CBO's of demonstrated local effectiveness in the delivery of employment and training services to youth shall actively participate in the planning process.

(ii) Public notification of the proposed youth plan will be provided to CBO's through appropriate media.

(2) Special consideration shall be given to CBO's of local demonstrated effectiveness in the delivery of employment and training services to youth. Special consideration shall consist of the following:

(i) Fifteen (15) days prior to submission of the proposed youth plan to the RA either the complete youth plan or a summary of the proposed youth plan will be submitted to such CBO's. If a summary is submitted, it shall include at a minimum:

(A) Information on the emphases of the program, and

(b) Proposed service deliverers and the services to be provided by each; and

(ii) Any comments received must be considered prior to the submission of the youth plan to the RA and written responses will be made to any substantive comments from such CBO's regarding selection of service deliverers and these comments and responses will be included when the youth plan is transmitted to the RA;

(3) Each eligible applicant shall maintain documentation relating to selection of service deliverers for a minimum of one year.

(4) An eligible applicant may directly perform classroom training, on-the-job training or work experience as described in § 95.33(d) (1), (2), or (4) of this title, only if, after consultation with CBO's, the eligible applicant determines that direct operation of the program will promote the purposes of this subpart (sec. 342(b)). The eligible applicant shall document the administrative and programmatic benefits of such direct operation.

(d) *Appropriate labor organizations.* Each eligible applicant shall afford appropriate labor organizations an opportunity to participate in the development of its youth plan by giving them an opportunity to comment on either the full youth plan or a summary of the youth plan which includes at least any proposed job classifications and wage rates. The plan or summary shall be set to the appropriate labor organizations at least 15 days prior to the submission of the youth plan to the RA, and any comments received must be considered prior to the submission of the youth plan to the RA.

§97.706 Content and description of the grant application.

In order to receive funds, each eligible applicant shall submit a youth plan which, when approved, together with the Prime Sponsor Agreement (PSA), shall become the grant. Additions to, or variations from the PSA, if any, shall be included in the youth plan. The youth plan shall also include the documents described in §§ 97.907 through 97.710.

§ 97.707 Approval request letter.

Each eligible applicant shall submit an Approval Request Letter to the RA, by a date set by the RA.

§ 97.708 Application for Federal Assistance (Standard Form 424).

The Application for Federal Assistance shall identify the amount of funds requested and provide information on the number of people expected to be served.

§ 97.709 Narrative description; program and planning forms; additional documentation.

(a) The narrative shall contain descriptions of:

(1) Objectives of the program;

(2) Local priorities;

(3) Implementation planning;

(4) Program activities and services;

(5) Management and administration;

(6) Results and benefits expected from the program;

(7) Program planning summary; and

(8) Budget information summary.

(b) The youth plan shall also include documentation which shows that:

(1) The planned expenditures for programs activities will further the purpose of the program by:

(i) Developing long-term and coordinated solutions to the employment problems of youth, especially the economically disadvantaged;

(ii) Enhancing job prospects and career opportunities for youth; and

(iii) Enabling participants to secure appropriate unsubsidized employment (sec. 341);

(2) The identified performance goals in the youth plan are reasonable and can be achieved;

(3) A youth council has been established and that the youth council has participated in the planning and review process for the youth plan;

(4) CBO's of demonstrated local effectiveness in the delivery of employment and training services to youth have participated in the planning and have been given special consideration as set forth in § 97.705(c);

(5) Appropriate labor organizations have participated in the development of the youth plan as required by § 97.705(d).

(6) There is a description of the procedures to be used to notify the appropriate labor organizations and the RA of any changes to job classifications or wage rates;

(7) The eligible applicant has a proposed in-school program to be operated pursuant to § 97.717 of this title;

(8) With respect to youth plans from Governors, there is adequate justification for each proposed activity as defined in § 97.722; and

(9) The eligible applicant has coordinated with local SESA offices to the maximum extent feasible.

§ 97.710 Special assurances and certifications.

(a) The youth plan shall contain the following special assurances:

(1) Compliance with the Prime Sponsor Agreement;

(2) Compliance with the Youth Employment and Demonstration Projects Act of 1977 (YEDPA), other applicable CETA provisions, and the regulations in this subpart; and

(3) Compliance with the Hazardous Occupations Orders issued pursuant to the Fair Labor Standards Act and set forth at 29 CFR 570.50 et seq. with respect to the employment of youths under 18 years of age and the Child Labor Standards of 29 CFR 570.31 et seq. with respect to the employment of youths aged 14 and 15.

§ 97.711 Youth Plan, review and approval.

(a) *Comment and publication procedures.* The procedures of § 97.15 of this title shall apply to YETP, except that for the purpose of implementing the program in FY 1978, copies of the YETP youth application will be submitted to Governors, and a summary to appropriate units of government, appropriate Native American CETA sponsors, and appropriate State or sub-State clearinghouse(s) at the same time it is submitted to the appropriate labor organizations for comment; or it may be submitted simultaneously with submission to the RA.

(b) *Standards for reviewing the youth plan.* The provisions of § 95.17(a), (b) (1), (2), (3), (4), (6), (8), (9), (10), and (11) shall be followed by the RA in reviewing the youth plan. The RA shall also determine whether the youth plan meets the requirements of this subpart and that its documentation is adequate and sufficient.

(c) *Awarding the grant.* The procedures specified in §§ 95.18, 95.19, and 95.20 of this title shall apply to the awarding of grants under YETP.

§ 97.712 Modifications.

(a) The procedures specified in § 95.21 of this title shall apply to the modifying of the YETP youth plan.

(b)(1) Appropriate labor organizations and the RA must be notified in writing of all wage rate and job classification changes under the youth plan at least 15 calendar days prior to implementing such changes.

(2) If the appropriate labor organization disagrees with the proposed changes in job classifications or wage rates, the dispute must be resolved in writing prior to implementing such changes.

ADMINISTRATIVE PROVISIONS

§ 97.713 Administrative provisions.

The administrative provisions of Part 98 (Grant Administration) of this title shall be applicable to the oper-

ation of programs under this subpart, except as otherwise indicated in this subpart.

PROGRAM OPERATIONS

§ 97.714 Eligibility for participation.

(a) An eligible applicant shall assure that every individual participating in the program meets the following criteria at the time of application and enrollment, except as provided in § 97.715 (sec. 345):

(1) Unemployed as defined in § 94.4(ggg) or underemployed as defined in § 94.4(fff) of this title, or in-school as defined in § 97.702; and

(2) 16 through 21 years of age; and

(3) A member of a family with a total family income at or below 85 percent of the lower living standard income level, as defined in § 94.4(nnn) of this title.

(b) For the purpose of participating in in-school career employment experience, the youth needs such participation in order to continue his or her education (sec. 346(c)).

(c) If, at the time of enrollment into any other program under the Act, an individual met the eligibility requirements of paragraph (a) of this section, that individual is eligible to transfer from that other program into YETP, and into YETP career employment experience if the individual also meets the requirements of paragraph (b) of this section.

(d) The citizenship and veterans provisions of §§ 95.32(d) and (e)(1) of this title also apply to YETP.

(e) Programs funded under this subpart shall give preference to economically disadvantaged youth. Appropriate efforts shall be made to give service to those youth who have severe handicaps in obtaining employment, including but not limited to those who lack credentials, those who require substantial basic and remedial skill development, those who are women and minorities, those who are veterans of military service, those who are offenders, those who are handicapped, those with dependents, or those who have otherwise demonstrated special need as determined by the Secretary (sec. 354(a)).

(f) No youth may enroll in full-time employment opportunities if the eligible applicant determines that there is evidence (s)he dropped out of high school in order to participate (sec. 353(f)(2)).

§ 97.715 Eligibility for participation (extraordinary).

(a) Individuals otherwise eligible under § 97.714, who are in school, and who are 14 or 15 years old may participate in programs under YETP when the youth plan specifies a youth development strategy which provides broad career exposure for these youths (sec. 345(a)(1)(B)).

(b) Youths need not meet the income criteria described in § 97.714(a)(3), if they participate in a special component, as described in § 97.716(d) (sec. 345(a)(2)).

(c) Youths, who do not meet the income criteria defined in § 97.714(a)(3), and who are not in a special component described in § 97.716(d), may be offered services but these services are limited to:

(1) Counseling, including occupational information;

(2) Occupational, education, and training information;

(3) Placement services;

(4) Job referral information through coordinated intake systems; and/or

(5) Assistance in overcoming employment related sex-stereotyping in job development, placement, counseling, and guidance.

§ 97.716 Allowable activities and services.

(a) Programs may include any type of employment and training activity authorized under Title I of the Act, except public service employment.

(b) A written job description shall be developed and maintained for all work experience and OJT positions funded under this subpart to provide a basis for determining its comparability to existing jobs of other individuals similarly employed.

(c) The child labor standards specified in 29 CFR 570.31 et seq. or appropriate State standards, whichever are stricter, shall apply to the employment of 14 or 15 year olds under YETP. The Hazardous Occupations Orders issued pursuant to the Fair Labor Standards Act and set forth at 29 CFR 570.50 et seq. shall apply to the employment of 16 and 17 year olds under YETP.

(d) An eligible applicant may design a special component using up to 10 percent of its YETP funds to serve a mixture of youth from families above and below the income level specified in § 97.714(a)(3) in order to test the desirability of serving such a mix of youth. This special component shall:

(1) Have and follow a structured experimental design;

(2) Establish and use comparison groups;

(3) Provide for followup on participants; and

(4) Provide for an end of the year report on the experimental outcomes.

§ 97.717 In-school programs.

(a) *Activities and services.* The in-school programs shall be designed to provide for either or both of the following two classifications of services (section 342):

(1) *Transition services.* These transition services shall be designed to prepare and assist youth to move from school to unsubsidized jobs in the labor market.

(ii) These services may include, but are not limited to:

(A) Outreach, assessment, and orientation;

(B) Counseling, including occupational information and career counseling;

(C) Activities promoting education to work transition;

(D) Provision of labor market information;

(E) Services to youth to help them obtain and retain employment;

(F) Literacy training and bilingual training;

(G) Attainment of certificates of high school equivalency;

(H) Job sampling, including vocational exploration in the public and private sector;

(I) Institutional skills training;

(J) Transportation assistance;

(K) Child care and other necessary supportive services;

(L) Job restructuring to make jobs more responsive to the objectives of this subpart, including assistance to employers in developing job ladders of new job opportunities for youth, in order to improve work relationships between employers and youth;

(M) Provision of information regarding employment and training related opportunities;

(N) Job development, direct placement, and placement assistance to secure unsubsidized employment opportunities for youth to the maximum extent feasible, and referral to employability development programs;

(O) Assistance in overcoming sex-stereotyping in job development, placement, and counseling; and

(P) Outreach and other services to increase the labor force participation rate among minorities and women.

(2) *Career employment experience.* This activity is a combination of both well supervised employment (work experience or on-the-job training) and certain transition services including, at a minimum, career information, counseling, and guidance. Any work experience or on-the-job training must include these minimum ancillary transition services. Where work experience or on-the-job training is supported under the 22 percent or more of funds serving in-school youth under agreements with local educational agencies, the ancillary transition services must also include placement services.

(b) *Agreements with local educational agencies.* (1) Eligible applicants shall use at least 22 percent of their total funds to serve in-school youth in programs designed to enhance their career opportunities and job prospects (sec. 343(d)(1) pursuant to written agreements between them and local educational agencies (LEA's). The programs shall be operated in accordance with the provisions of section 343(d)(2) and section 346(c) of the Act.

(2) Agreements may be between the eligible applicant and one or more local educational agencies or a combination of LEA's represented by one LEA, (section 702(a)).

(3) Each agreement may be either a financial or nonfinancial agreement and, whichever is determined most appropriate by the eligible applicant and the LEA(s), shall:

(i) Provide a description of the activities and services to be provided to eligible participants;

(ii) Detail the responsibility of each party to the agreement for providing the activities and services which have been selected;

(iii) Contain provisions to assure that services and/or funds received pursuant to the agreement will not supplant State and local funds expended for the same purpose;

(iv) Provide an assurance that the agreement has been reviewed by the youth council.

(4) Additional provisions are required in those agreements which specifically provide for career employment experience opportunities. These include:

(i) Assurances that participating youths will be provided constructive work experience, which will improve their ability to make career decisions and which will provide them with basic work skills needed for regular employment;

(ii) Assurances that job information, counseling, guidance, and placement services will be made available to participating youth and that funds provided under the agreement will be available to, and will be utilized by, the local educational agency or agencies to the extent necessary to pay the cost of school-based counselors to carry out the provisions of this in-school program;

(iii) Assurances that jobs provided under this program will be certified by the participating educational agency or institution as relevant to the educational and career goals of the participating youths;

(iv) Assurances that the eligible applicant will advise participating youths of the availability of other employment and training resources available in the local community to assist such youths in obtaining employment;

(v) An assurance that career employment experience opportunities provided will be certified by a school based counselor as being relevant to the career and educational program for the youth(s) being provided those opportunities.

(5) In order to carry out the purposes of the LEA agreement, LEA's and prime sponsors, where appropriate, are encouraged to enter into subagreements, grants, or contracts with post-secondary schools, with State accredited nonprofit educational institutions, State accredited profit institutions, SESA's and CBO's which have demonstrated effectiveness locally in serving youth, particularly those who are economically disadvantaged.

(6) Agreements for the use of the in-school funds under this section must be signed by the eligible applicant and local educational agencies by no later than 60 days after initial submission of the YETP plan to the regional office for review and approval. If an agreement is not reached within 60 days, the RA shall initiate the reallocation process as required by § 97.704.

§ 97.718 Participant benefits.

(a) Each participant shall be provided the benefits and working conditions as provided in § 98.24 of this title.

(b) Participants in training activities shall be paid allowances. Participants in employment shall be paid wages. Participants in activities which are a combination of employment and training shall be paid in accordance with § 95.33(d)(7) of this title.

(c) *Allowances.* Participants will be paid allowances in accordance with the criteria and process in § 95.34 of this title.

(d) *Wages.* Participants receiving wages shall be paid no less than the highest of:

(1) The wage rate set forth in section 6(a)(1) of the Fair Labor Standards Act. Fourteen and 15 year olds, however, may be paid the rate set forth in section 14(b) of the Fair Labor Standards Act; or

(2) The applicable State or local minimum wage, including exceptions for the wage rates of 14 and 15 year olds;

(3) For a job which is substantially the same as existing jobs of the same employer, the prevailing wage for the employer's existing, substantially similar jobs except that the employer may pay less than its prevailing wage, but not less than the minimum wage, if:

(i) The employer, the eligible applicant and the appropriate labor organization agree in writing to a lesser wage; or

(ii) There is job restructuring. In order to accomplish job restructuring, the eligible applicant, employer, and appropriate labor organization, shall enter into an agreement concerning the restructuring. If, after agreeing to the restructured job, the labor organization, employer, or eligible applicant disagree over the wages to be paid for the restructured job and an agreement is not reached, the eligible applicant, employer, and appropriate labor organization should resolve such dispute at the local level within 30 days. If, after these 30 days, an agreement has not been reached, they shall either agree to negotiate in good faith with the RA to resolve the disagreement or select other jobs. If negotiations with the RA do not result in resolution within 30 days, the RA shall set the wage rate; or

(iii) The employer creates new job classifications or occupations. If disputes arise regarding whether the jobs are new to the employer, the eligible applicant, appropriate labor organization, and employer should attempt to resolve the issue within 30 days after the appropriate labor organization is informed of the "new" jobs. If no agreement can be reached within that time frame, they shall either agree to negotiate in good faith with the RA to resolve the disagreement, or select other jobs. If negotiations with the RA do not result in a resolution within 30 days, the RA shall make a determination as to whether or not the job is new to the employer; or

(4) In the case of jobs in projects to which the provisions of the Davis-Bacon Act, or any Federal law containing labor standards in accordance with the Davis-Bacon Act, apply, the prevailing wage determined by the Secretary under the Davis-Bacon Act (see 29 CFR Parts 1, 3, 5, and 7). However, in the case of such projects, financed under YETP and YCCIP, under $5,000 the employer, eligible applicant, and appropriate labor organization may agree to pay youth participants not less than the applicable minimum wage and not more than the wage rate of the entering apprentice in the most nearly comparable apprenticeable trade, and to prescribe an appropriate ratio of journeymen to such participating youth to work on the project. If they cannot agree in 30 days, they may request a decision from the RA, or develop other jobs.

(d) Allowances and wages received by any youth under YETP shall be disregarded in determining the eligibility of the youth's family for, and the amount of, any benefits based on need under any Federal or federally-assisted programs (Section 356).

(e) Because most jobs will be short-term and/or part-time work assignments, and are designed to enhance the employability of individuals who are new entrants who have never worked, or individuals who are new entrants who have not been working in the competitive labor market, most jobs will be at entry level. Eligible applicants, therefore, are expected to pay the minimum wage whenever feasible.

§ 97.719 Maintenance of effort (sec. 353(b)).

(a) Youth plans shall reflect the purpose of this program to provide additional resources, activities, and services over and above the current level to result in an impact on the employment problems of youth.

(b) The provisions of § 97.334 prescribing substitution of Federal funds

for activities previously funded through other resources apply to all activities funded under this program (sec. 353(b), (c), and (d)).

(c) The following provisions also apply to activities funded under this program:

(i) They will not result in the displacement of currently employed workers;

(ii) They will not substitute jobs assisted under this part for existing federally assisted jobs;

(iii) They will not employ any youth when any person is on layoff by the employer from the same or any substantially equivalent job in the same area;

(iv) They will not be used to employ any person to fill a job opening created by laying off or terminating the employment of any regular employee, or otherwise reducing the regular work force, in anticipation of filling vacancies by hiring youth to be supported under YETP;

(v) They will not infringe upon the promotional opportunities which would otherwise be available to persons currently employed in public service not subsidized under the Act;

(vi) They will not permit a job to be filled in other than an entry-level position in each promotional line until applicable personnel procedures and collective bargaining agreements have been complied with;

(vii) Where job restructuring will occur or where new classifications will be developed, they will not be done in order to negate established personnel procedures or to displace currently employed workers.

§ 97.720 Substitution for title I programs.

Programs funded under YETP shall be supplementary to but not replace programs and activities for youth available under title I of the Act (§§ 95.13(b)(3) and 95.14(b)(3)(ii)(G)).

§ 97.721 Academic credit.

Eligible applicants shall make appropriate efforts to encourage educational agencies and postsecondary institutions to award academic credit for competencies participants gain from their participation in the program.

§ 92.722 Governors youth programs.

(a) Activities and services. The Governor shall use the funds allocated pursuant to § 97.703(b)(2) to provide statewide youth services such as the following (sec. 343(c)):

(1) To give special emphasis to funding expanded and experimental programs in apprenticeship trades, or development of new apprenticeship arrangements, in conjunction with business, labor unions, and State apprenticeship councils;

(2) To provide funds to carry out special model employment and training programs and related services between appropriate State agencies and an eligible applicant or eligible applicants, including contractors selected by eligible applicants, with particular emphasis on experimental job training in the private sector;

(3) To provide labor market and occupational information to eligible applicants and local educational agencies without reimbursement;

(4) To foster cooperative efforts between State and local institutions which provide occupational and career guidance and counseling, as well as placement services for in-school and out-of-school youth;

(5) To fund employment and training programs as defined in § 97.716 for eligible youth who are under the supervision of the State.

(b) Eligibility for participation. Individuals participating in programs using funds allocated pursuant to § 97.703(b)(2) must meet the eligibility criteria provided in § 97.714 (sec. 345).

(c) The overall 20 percent limitation of funds used for administration as set out in § 98.12(f)(6) shall not apply to the Governor's youth plan.

(d) *Governor's youth plan.* The Governor's youth plans shall include the following information:

(1) A Request for Approval Letter;

(2) Application for Federal Assistance (Standard Form 424);

(3) The narrative, which shall include the following:

(i) A discussion of any support to be given for expanded and experimental programs in apprenticeable trades;

(ii) A description of efforts to provide employment and training opportunities for youth under the supervision of the State;

(iii) A description of the efforts the State will undertake in the development, analysis and dissemination of appropriate labor market information as it relates to youth;

(iv) A description of efforts to coordinate existing State services or institutions and those of the eligible applicant(s);

(v) A description of any experimental, model or demonstration programs to be operated by the State; and, any plans to assist eligible applicants in the development or operation of such programs;

(vi) A description of expected results and benefits to be derived from specific program activities under the grant; and

(4) Youth planning summary and youth budget information summary:

(i) The youth planning summary requires a quantitative statement of planned enrollment levels, the participants to be served by each program activity, and planned outcomes for program participants. It shall also include an identification of the target groups within the youth population and the number of individuals in each to be served.

(ii) The youth budget information summary shall include a quantitative statement of yearly planned expenditures by cost category, planned quarterly obligations, and planned quarterly expenditures by program activity.

(5) *Special assurance and certifications.* The Governor's youth plan shall assure:

(i) Compliance with the Governor's Agreement;

(ii) Compliance with the Youth Employment and Demonstration Project Act of 1977 (YEDPA), other applicable CETA provisions, and the regulations in this subpart; and

(iii) Compliance with the provisions of section 343(c) of the Act.

(iv) Compliance with the Hazardous Occupations Orders issued pursuant to 29 CFR 570.50 et seq. with respect to the employment of youths under 18 years of age and the Child Labor Standards of 29 CFR 570.31 et seq. with respect to the employment of youths aged 14 to 15.

(e) *Procedures for comment, modification and approval of Governor's youth plan.* (1) In developing the Governor's youth plan, the Governor shall establish a youth council as described in § 97.705,

(b) Which shall report to the State Manpower Services Council (SMSC) described in § 95.13(d) of this title. The responsibilities of these councils shall be those described in § 95.13(d)(4) of this title.

(2) In submitting the Governor's youth plan, the procedures specified in § 95.52 (a) and (b) of this title shall be followed except that:

(i) The preapplication procedures in § 95.52(a)(2) and the preapplication provisions in §§ 95.11 and 95.15(d), which are referenced in § 95.52 do not apply, and

(ii) For the purpose of implementing the program for Fiscal Year 1978, copies of the Governor's youth plan may be submitted to organizations as required in § 95.52(a)(2) 15 calendar days preceding submission to the RA, during which period any comments received shall be considered.

(3) Approval procedures to be followed for the Governor's youth plan are as specified in § 95.53 of this title, except that the provision of § 95.17(b)(7), referenced in § 95.53, does not apply.

(4) The modification procedures specified in § 95.54 of this title shall be used to modify Governor's grants under YETP.

Signed at Washington, D.C., this 4th day of April 1978.

ERNEST G. GREEN,
Assistant Secretary for Employment and Training.

[FR Doc. 78-9315 Filed 4-6-78; 8:45 am]

federal register

FRIDAY, APRIL 7, 1978
PART X

CIVIL SERVICE COMMISSION

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DEPARTMENT OF JUSTICE

DEPARTMENT OF LABOR

■

UNIFORM GUIDELINES ON EMPLOYEE SELECTION PROCEDURES

Change of Time of Notice of Public Hearing and Meeting on Proposed Rulemaking

[6570-06]

CIVIL SERVICE COMMISSION

[5 CFR Part 300]

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

[29 CFR Part 1607]

DEPARTMENT OF JUSTICE

[28 CFR Part 50]

DEPARTMENT OF LABOR

[41 CFR Part 60-3]

PROPOSED UNIFORM GUIDELINES ON EMPLOYEE SELECTION PROCEDURES

Change of time of Public Hearing and Meeting

AGENCIES: Civil Service Commission, Equal Employment Opportunity Commission, Department of Justice, Department of Labor.

ACTION: Change of time of public hearing and meeting on Proposed Uniform Guildlines on Employee Selection Procedures.

SUMMARY: This document provides notice of a change of time of a public hearing and meeting on the proposed Uniform Guidelines on Employee Selection Procedures.

DATE: The public hearing and meeting will be held on April 10, 1978, beginning at 9 a.m. instead of 10 a.m.

ADDRESS: The public hearing and meeting will be held in the Auditorium, General Services Administration Building, 18th and F Streets NW. as previously announced in the FEDERAL REGISTER for Friday, March 3, 1978 (No. 3 FR 9131).

FOR FURTHER INFORMATION CONTACT:

Peter C. Robertson, Director, Office of Policy Implementation, Equal Employment Opportunity Commission, 2401 E Street NW., Washington, D.C. 20506, 202-634-7060 or 202-634-7058.

David L. Rose, Chief, Employment Section, Civil Rights Division, Department of Justice, Washington, D.C. 20530, 202-739-3831.

William A. Gorham, Director, Personnel Research and Development Center, Civil Service Commission, 1900 E Street NW., Washington, D.C. 20415, 202-632-5440.

H. Patrick Swygert, General Counsel, Civil Service Commission, 1900 E Street NW., Washington, D.C. 20415, 202-632-4632.

Donald J. Schwartz, Staff Psychologist, OFCCP, Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 202-523-9426.

SUPPLEMENTARY INFORMATION: By a notice appearing in the FEDERAL REGISTER for Friday, March 3, 1978 (43 FR 9131), it was announced that a public hearing and meeting on the proposed Uniform Guidelines on Employee Selection Procedures would be held on April 10, 1978 beginning at 10 a.m. in the Auditorium, General Services Administration Building, 18th and F Streets NW., Washington, D.C. The proposed guidelines were published in the FEDERAL REGISTER for Friday, December 30, 1977 (42 FR 65542).

The time for the public hearing and meeting has been changed. It will begin at 9 a.m.

In all other respects the details with respect to the hearing will remain the same.

Signed this 5th day of April 1978.

ELEANOR H. NORTON,
Equal Employment Opportunity Commission.

CARIN ANN CLAUS,
Department of Labor.

DREW S. DAYS, III,
Department of Justice.

JULE M. SUGARMAN,
United States Civil Service Commission.

[FR Doc. 78-9431 Filed 4-6-78; 8:45 am]

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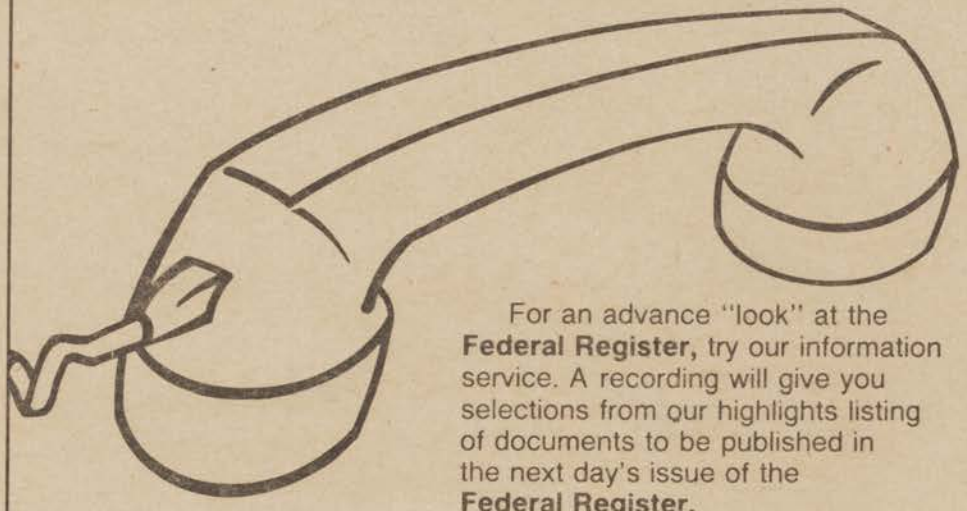
Coming to Chicago...April 10th



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